

## A Summary of BAN THE BOX LAWS, ORDINANCES AND IMPACT

(Private Employers Only – March 23<sup>rd</sup>, 2021)

*The following information is provided for general educational purposes only and does not constitute legal advice. Consultation with qualified legal counsel is highly recommended.*

Across the country, cities, counties and states are implementing ban the box laws at rapid rates. To provide context, ban the box is the practice of regulating the timing of the criminal history inquiry at some point during the hiring process. Most “traditional” ban the box laws simply remove the criminal history question from the initial employment application or prohibit the employer from asking the question until after the first interview or after a conditional offer of employment has been extended. However, some ban the box laws go far beyond merely regulating the timing of the criminal history question and impact the adverse action process, require additional documentation, etc.

### Overview

The following is a snapshot of ban the box laws and primary areas of impact. More detailed information for each jurisdiction follows. Please note some laws and ordinances have special provisions too detailed to include here. Further, exceptions may exist depending on the type of position being filled. Importantly: 1) ban the box requirements are in addition to – not in place of – the *Fair Credit Reporting Act* (FCRA) and other applicable law, and 2) when both a state and city/county ban the box law exist, typically both will apply.

### U.S. Federal Ban the Box Law

The U.S. Federal Government enacted a ban the box law applicable to government employees and federal contractors. Although federal contractors may be employed by private companies, those contractors will be subject to the federal ban the box law when filling an opening “related to work under” a federal contract. The law is scheduled to become effective **12/21/2021**.

The Federal ban the box law requires delaying inquiry until a conditional offer of employment has been made. Exceptions exist, however, based on national security, access to classified information, when criminal checks are required by law, and other positions to be identified by the Office of Personnel Management (OPM). Regulations are due from OPM no later than April 2021.

### State Ban the Box Laws

| State Effective Date            | Adverse Action Impact | Requires Individualized Assessment | Additional Notice Requirements | Additional Notice Requirements (Pre-Adverse Enclosures)   | Days between Pre-Adverse and Adverse |
|---------------------------------|-----------------------|------------------------------------|--------------------------------|---|--------------------------------------|
| <b>California</b><br>01/01/2018 | Yes                   | Yes                                | Yes                            | Must specify reason for potential denial, copy of record, and opportunity for appeal or complaint to CA Department of Fair Employment and Housing | 5 (+5 may apply)                     |
| <b>Colorado</b><br>09/01/2019   | No                    | No                                 | No                             |   |                                      |

| State Effective Date                                      | Adverse Action Impact  | Requires Individualized Assessment | Additional Notice Requirements | Additional Notice Requirements (Pre-Adverse Enclosures)  | Days between Pre-Adverse and Adverse |
|---|--|------------------------------------|--------------------------------|--|--------------------------------------|
| <b>Connecticut</b><br>01/01/2017                          | No   | No                                 | No                             |  |                                      |
| <b>District of Columbia</b><br>12/17/2014                 | Yes  | Yes                                | No                             |  |                                      |
| <b>Hawaii</b><br>07/15/1998                               | Yes  | Yes                                | No                             |  |                                      |
| <b>Illinois</b><br>01/01/2015, amended<br>03/23/2021      | Yes  | Yes                                | Yes                            | <p><u>Pre-Adverse notification:</u><br/>           (1) a notification to the employee of the decision and the reasoning, including the conviction(s) that the employer based its decision on,<br/>           (2) a copy of the applicant's conviction history report and<br/>           (3) an explanation of the applicant's rights to respond to the preliminary denial of employment.</p> <p><u>Final-Adverse notification:</u><br/>           (1) the disqualifying conviction or convictions that are the basis for the final decision and the employer's reasoning for the disqualification;<br/>           (2) any existing procedure the employer has for the employee to challenge the decision or request reconsideration; and<br/>           (3) the right to file a charge with the Illinois Department of Human Rights.</p> | Minimum 5 Business Days              |
| <b>Indiana</b>  | Effective 07/01/2017, Indiana enacted a state law prohibiting political subdivisions (counties, cities, townships) from enacting location-specific ban the box laws/ordinances. A statewide law or executive order establishing statewide ban the box requirements is expected, but no time frame has been identified. |                                    |                                |  |                                      |
| <b>Maryland</b><br>02/29/2020                             | No   | No                                 | No                             |  |                                      |
| <b>Massachusetts</b><br>05/04/2012; amended<br>10/13/2018 | Yes  | No                                 | Yes                            | <p>Must specify reason for potential denial, copy of record, and opportunity for appeal or complaint. If CORI is source, provide: 1) Employer's CORI Policy (per DCJIS model), and 2) <i>DCJIS Process for Correcting a Criminal Record</i></p>  |                                      |
| <b>Minnesota</b><br>01/01/2014                            | No   | No                                 | No                             |  |                                      |
| <b>New Jersey</b><br>03/01/2015                           | No   | No                                 | No                             |  |                                      |
| <b>New Mexico</b><br>06/14/2019                           | No   | No                                 | No                             |  |                                      |
| <b>New York</b>   | New York State does not have a ban the box law; however, it requires employers conduct an individualized assessment using New York Article 23-A when considering criminal history as part of an employment decision.   |                                    |                                |  |                                      |

