

SENATE BILL 191

K3

11r0960

(PRE-FILED)

By: **Senator Patterson**

Requested: October 13, 2020

Introduced and read first time: January 13, 2021

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Hiring – Higher Education Requirements**
3 **(Give Me a Chance Act)**

4 FOR the purpose of prohibiting an employer from developing or implementing an
5 application or hiring process that uses a higher education degree as a certain
6 limitation except in certain circumstances; prohibiting an employer from using an
7 applicant's lack of a higher education degree to deny an applicant the opportunity to
8 apply for a position except under certain circumstances; prohibiting an employer
9 from inquiring during the interview process about an applicant's lack of a higher
10 education degree except under certain circumstances; prohibiting an employer from
11 prohibiting an employee from applying for or pursuing internal advancement based
12 on the employee's lack of a higher education degree except under certain
13 circumstances; authorizing an employer to inquire as to an applicant's level of
14 education after an offer for employment has been made; prohibiting an employer
15 from rescinding an initial offer of employment based on a certain response;
16 authorizing a certain applicant or an employee to bring a certain action against an
17 employer under certain circumstances; requiring the Commissioner to take certain
18 enforcement action against an employer under certain circumstances; providing for
19 the construction of this Act; and generally relating to hiring by employers.

20 BY repealing and reenacting, without amendments,
21 Article – Labor and Employment
22 Section 3–101(a) and (b)
23 Annotated Code of Maryland
24 (2016 Replacement Volume and 2020 Supplement)

25 BY adding to
26 Article – Labor and Employment
27 Section 3–718
28 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2016 Replacement Volume and 2020 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Labor and Employment

3–101.

(a) In this title the following words have the meanings indicated.

(b) “Commissioner” means the Commissioner of Labor and Industry.

3–718.

**(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
AN EMPLOYER MAY NOT:**

**(I) DEVELOP OR IMPLEMENT AN APPLICATION OR A HIRING
PROCESS THAT USES A COLLEGE OR OTHER HIGHER EDUCATION DEGREE AS A
LIMITATION FOR WHO CAN APPLY FOR A SPECIFIED POSITION;**

**(II) USE AN APPLICANT’S LACK OF A COLLEGE OR OTHER
HIGHER EDUCATION DEGREE TO DENY AN APPLICANT THE OPPORTUNITY TO APPLY
FOR A POSITION;**

**(III) PROHIBIT AN EMPLOYEE FROM APPLYING FOR OR
PURSUING INTERNAL ADVANCEMENT WITHIN THE EMPLOYER’S ORGANIZATION ON
THE BASIS OF AN EMPLOYEE LACKING A COLLEGE OR OTHER HIGHER EDUCATION
DEGREE; OR**

**(IV) DURING THE INTERVIEW PROCESS, INQUIRE ABOUT AN
APPLICANT’S LACK OF A COLLEGE OR OTHER HIGHER EDUCATION DEGREE.**

**(2) AN EMPLOYER IS NOT PROHIBITED FROM TAKING THE ACTIONS
UNDER PARAGRAPH (1) OF THIS SUBSECTION IF A MINIMUM EDUCATIONAL
QUALIFICATION IS NECESSARY TO PERFORM THE DUTIES OF THE POSITION THAT IS
THE SUBJECT OF THE APPLICATION OR INTERVIEW PROCESS.**

**(B) (1) AFTER AN EMPLOYER MAKES AN INITIAL OFFER OF
EMPLOYMENT, THE EMPLOYER MAY INQUIRE AS TO THE APPLICANT’S
ACHIEVEMENT OF A COLLEGE OR HIGHER EDUCATION DEGREE.**

(2) AN EMPLOYER MAY NOT RESCIND AN INITIAL OFFER OF

1 EMPLOYMENT BASED ON AN APPLICANT'S RESPONSE TO AN INQUIRY MADE UNDER
2 PARAGRAPH (1) OF THIS SUBSECTION.

3 (C) IF AN EMPLOYER VIOLATES THE PROVISIONS OF THIS SECTION, AN
4 AFFECTED APPLICANT FOR EMPLOYMENT OR AN EMPLOYEE MAY BRING AN ACTION
5 AGAINST THE EMPLOYER:

6 (1) FOR INJUNCTIVE RELIEF; AND

7 (2) TO RECOVER, WHICHEVER IS GREATER:

8 (I) ACTUAL DAMAGES; OR

9 (II) SPECIAL DAMAGES, NOT TO EXCEED \$10,000.

10 (D) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT AN APPLICANT
11 FOR EMPLOYMENT FROM VOLUNTARILY SHARING INFORMATION REGARDING THE
12 APPLICANT'S ACHIEVEMENT OF A COLLEGE OR OTHER HIGHER EDUCATION
13 DEGREE.

14 (E) (1) IF THE COMMISSIONER DETERMINES THAT AN EMPLOYER HAS
15 VIOLATED THE PROVISIONS OF THIS SECTION, THE COMMISSIONER:

16 (I) SHALL ISSUE AN ORDER COMPELLING COMPLIANCE; AND

17 (II) MAY, IN THE COMMISSIONER'S DISCRETION, ASSESS A
18 PENALTY OF UP TO \$1,000 FOR EACH APPLICANT FOR EMPLOYMENT FOR WHOM THE
19 EMPLOYER WAS NOT IN COMPLIANCE.

20 (2) IN DETERMINING THE AMOUNT OF THE PENALTY, THE
21 COMMISSIONER SHALL CONSIDER:

22 (I) THE GRAVITY OF THE VIOLATION;

23 (II) THE SIZE OF THE EMPLOYER'S BUSINESS;

24 (III) THE EMPLOYER'S GOOD FAITH; AND

25 (IV) THE EMPLOYER'S HISTORY OF VIOLATIONS UNDER THIS
26 SECTION.

27 (3) IF THE COMMISSIONER ASSESSES A PENALTY UNDER PARAGRAPH
28 (1)(II) OF THIS SUBSECTION, THE PENALTY SHALL BE SUBJECT TO THE NOTICE AND

1 HEARING REQUIREMENTS OF TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT
2 ARTICLE.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2021.