

Connecticut Joins Ban the Box Movement

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Connecticut has joined the “Ban the Box” movement, becoming the most recent state in the nation to implement statewide legislation prohibiting employers from making inquiries into an applicant’s criminal history on job applications, except under certain circumstances.

Governor Dannel Malloy signed “An Act Concerning Fair Chance Employment,” Public Act No. 16-83, on June 1, 2016. Employers should review their job applications now to ensure compliance by the January 1, 2017, effective date.

Employers still may make criminal background inquiries in Connecticut, but the timing of such inquiries now shifts to later in the hiring process, such as during the interview process or contingent upon an offer. Additionally, Connecticut’s prior restraints on erased record inquiries remain in effect.

Under the law, employers may inquire into an applicant’s criminal background when required under state or federal law, or when the job requires a security or fidelity bond or equivalent bond.

Any employers found in violation of the law will be subject to a \$300 penalty for each violation.

Next Steps

- Revise employment application materials no later than January 1, 2017, to remove all inquiries regarding an applicant’s prior arrests, criminal charges, or convictions.
- Make sure key employees in the hiring process are educated about the new provision.
- Check local city ordinances. For instance, certain municipalities, such as Hartford and New Haven, Connecticut, prohibit private employers who are vendors to the cities from conducting criminal background checks prior to making conditional offers of employment, among other limitations.
- For multi-state employers, look for similar provisions in other jurisdictions. An increasing number of states and local jurisdictions have imposed restrictions on the timing of criminal background checks, whether for public agencies, city vendors, or all employers. Understand how ban the box laws of other jurisdictions may affect the hiring process, including on-line applications and advertisements.
- Remember that background checks must still be conducted in a non-discriminatory fashion. The Equal Employment Opportunity Commission likely will scrutinize background check procedures for disparate impact based on protected class status, in particular, based on race and national origin. Moreover, some jurisdictions limit employers’ right to use criminal background information or require employers to follow certain procedures when using such information.

Please contact Jackson Lewis for assistance or questions about this and other workplace developments.

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