

New Jersey Ban-the-Box Law Limits Inquiries into Job Applicants' Expunged Criminal Records

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New Jersey has amended its “ban-the-box” law to prohibit inquiries into a job applicant’s expunged criminal record during the initial employment application process.

The New Jersey Opportunity to Compete Act (commonly known as the “Ban-the-Box Law”) already restricts employers from asking a job applicant about his or her criminal history during the initial employment application process. Senate Bill S-3306, signed by Governor Chris Christie on December 20, 2017, amended the Act to include an applicant’s expunged criminal record in the restriction.

S-3306 also clarifies that an employer may not utilize an “online” application that requires disclosing a criminal record or expunged criminal record during the initial employment application process. The rest of the Ban-the-Box Law is unchanged. (For details of the Ban-the-Box Law, see our articles, [How to Comply with the New Jersey ‘Ban the Box’ Law](#) and [New Jersey Issues New Ban-the-Box Regulations.](#))

Most New Jersey employers likely interpreted the original Ban-the-Box Law’s prohibition on inquiries into criminal records during the initial application process to already include inquiries into expunged criminal records. The text of the Ban-the-Box Law, however, limits the prohibitions to oral and written inquiries into an applicant’s criminal background. To the extent confusion existed as to whether an employer could lawfully inquire into an applicant’s expunged criminal history or whether an “online” application qualifies as a “written” or “verbal” inquiry under the original law, the amendment should clarify such confusion.

If you have any questions regarding the Ban-the-Box Law or its impact on your application process, please contact your Jackson Lewis attorney.

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