

DEPARTMENT OF ADMINISTRATIVE & FINANCIAL SERVICES
Bureau of Human Resources
September 11, 2019

HUMAN RESOURCES MEMORANDUM 6-19

TO: All Agency Heads, Agency Human Resources

SUBJECT: Criminal History Questions on Application Forms for Positions in Maine State Government

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Human Resources Memorandum 5-19 provided information regarding Public Law 2019, Chapter 22 which prohibits the State from including on its application forms “any questions regarding an applicant's criminal history except when, due to the nature and requirements of the position, a person who has a criminal history may be disqualified from eligibility for the position.”

In order to be in compliance with the law, as of September 19, 2019, application forms (paper forms, on-line forms *(such as those on Recruiterbox)*, and supplemental questionnaires) may not include a criminal history question without prior approval from the Bureau of Human Resources. All Recruiterbox templates and application forms on the BHR website will be updated prior to September 19, 2019.

The law allows an exception if the job being filled is a job for which a criminal history would disqualify a person from eligibility (e.g. a sworn law enforcement job). The following process to determine which jobs meet this exception has been developed and is administered centrally in the Bureau of Human Resources:

- 1) Managers and supervisors who believe a job requires a criminal history question on the application shall submit their request to their agency’s Human Resources Office providing documentation (laws, rules, etc.) of automatic disqualifiers.
- 2) Agency Human Resources Offices shall provide written requests to Thaddeus Cotnoir in the Bureau of Human Resources (prior to recruiting) providing documentation (laws, rules, etc.) of automatic disqualifiers.
- 3) The Bureau of Human Resources will evaluate each request and notify the agency Human Resources Office of the decision.
- 4) A list of jobs which meet the exception will be maintained in the Bureau of Human Resources.

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The law does not preclude interviewers from asking questions regarding an applicant's criminal history during the interview process. If a question related to criminal history is asked during the interview process, it should be in compliance with the following outline:

- 1) A question pertaining to criminal convictions should be the last question in an interview.
- 2) The question should be the following or similar:

"The selected candidate for this position will be given a conditional job offer pending the successful completion of a criminal background check. Is there anything that you would like to disclose to us or explain to us at this time that would come up on a criminal background check?"
- 3) If questions are answered affirmatively, the agency Human Resources Office must be consulted for assistance with the consideration of criminal convictions related to Section 5.7 of the HR Policy & Practices Manual prior to proceeding.

S/ Breena D. Bissell

Breena D. Bissell, Director
Bureau of Human Resources

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