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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 276 Session of  
2017

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INTRODUCED BY GORDNER, SCARNATI, GREENLEAF, BREWSTER, SCHWANK,  
MARTIN, COSTA, RESCHENTHALER, HUGHES, RAFFERTY, STEFANO AND  
WARD, JANUARY 31, 2017

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REFERRED TO LABOR AND INDUSTRY, JANUARY 31, 2017

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AN ACT

1 Regulating employment inquiries into arrest records.

2 The General Assembly of the Commonwealth of Pennsylvania  
3 hereby enacts as follows:

4 Section 1. Short title.

5 This act shall be known and may be cited as the Arrest Record  
6 for Employment Act.

7 Section 2. Definitions.

8 The following words and phrases when used in this act shall  
9 have the meanings given to them in this section unless the  
10 context clearly indicates otherwise:

11 "Employee." The term does not include:

12 (1) An individual employed in agriculture or in the  
13 domestic service of a person.

14 (2) An individual who, as a part of employment, resides  
15 in the personal residence of the employer.

16 (3) An individual employed by the individual's parents,  
17 spouse or child.

1 "Employer." The Commonwealth or any of its political  
2 subdivisions or boards, departments, commissions or school  
3 districts and a person employing four or more persons within the  
4 Commonwealth. The term does not include religious, fraternal,  
5 charitable or sectarian corporations or associations, except  
6 corporations or associations supported, in whole or in part, by  
7 governmental appropriations.

8 "Employment agency." A person regularly undertaking, with or  
9 without compensation, to procure opportunities to work or to  
10 procure, recruit, refer or place an employee.

11 "Independent contractor." A person who is subject to the  
12 provisions governing any of the professions and occupations  
13 regulated by State licensing laws enforced by the Bureau of  
14 Professional and Occupational Affairs in the Department of  
15 State, or is included in the Fair Housing Act (Public Law 90-  
16 284, 42 U.S.C. § 3601 et seq.).

17 "Labor organization." An organization that exists for the  
18 purpose, in whole or in part, of collective bargaining or of  
19 dealing with employers concerning grievances, terms or  
20 conditions of employment or of other mutual aid or protection in  
21 relation to employment.

22 Section 3. Prohibition.

23 An employer, employment agency or labor organization may not,  
24 prior to a prospective employee's employment, contracting with  
25 an independent contractor or admission to membership, elicit  
26 information, make or keep a record of or use a form of  
27 application or application blank containing a question or entry  
28 concerning the arrest record of a prospective employee for:

29 (1) a matter that resulted in the prospective employee's  
30 being found not guilty; or

1           (2) charges that were nolle prossed or withdrawn.

2 Section 4. Civil penalty.

3       Any person who violates section 3 shall pay a civil penalty  
4 of not more than \$500.

5 Section 5. Effective date.

6       This act shall take effect in 60 days.