

By Senator Powell

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1 A bill to be entitled
2 An act relating to background screening; creating s.
3 435.13, F.S.; prohibiting employers from excluding
4 applicants from an initial interview for employment
5 under certain conditions; providing a civil penalty;
6 providing applicability; providing exceptions;
7 requiring the Department of Economic Opportunity to
8 enforce the act; providing an effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Section 435.13, Florida Statutes, is created to
13 read:

14 435.13 Unlawful employment practices.-

15 (1) Notwithstanding any other law, an employer may not
16 exclude an applicant from an initial interview for employment
17 solely because he or she has been found guilty of, regardless of
18 adjudication, or entered a plea of nolo contendere or guilty to,
19 or was adjudicated delinquent and the record has not been sealed
20 or expunged for, any offense listed under s. 435.04(2).

21 (2) An employer excludes an applicant from an initial
22 interview if the employer:

23 (a) Requires an applicant to disclose on an employment
24 application whether he or she has been found guilty of,
25 regardless of adjudication, or entered a plea of nolo contendere
26 or guilty to, or was adjudicated delinquent and the record has
27 not been sealed or expunged for, any offense listed under s.
28 435.04(2);

29 (b) Requires an applicant to disclose before an initial

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30 interview whether he or she has been found guilty of, regardless
31 of adjudication, or entered a plea of nolo contendere or guilty
32 to, or was adjudicated delinquent and the record has not been
33 sealed or expunged for, any offense listed under s. 435.04(2);
34 or

35 (c) Requires an applicant to disclose before the employer
36 makes a conditional offer of employment whether he or she has
37 been found guilty of, regardless of adjudication, or entered a
38 plea of nolo contendere or guilty to, or was adjudicated
39 delinquent and the record has not been sealed or expunged for,
40 any offense listed under s. 435.04(2), if no interview is
41 conducted.

42 (3) This section does not prevent an employer from
43 considering an applicant's conviction history when making a
44 hiring decision.

45 (4) An employer that violates this section is subject to a
46 civil penalty of not more than \$5,000 for each violation.

47 (5) Subsections (1) and (2) do not apply:

48 (a) If federal, state, or local law, including
49 corresponding rules and regulations, requires the consideration
50 of an applicant's criminal history;

51 (b) To an employer that is a law enforcement agency;

52 (c) To an employer in the criminal justice system; or

53 (d) To an employer seeking an employee for a volunteer
54 position.

55 (6) The Department of Economic Opportunity shall enforce
56 this section.

57 Section 2. This act shall take effect July 1, 2019.