

DEPARTMENT OF ADMINISTRATIVE & FINANCIAL SERVICES
BUREAU OF HUMAN RESOURCES
March 15, 2006

HUMAN RESOURCES MEMORANDUM 2-06

TO: All Agency/Department Heads and Human Resource
Representatives

SUBJECT: CONSIDERATION OF CRIMINAL CONVICTIONS IN THE
EMPLOYMENT SELECTION PROCESS

The long-standing policy that governs the consideration of criminal convictions in the selection process was established in Executive Order 4 FY 74-75 (March 11, 1975). The executive order requires equal employment opportunity for ex-offenders and, hence, a *blanket prohibition of hiring ex-offenders is not consistent with State policy.*

This memorandum is intended to facilitate fair employment opportunities for ex-offenders while balancing the legitimate interest of the State in protecting property, and the safety and welfare of specific individuals and the general public. Hiring decisions must be considered on a case-by-case basis. In considering candidates for employment (including initial hires, transfers or promotions) who have a criminal record, the following analysis must be undertaken by the hiring agency.

First, because a candidate's criminal record may legitimately be considered in the selection process, all employment applications ask about prior criminal convictions.¹ If the candidate discloses a prior conviction, the following factors must then be considered by the agency prior to making a final decision regarding an offer of employment:

- The nature and severity of the conviction(s).
- The relevance of the conviction to the position, taking into account both the nature of the conviction and the duties of the position. (In other words, is there a nexus between the conviction and the job?)
- The number of convictions.
- When the convictions took place. (The implication being that the time that has elapsed since a conviction or whether there have been intervening convictions, should be considered.)
- Evidence of rehabilitation.

Once the above factors are taken into consideration, the agency must then determine whether hiring the individual would create potential situations in which the safety and well-being of citizens are threatened. *When considering the safety and well being of the general public, particular attention must be given to those positions requiring contact with the public outside of State office locations.* If consideration of all of these factors leads to a determination that an individual cannot perform the duties of a particular job without presenting a potential risk to the safety and well-being of the general public the individual may be denied employment in that position.

¹ Agencies have typically imposed a serious disciplinary response, up to and including discharge, if it is later learned that an applicant lied, or took affirmative steps to conceal, the existence of criminal convictions on his or her application.

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If an applicant with a criminal record is hired by the State after due consideration of the factors discussed in this policy, appropriate instruction and training shall be provided to the individual's supervisor to ensure the public's safety and welfare, and to protect the individual from discrimination/harassment in the workplace based on their ex-offender status.

S/ Alicia Kellogg
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Bureau of Human Resources