



Frequently Asked Questions For Executive Order 158 August 18, 2020

Why is this Executive Order needed?

There are more than 1.7 million people in North Carolina who may face barriers to employment because of their criminal record. Evidence shows that a criminal record by itself is not indicative of an applicant's job performance, competence, or ability, and access to employment opportunities significantly decreases the chances that a person will return to prison.

Numerous local governments across North Carolina have implemented fair chance hiring policies that are improving not only public safety, but also economic growth and development in those communities. This Executive Order implements fair chance hiring policies on a larger scale and will ensure that people with a criminal record get a fair, merit-based opportunity to attain state government employment.

What does this Order do?

This Order removes criminal history questions from the state application for employment and prohibits state agencies from inquiring into an individual's criminal history during the initial stages of the hiring process. This Order also prohibits state agencies from considering expunged or pardoned convictions, charges or convictions that do not relate to the job for which the applicant is applying, arrests not resulting in conviction, and charges resulting in dismissal or finding of not guilty.

Will background checks still be completed for state employment applicants?

Under this Order, state agencies can conduct background checks, but background checks or other inquiries into an applicant's criminal history are prohibited until at least after the completion of an initial job interview. Also, state employment decisions cannot be based on the criminal history of an individual unless that criminal history is demonstrably job-related and consistent with business necessity associated with the position, or if state or federal law prohibits hiring an individual with certain criminal convictions for a particular position.

Additionally, unless prohibited by state or federal law, state agencies are required to provide a copy of the criminal record to any applicant for whom a background check is completed. State agencies are also required to allow an applicant with a criminal record a reasonable opportunity to explain the circumstances surrounding their

relevant conviction(s) and provide any proof of rehabilitation, including a certificate of relief.

Will state agencies receive training to help them implement this Order, and how will you know if this order has been effectively implemented?

The Office of State Human Resources (OSHR) will ensure all state agency managers and staff understand their obligations under this Order. OSHR will also provide training to assist state agencies and state agency personnel in implementing this Executive Order. Additionally, OSHR will collect data related to this Executive Order and submit an annual report with this data to the Governor's Office and the State Reentry Council Collaborative.

Are companies that contract with the state required to comply with this Order?

State contractors are encouraged to implement fair chance hiring policies consistent with those in this Executive Order, but this Order does not make these policies a requirement for state contractors. This Order does, however, direct the Department of Administration (DOA) to study the feasibility of implementing a similar fair chance hiring policy that would extend to businesses that contract with the state. DOA will submit a report on its findings by January 31, 2021.

Are any state agency jobs exempt from the requirements of this Order?

This Order does not apply to positions in which a criminal conviction disqualifies the person from employment in the particular job applied for by the applicant, including but not limited to positions 1) requiring a security clearance or having access to sensitive public safety and security information; 2) requiring certification by the NC Criminal Justice Education and Training Standards Commission or the NC Sheriffs' Education and Training Standards Commission; and 3) positions subject to the Prison Rape Elimination Act.

Are all state agencies, local governments, and private companies required to comply with this Order?

State agencies not subject to the Governor's oversight, along with counties, municipalities, local government agencies, and private entities, are not subject to this Order. These entities, however, are encouraged to implement fair chance hiring policies consistent with those in this Order.

When will this Order take effect?

This Executive Order is effective immediately, but to ensure time for training and transition to new hiring practices, state agencies have until November 1, 2020 to complete implementation.