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Sponsors: Rep. J.L. Johnson

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Summary: Trump Criminal Background Records Check Ban Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/5/2024 House Prefiled

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**VERSIONS OF THIS BILL**

[12/05/2024](https://www.scstatehouse.gov/sess126_2025-2026/prever/3193_20241205.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ENACTING THE “TRUMP CRIMINAL BACKGROUND RECORDS CHECK BAN ACT”; AND BY ADDING SECTION 41‑1‑35 SO AS TO ENCOURAGE AND CONTRIBUTE TO THE REHABILITATION OF CRIMINAL OFFENDERS AND TO ASSIST THEM IN THE RESUMPTION OF THE RESPONSIBILITIES OF CITIZENSHIP BY PROVIDING THAT NO PERSON MAY BE DISQUALIFIED FROM PUBLIC EMPLOYMENT, NOR MAY A PERSON BE DISQUALIFIED FROM PURSUING, PRACTICING, OR ENGAGING IN ANY OCCUPATION FOR WHICH A LICENSE IS REQUIRED SOLELY OR IN PART BECAUSE OF A PRIOR CONVICTION OF A CRIME, UNLESS THE CRIME FOR WHICH HE WAS CONVICTED DIRECTLY RELATES TO THE POSITION OF EMPLOYMENT SOUGHT OR THE OCCUPATION FOR WHICH THE LICENSE IS SOUGHT, AND TO PROVIDE RELATED DEFINITIONS, EXCEPTIONS, POLICIES, AND PROCEDURES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be cited as the “Trump Criminal Background Records Check Ban Act.”

SECTION 2. Chapter 1, Title 41 of the S.C. Code is amended by adding:

Section 41‑1‑35. (A) It is the policy of the State of South Carolina to encourage and contribute to the rehabilitation of criminal offenders and to assist them in the resumption of the responsibilities of citizenship. The opportunity to secure employment or to pursue, practice, or engage in a meaningful and profitable trade, occupation, vocation, profession, or business is essential to rehabilitation and the resumption of the responsibilities of citizenship.

(B) For the purposes of this section:

(1) “Conviction of crime or crimes” means convictions of felonies, gross misdemeanors, and misdemeanors for which a jail sentence may be imposed. No other criminal conviction may be considered.

(2) “Hiring or licensing authority” means the person, board, commission, or department of this State and its political subdivisions, responsible by law for the hiring of people for public employment or the licensing of people for occupations.

(3) “License” means all licenses, permits, certificates, registrations, or other means required to engage in an occupation which are granted or issued by this State or its political subdivisions before a person can pursue, practice, or engage in any occupation.

(4) “Occupation” means all occupations, trades, vocations, professions, businesses, or employment of any kind for which a license is required to be issued by this State or its political subdivisions.

(5) “Public employment” means all employment with this State and its political subdivisions.

(C)(1) Notwithstanding any other provision of law to the contrary, a public or private employer may not inquire into or consider or require disclosure of the criminal record or criminal history of an applicant for employment until the applicant has been selected for an interview by the employer or, if there is not an interview, before a conditional offer of employment is made to the applicant.

(2) This section does not apply to people seeking employment with the Department of Corrections, a financial institution, or to employers who have a statutory duty to conduct a criminal history background check or otherwise take into consideration a potential employee’s criminal history during the hiring process.

(3) This section does not prohibit an employer from notifying applicants that law or the employer’s policy will disqualify an individual with a particular criminal history background from employment in particular positions.

(D)(1) Notwithstanding another provision of law to the contrary, no person may be disqualified from public employment, nor may a person be disqualified from pursuing, practicing, or engaging in any occupation for which a license is required solely or in part because of a prior conviction of a crime, unless the crime for which he was convicted directly relates to the position of employment sought or the occupation for which the license is sought.

(2) In determining if a conviction directly relates to the position of public employment sought or the occupation for which the license is sought, the hiring or licensing authority shall consider:

(a) the nature and seriousness of the crime for which the individual was convicted;

(b) the relationship of the crime or crimes to the purposes of regulating the position of public employment sought or the occupation for which the license is sought; and

(c) the relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the position of employment or occupation.

(3)(a) A person who has been convicted of a crime that directly relates to the public employment sought or to the occupation for which a license is sought must not be disqualified from the employment or occupation if the person can show competent evidence of sufficient rehabilitation and present fitness to perform the duties of the public employment sought or the occupation for which the license is sought. Competent evidence of sufficient rehabilitation may be established by the production of the person’s most recent certified copy of a United States Department of Defense form 214 (DD 214) showing the person’s honorable discharge, or separation under honorable conditions, from the United States armed forces for military service rendered following conviction for any crime that would otherwise disqualify the person from the public employment sought or the occupation for which the license is sought, or:

(i) a copy of the local, state, or federal release order;

(ii) evidence showing that at least one year has elapsed since release from any local, state, or federal correctional institution without subsequent conviction of a crime; and evidence showing compliance with all terms and conditions of probation or parole; or

(iii) a copy of the relevant Department of Corrections discharge order or other documents showing completion of probation or parole supervision.

(b) In addition to the documentary evidence presented, the licensing or hiring authority shall consider any evidence presented by the applicant regarding:

(i) the nature and seriousness of the crime for which he was convicted;

(ii) all circumstances relative to the crime, including mitigating circumstances or social conditions surrounding the commission of the crime;

(iii) the age of the person at the time the crime was committed;

(iv) the length of time elapsed since the crime was committed; and

(v) all other competent evidence of rehabilitation and present fitness presented including, but not limited to, letters of reference by people who have been in contact with the applicant since the applicant’s release from any local, state, or federal correctional institution.

(c) The certified copy of a person’s United States Department of Defense form DD 214 showing the person’s honorable discharge or separation under honorable conditions from the United States armed forces ceases to qualify as competent evidence of sufficient rehabilitation for purposes of this section upon the person’s conviction for any gross misdemeanor or felony committed by the person subsequent to the effective date of that honorable discharge or separation from military service.

(E) The following criminal records must not be used, distributed, or disseminated by the State or its political subdivisions in connection with any application for public employment nor in connection with an application for a license:

(1) records of arrest not followed by a valid conviction;

(2) convictions which have been, pursuant to law, annulled or expunged; and

(3) misdemeanor convictions for which no jail sentence can be imposed.

(F) If a hiring or licensing authority denies an individual a position of public employment or disqualifies the individual from pursuing, practicing, or engaging in any occupation for which a license is required, solely or in part because of the individual’s prior conviction of a crime, the hiring or licensing authority shall notify the individual in writing of the following:

(1) the grounds and reasons for the denial or disqualification;

(2) the applicable complaint and grievance procedure as set forth in subsection (G);

(3) the earliest date the person may reapply for a position of public employment or a license; and

(4) that all competent evidence of rehabilitation presented will be considered upon reapplication.

(G)(1) Any complaints or grievances concerning violations of this section by public employers must be processed and adjudicated pursuant to the Administrative Procedures Act.

SECTION 3. This act takes effect upon approval by the Governor.

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