| State Effective Date                     | Adverse Action Impact | Requires Individualized Assessment | Additional Notice Requirements | Additional Notice Requirements (Pre-Adverse Enclosures) | Days between Pre-Adverse and Adverse |
|--|-----------------------|------------------------------------|--------------------------------|---|--------------------------------------|
| <b>Oregon</b><br>01/01/2016              | No                    | No                                 | No                             |   |                                      |
| <b>Rhode Island</b><br>01/01/2014        | No                    | No                                 | No                             |   |                                      |
| <b>U.S. Virgin Islands</b><br>11/10/2018 | No                    | No                                 | No                             |   |                                      |
| <b>Vermont</b><br>07/01/2017             | No                    | No                                 | No                             |   |                                      |
| <b>Washington</b><br>06/06/2018          | No                    | No                                 | No                             |   |                                      |

## Additional State-Specific Information

*Note: this information does not address exceptions or penalties provided under each ordinance or law. Consultation with qualified legal counsel to determine if an exception exists and applies is recommended.*

| State                                     | California  |
|---|---|
| <b>Law/Ordinance</b>                      | Assembly Bill No. 1008 (AB 1008)  |
| <b>Application</b>                        | Employers with 5 or more employees  |
| <b>Timing of Criminal History Inquiry</b> | Employers may not inquire (including on an application for employment) or consider an applicant's conviction history prior to making a conditional offer of employment.   |
| <b>Adverse Action Impact</b>              | An individualized assessment must be conducted to determine whether the conviction history has a direct and adverse relationship with the specific duties of the job. A notice of the disqualifying conviction(s) that are the basis for the preliminary decision to rescind the offer must be included in the pre-adverse action notice. |

| State                                     | Colorado   |
|---|--|
| <b>Law/Ordinance</b>                      | HB19-1025  |
| <b>Application</b>                        | Employers with 11 or more employees; after 09/01/2021: All Employers.  |
| <b>Timing of Criminal History Inquiry</b> | Employers may not inquire about an applicant's criminal history on initial application; however, employers may obtain an applicant's criminal history at any time. |
| <b>Adverse Action Impact</b>              | None.  |
| <b>Special Note</b>                       | Employers may not advertise or state in an employment application that a person with a criminal history may not apply for a position.                              |

| State                                     | Connecticut   |
|---|---|
| <b>Law/Ordinance</b>                      | Sec. 31-51i   |
| <b>Application</b>                        | Any person engaged in business who has one or more employees, including the state or any political subdivision of the state.  |
| <b>Timing of Criminal History Inquiry</b> | Prohibits employers from inquiring into whether an applicant has ever been arrested for, charged with or convicted of any crime that has been erased on an initial employment application. Employers are also prohibited from denying employment to, or discharging/otherwise discriminating against an employee solely due to the existence of any arrest, criminal charge or conviction which have been erased. |
| <b>Adverse Action Impact</b>              | None.   |

| State                                     | District of Columbia   |
|---|--|
| <b>Law/Ordinance</b>                      | “Fair Criminal Record Screening Amendment Act of 2014”/DC Act 20-422   |
| <b>Application</b>                        | Any person, company, corporation, firm, labor organization, or association, including the District government, but not including the courts, that employs more than 10 employees in the District of Columbia. This includes temporary or seasonal work, contracted work, contingent work, and work through the services of a temporary or other employment agency where the physical location of the employment is in whole or substantial part within the District of Columbia. |
| <b>Timing of Criminal History Inquiry</b> | Employers may not inquire into an arrest or criminal accusation that is not currently pending or did not result in a conviction. As for criminal convictions, employers may not inquire or require applicant to disclose criminal convictions until after extending a conditional offer of employment.   |
| <b>Adverse Action Impact</b>              | Employers may only withdraw a conditional offer or take an adverse action for a legitimate business reason. The legitimate business reason must be reasonable in light of several specific factors outlined in the law including the specific duties and responsibilities related to the employment sought by the applicant and the time elapsed since the occurrence of the criminal offense.   |

