

Reminder: Illinois Ban-the-Box Legislation Effective January 1

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December 29, 2014

Employers are reminded that as of January 1, 2015, most Illinois employers will no longer be permitted to include a question about criminal convictions in their employment applications.

The "Job Opportunities for Qualified Applicants Act" prohibits employers, or any agent of an employer, from considering or inquiring into a job applicant's criminal record or history until the individual has been determined qualified for the position and notified of an impending interview, or, if the applicant will not be interviewed, until after a conditional offer of employment is made. The Act explicitly excludes three categories of job applicants from this restriction. Applicants for all other positions will be entitled to the protections of the Act.

The Act applies to any employer that is considering an applicant. An "employer" is any person or private entity that has at least 15 employees in the current or preceding calendar year, and any agent of such a person or entity.

The Act does not apply in the following situations:

- If the employer is required to exclude applicants with certain criminal convictions from employment under federal or state law;
- If a standard fidelity bond or an equivalent bond is required and a conviction of certain criminal offenses would disqualify the applicant from obtaining such a bond, the employer may inquire whether the applicant has ever been convicted of those offenses prior to determining whether the individual is qualified for the position; and
- If the employer hires individuals licensed under the Emergency Medical Services (EMS) Systems Act.

Alleged violations of the Act will be investigated by the Illinois Department of Labor and violations will result in progressively substantial civil penalties. We anticipate that the Department will issue regulations in the first quarter of 2015.

(For more details on the Act, please see our article, [Illinois Passes Ban-the-Box Legislation Limiting Employers' Criminal Background Checks on Applicants.](#))

Recommendations

Covered employers should not conduct a criminal background check or ask about an applicant's criminal background prior to scheduling an interview or, if the applicant will not be interviewed, before making a conditional offer of employment. Employers also should review job descriptions and requirements carefully to determine whether any positions fall under one of the listed exceptions.

If you have questions regarding this new statute or need assistance to review application materials and procedures to ensure compliance with the Act, please contact the Jackson Lewis attorney with whom you regularly work.

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