

May 24, 2019

The Honorable Thomas V. Mike Miller  
President of the Senate  
H-107 State House  
Annapolis, MD 21401

The Honorable Adrienne A. Jones  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. President and Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 839 and House Bill 994 – *Labor and Employment – Criminal Record Screening Practices (Ban the Box)*.

Hiring the right team is one of the most critical activities a business does. Employers have the right, and often the need, to know the criminal history of applicants they may hire. Senate Bill 839/House Bill 994 prohibits businesses from requiring an applicant to disclose this important information until the first in-person interview. This would result in costly and time-consuming human resources work that ultimately goes nowhere.

Delaying an employer's ability to require an applicant to disclose their criminal history until late in the process would cause hiring delays and waste time and resources. By the point an employer discovers a potential employee has a criminal background, alternative candidates may no longer be available for hire, forcing employers to restart the entire process. This will have a particularly negative impact on employers in industries with high employee turnover or where positions must be filled quickly.

Senate Bill 839/House Bill 994 would impose additional costs on employers without commensurate returns in terms of opportunities for ex-offenders. By prohibiting an employer from requiring an applicant to disclose their criminal history until the first in-person interview, Senate Bill 839/House Bill 994 would force businesses to pay for background checks or refer to often incomplete, inaccurate, or outdated online criminal history websites. This would add tremendous costs to businesses but yield no positive impact on job opportunities for those with a criminal history.

Further, Senate Bill 839/House Bill 994 contains dangerous preemption language that explicitly allows for more restrictive laws in each county and municipality across Maryland. This would result in a patchwork of dozens of different laws across the state, creating an even larger burden as businesses operating across jurisdictional lines attempt to navigate the intricacies of each set of rules.

Opportunities for individuals involved in the criminal justice system to make amends and rebuild after committing a crime are an important part of any just and effective criminal justice system. Over the past several years, working together with the General Assembly, we have been able to shield minor offenses from public view, create a process for certificates of rehabilitation to improve employment prospects, and dramatically expand expungement opportunities. Additionally, a growing number of businesses, including Target, Walmart, and Starbucks, support these goals and have decided not to inquire about criminal history on their job applications. However, when and how an employer asks about criminal history is a decision that should be left to employers, not dictated by the legislature and micro-managed in the annotated code.

Finally, and perhaps most importantly, Senate Bill 839/House Bill 994 endangers safety. The legislation includes an exclusion for employers who work with children or vulnerable adults. This exemption acknowledges the risk posed by not asking about an applicant's criminal history. However, the legislation does not make any further differentiations between serious, potentially violent, felony offenses and less serious misdemeanors. It also does not include exemptions for occupations related to applicant's criminal conviction.

For these reasons, I have vetoed Senate Bill 839 and House Bill 994.

Sincerely,

Lawrence J. Hogan Jr.  
Governor