AN ACT

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, in criminal history record information, further providing for use of records for employment.

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

Section 1. Section 9125 of Title 18 of the Pennsylvania Consolidated Statutes is amended to read:

§ 9125. Use of records for employment.

(a) General rule.--Whenever an employer is in receipt of information which is part of [an employment applicant's] the criminal history record information file of an employment applicant or an employee, it may use that information for the purpose of deciding whether or not to [hire the applicant] begin or continue employment, only in accordance with this section.

(b) Use of information. Felony and misdemeanor convictions may be considered by the employer only to the extent to which they relate to [the applicant's] suitability for employment in
the position [for which he has] applied for or held.

(B) USE OF INFORMATION.-- AN EMPLOYER MAY USE CRIMINAL HISTORY RECORD INFORMATION RELATING TO AN EMPLOYMENT APPLICANT OR AN EMPLOYEE AS FOLLOWS:

(1) FELONY AND MISDEMEANOR CONVICTIONS OCCURRING BEFORE THE START OF EMPLOYMENT MAY BE CONSIDERED BY THE EMPLOYER ONLY TO THE EXTENT TO WHICH THEY RELATE TO [THE APPLICANT'S] SUITABILITY FOR EMPLOYMENT IN THE POSITION [FOR WHICH HE HAS] APPLIED FOR OR HELD.

(2) NOTHING IN THIS SECTION SHALL INHIBIT THE ABILITY OF AN EMPLOYER TO CONSIDER FELONY AND MISDEMEANOR CONVICTIONS OCCURRING AFTER THE START OF EMPLOYMENT AS THE BASIS FOR AN ADVERSE EMPLOYMENT ACTION FOR A PERIOD OF TWO YEARS FOLLOWING THE EMPLOYER'S KNOWLEDGE OF THE CONVICTION WITHOUT REGARD TO THE EMPLOYEE'S SUITABILITY FOR THE EMPLOYMENT POSITION.

NOTHING IN THIS SECTION SHALL INHIBIT THE ABILITY OF AN EMPLOYER TO SUSPEND THE EMPLOYMENT OF AN EMPLOYEE WHO IS CHARGED WITH A FELONY OR MISDEMEANOR OFFENSE UNTIL THE RESOLUTION OF THE CHARGE.

(3) NOTHING IN THIS SECTION SHALL INHIBIT THE ABILITY OF AN EMPLOYER, AT ANY TIME AND WITHOUT REGARD FOR THE APPLICANT'S OR EMPLOYEE'S SUITABILITY FOR EMPLOYMENT, TO TAKE AN ADVERSE EMPLOYMENT ACTION AGAINST AN EMPLOYMENT APPLICANT OR EMPLOYEE WHO FAILED TO ACCURATELY AND FULLY DISCLOSE CRIMINAL HISTORY RECORD INFORMATION THAT WAS LAWFULLY REQUESTED BY THE EMPLOYER.

(4) SUITABILITY FOR EMPLOYMENT MAY BE DETERMINED BY EXAMINING SUCH FACTORS AS:

(I) THE NATURE OF THE OFFENSE.

(II) CIRCUMSTANCES SURROUNDING THE OFFENSE.
(III) TIME ELAPSED SINCE THE OFFENSE.

(IV) EVIDENCE OF THE INDIVIDUAL’S REHABILITATION.

(V) THE NATURE AND REQUIREMENTS OF THE EMPLOYMENT POSITION.

(c) Notice.--

(1) The employer shall notify in writing the applicant if the decision not to hire the applicant is based in whole or in part on criminal history record information.

(2) The employer shall notify in writing the employee if an adverse employment decision is based in whole or in part on criminal history record information.

Section 2. This act shall take effect in 30 days.