| 1 2 | State of Arkansas As Engrossed: H3/10/15 H3/13/15 90th General Assembly As Engrossed: Bill |
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| 3 | Regular Session, 2015 HOUSE BILL 1618 |
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| 5 | By: Representative Copeland |
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| 7 | For An Act To Be Entitled |
| 8 | AN ACT TO LIMIT THE USE OF CRIMINAL RECORDS CHECKS |
| 9 | INFORMATION; TO INCREASE OPPORTUNITIES FOR EMPLOYMENT |
| 10 | FOR PERSONS WITH CRIMINAL RECORDS; AND FOR OTHER |
| 11 | PURPOSES. |
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| 14 | Subtitle |
| 15 | TO LIMIT THE USE OF CRIMINAL RECORDS |
| 16 | CHECKS INFORMATION; AND TO INCREASE |
| 17 | OPPORTUNITIES FOR EMPLOYMENT FOR PERSONS |
| 18 | WITH CRIMINAL RECORDS. |
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| 21 | BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS: |
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| 23 | SECTION 1. Arkansas Code Title 11, Chapter 3, Subchapter 2, is amended |
| 24 | to add an additional section to read as follows: |
| 25 | 11-3-206. Criminal background checks. |
| 26 | (a) An employer shall not conduct or obtain a criminal background |
| 27 | check for an applicant for employment until the applicant becomes the |
| 28 | finalist or one (1) of the finalists for a position or the employer has |
| 29 | extended a conditional offer of employment to the applicant. |
| 30 | (b)(1)(A) If the applicant becomes the finalist or one (1) of the |
| 31 | finalists for a position or an employer offers an applicant a position of |
| 32 | employment, the employer may inquire into and consider a criminal conviction |
| 33 | <u>or arrest.</u> |
| 34 | (B) However, with respect to an arrest, the employer shall |
| 35 | make an inquiry into whether the conduct underlying the arrest makes the |
| 36 | applicant unfit for the position. |



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| 1 | (2) An applicant shall not be excluded from employment based |
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| 2 | solely on the fact of an arrest. |
| 3 | (c) An employer shall not withhold or withdraw an offer of employment |
| 4 | based on an offense that bears no rational relationship to the duties and |
| 5 | responsibilities of the position. |
| 6 | (d) Before deciding whether to withhold or withdraw an offer of |
| 7 | employment based on an applicant's criminal record, the employer shall |
| 8 | consider the following: |
| 9 | (1) The nature of the applicant's offense, including without |
| 10 | limitation whether the offense is categorized as a felony or misdemeanor; |
| 11 | (2) Information pertaining to the degree of rehabilitation and |
| 12 | good conduct of the applicant, including information produced by the |
| 13 | applicant or produced on his or her behalf; |
| 14 | (3) Whether the prospective job provides an opportunity for the |
| 15 | commission of a similar offense or the offense is otherwise relevant to the |
| 16 | job duties of the position; |
| 17 | (4) Whether the circumstances leading to the offense are likely |
| 18 | to reoccur; and |
| 19 | (5) The length of time that has elapsed since the offense. |
| 20 | (e) The employer may require that supplemental information provided by |
| 21 | or for the applicant be submitted on a timely basis to avoid delay in the |
| 22 | hiring process. |
| 23 | (f) The employer may consider whether an applicant has truthfully |
| 24 | disclosed criminal history information if the applicant's criminal history is |
| 25 | requested during the application process. |
| 26 | (g) This section does not apply to a criminal background check |
| 27 | /s/Copeland |
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