

An Act to Prohibit Discrimination Based on Criminal Record

Section 1. Short Title. This Act may be cited as the "Inclusive Opportunity Act".

Section 2. Findings and Purpose.

The Legislature finds and declares that: (a) People with criminal records face significant barriers to employment, housing, education, and other opportunities, even after they have served their sentences and been released from correctional facilities;

(b) These barriers to reentry have negative consequences for individuals, families, and communities, including increased poverty, homelessness, recidivism, and public safety risks;

(c) Felon discrimination is a pervasive form of discrimination that limits the ability of individuals with criminal records to find gainful employment, and that this discrimination is unfair, arbitrary, and counterproductive;

(d) Housing discrimination is also a pervasive form of discrimination that limits the ability of individuals with criminal records to find safe and affordable housing, and that this discrimination is unfair, arbitrary, and counterproductive;

(e) Felon and housing discrimination also perpetuate racial and economic disparities, as people of color and low-income individuals are disproportionately affected by the criminal justice system and face higher rates of unemployment, poverty, and homelessness;

(f) Therefore, it is the purpose of this Act to prohibit felon and housing discrimination and to promote fair chance hiring and housing practices that give people with criminal records an opportunity to compete for jobs and housing based on their qualifications, without being automatically disqualified or disadvantaged because of their criminal history.

Section 3 - Definitions.

For the purposes of this Act:

(a) "Criminal record" means information indicating that a person has been convicted of a crime, placed on probation, or released from incarceration.

(b) "Employer" means any person or entity that employs one or more individuals, including the state and any political subdivision.

(c) "Job applicant" any who applies for employment with an employer, regardless of whether the application is in writing or submitted orally or online.

(d) "Housing provider" means any person or entity that owns, leases, subleases, or manages housing, including but not limited to landlords, property managers, and real estate agents.

(e) "Housing applicant" means any person who seeks to rent, lease, or purchase housing from a housing provider.

(f) “background check” the process a person or a company uses to verify that an individual is who they claim to be, and this provides an opportunity to check and confirm the validity of someone’s criminal record.

Section 4. Prohibition of Felon and Housing Discrimination.

(a) An employer shall not:

(1) Take adverse action based on results of a background check for charges/convictions older than 3 years for non-violent convictions and 5 years for violent convictions unless the employer can demonstrate that the specific criminal conduct underlying the conviction is job-related and consistent with business necessity.

(2) inquire or otherwise consider or require disclosure of an applicant's criminal record until after the employer has determined that the applicant is otherwise qualified and has been interviewed for the position or, if there is not an interview, until a conditional offer of employment has been made;

(3) Disqualify an applicant from employment solely based on the fact that the applicant has a criminal record unless the employer can demonstrate that the specific criminal conduct underlying the conviction is job-related and consistent with business necessity.

(b) A housing provider shall not:

(1) refuse to rent, lease, or sell housing to a housing applicant solely based on the fact that the housing applicant has a criminal record older than 3 years unless the housing provider can demonstrate that the specific criminal conduct underlying the conviction is directly related to the safety of other tenants or the property;

(2) Use a blanket policy or practice of excluding all housing applicants with criminal records without an individualized assessment of whether the exclusion is necessary to achieve a substantial and legitimate nondiscriminatory interest.

(c) An employer or a housing provider shall not retaliate against any applicant or employee who asserts any rights or remedies under this Act.

Section 5. Exceptions.

This Act shall not apply to:

(a) employers who are required by federal or state law to conduct criminal background checks or to exclude applicants with certain criminal convictions from particular with minors,, other sensitive populations, where the employer is required by law to conduct a criminal background check or to exclude applicants with certain criminal convictions;

(b) positions where a criminal conviction would automatically disqualify an applicant from obtaining a required license or certification for the occupation;

(c) employers that operate in the health care industry and that are subject to federal or state regulations that require the exclusion of individuals with certain criminal convictions from employment in certain positions;

(d) housing providers who are required by federal or state law to conduct criminal background checks or to exclude housing applicants with certain criminal convictions from particular properties or units;

(e) housing providers who rent, lease, or sell housing that is subject to federal or state regulations that require the exclusion of housing applicants with certain criminal convictions.

Section 6. Enforcement and Remedies.

(a) The Minnesota Department of Human Rights shall enforce this Act.

(b) Any person aggrieved by an employer's or a housing provider's violation of this Act may file a complaint with the Department of Human Rights within one year of the alleged violation.

(c) The Department of Human Rights may investigate complaints, issue findings of fact and conclusions of law, and order appropriate relief, including but not limited to:

(1) an order requiring the employer or the housing provider to hire, promote, reinstate, rent, lease, or sell to the complainant;

(2) an order requiring the employer or the housing provider to cease and desist from violating this Act;

(3) an order requiring the employer or the housing provider to pay the complainant back pay, front pay, or damages for any loss of employment, housing, or other benefits caused by the violation of this Act;

(4) reasonable attorney's fees and costs.

(5) Nothing in this Act shall be construed to limit or preclude any other rights or remedies available under federal or state law, including but not limited to the Minnesota Human Rights Act and the Whistle blower Act