NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)

BILL NUMBER: A2343

SPONSOR: Aubry (MS)

TITLE OF BILL:

An act to amend the executive law, in relation to requiring employers to make a conditional offer of employment before inquiring about any criminal convictions of a prospective employee

PURPOSE:

This bill will curtail unlawful discriminatory practices against persons with criminal records and help to ensure that employers abide by the provisions of Article 23-A of the correction law.

SUMMARY OF PROVISIONS:

Section 1 of the bill amends the Human Rights Law to provide that no employer may ask about a criminal conviction unless such employer first makes a conditional offer of employment. Such offer could then be withdrawn in accordance with Article 23-A of the correction law where there is a direct relationship between the employment and the conviction and hiring the person would threaten public safety or property.

Section 2 of the bill provides that the act shall take effect on the ninetieth day after it shall have become law.

JUSTIFICATION:

Upon return to the community following incarceration, individuals are expected to find and maintain gainful employment. Finding effective ways to manage their reentry into the workforce is critical to promoting public safety and curbing recidivism rates and the high costs of re-incarceration. Unfortunately, many employers maintain blanket barriers to employment based solely on criminal conviction records even when the conviction may be completely unrelated to the job sought and no threat to the public or property is present.

Article 23-A of the correction law prohibits discrimination against a person with a criminal record unless the duties or responsibilities of the job or license sought are directly related to the conviction. This
bill will help to ensure that employers abide by the standards of Article 23A and do not automatically disqualify applicants based only on a criminal conviction.

**LEGISLATIVE HISTORY:**
A2990 Passed the Assembly in 2015 and was Ordered to Third Reading in 2016.
A.4869 was reported, referred to codes in 2013 and 2014.
A.7782 of 2012 reported, referred to codes

**FISCAL IMPLICATIONS:**
Successful re-entry and re-integration of formerly incarcerated individuals will increase state revenues through the inclusion of thousands of able-bodied, "taxpaying citizens" to the state's workforce; additional savings to the state will inure from a reduction in costs associated with recidivism, re-incarceration and social services.

**LOCAL FISCAL IMPLICATIONS:**
None.

**EFFECTIVE DATE:**
This act will take effect on the ninetieth day after it shall have become law.
AN ACT to amend the executive law, in relation to requiring employers to make a conditional offer of employment before inquiring about any criminal convictions of a prospective employee

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 296 of the executive law is amended by adding a new subdivision 15-a to read as follows:

15-a. It shall be an unlawful discriminatory practice, unless specifically required or permitted by statute, for any prospective employer, including any person, agency, bureau, corporation or association, including the state and any political subdivision thereof, to make an inquiry about, whether in any form of application or otherwise, or to act upon adversely to the individual involved based upon, any criminal conviction of such individual unless such employer first makes a conditional offer of employment to such individual. Such conditional offer of employment may only subsequently be withdrawn on the basis of a criminal conviction in accordance with article twenty-three-A of the correction law where such conviction bears a direct relationship, as such term is defined in subdivision three of section seven hundred fifty of the correction law, to the specific position being offered, or the granting of such employment would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.

§ 2. This act shall take effect on the ninetieth day after it shall have become a law.