| State                                     | Hawaii  |
|---|---|
| <b>Law/Ordinance</b>                      | Hawaii Revised Statute §378-2.5   |
| <b>Application</b>                        | Any person, including the State or any of its political subdivisions and any agent of such person, having one or more employees, but shall not include the United States. Includes any service performed by an individual for another person under any contract of hire, express or implied, oral or written, whether lawfully or unlawfully entered into.  |
| <b>Timing of Criminal History Inquiry</b> | Employers may inquire into conviction records after the individual has received a conditional offer of employment. Employers are limited to consideration of felony convictions that occurred in the most recent seven years and misdemeanor convictions that occurred in the most recent five years, excluding periods of incarceration. A conditional offer may be withdrawn if the individual has a conviction record that bears a “rational relationship” to the duties and responsibilities of the position. |
| <b>Adverse Action Impact</b>              | Adverse Action may be taken only if the prospective employee has a conviction record that bears a rational relationship to the duties and responsibilities of the position.   |

| State                                     | Illinois   |
|---|--|
| <b>Law/Ordinance</b>                      | (820 ILCS 75/) Job Opportunities for Qualified Applicants Act; Amended 03/23/2021 by Senate Bill 1480  |
| <b>Application</b>                        | Any person or private entity that has 1 or more employees within Illinois during 20 or more calendar weeks within the calendar year.   |
| <b>Timing of Criminal History Inquiry</b> | Employers may not inquire into criminal history until the applicant has been determined qualified for the position and notified that he/she has been selected for an interview. If there is no interview, the inquiry may take place following a conditional offer of employment.  |
| <b>Adverse Action Impact</b>              | Employers may not maintain a policy that bars employees/applicants with conviction records, unless a law is in place that prohibits that employer from employing an individual with that specific conviction.<br><br>If taking adverse action on an applicant/employee, the Employer must make an individualized assessment and consider:<br>(1) the length of time since the conviction;<br>(2) the number of convictions that appear on the conviction record;<br>(3) the nature and severity of the conviction and its relationship to the safety and security of others; |

- (4) the facts or circumstances surrounding the conviction;
- (5) the age of the employee at the time of the conviction; and
- (6) evidence of rehabilitation efforts.

Employers must provide additional, specific disclosures in both the pre-adverse and final-adverse stages.

Pre-Adverse notification must include:

- (1) a notification to the employee of the decision and the reasoning, including the conviction(s) that the employer based its decision on,
- (2) a copy of the applicant’s conviction history report and
- (3) an explanation of the applicant’s rights to respond to the preliminary denial of employment. The explanation must inform the employee that the response may include, but is not limited to, submission of evidence challenging the accuracy of the conviction record that is the basis for the disqualification or evidence in mitigation, such as rehabilitation.

Final-Adverse notification must include:

- (1) the disqualifying conviction or convictions that are the basis for the final decision and the employer’s reasoning for the disqualification;
- (2) any existing procedure the employer has for the employee to challenge the decision or request reconsideration; and
- (3) the right to file a charge with the Illinois Department of Human Rights.

| State                                     | Maryland   |
|---|--|
| <b>Law/Ordinance</b>                      | Senate Bill 839 – Criminal Records Screening Practices Act   |
| <b>Application</b>                        | Employers with 15 or more Full-Time employees, including a person who acts, directly or indirectly, in the interest of an Employer with respects to an Employee or the Employer. This includes any work for pay and any form of vocational or educational training, with or without pay, as well as contractual, temporary, seasonal, or contingent work, and work through the services or a temporary or employment agency. |
| <b>Timing of Criminal History Inquiry</b> | Employers may not, any time before the first interview, require an applicant to disclose whether they have a criminal record or have had criminal accusations brought against them; however, they may require the applicant to disclose during the first in-person interview whether they have a criminal record or have had criminal accusations brought against them.  |
| <b>Adverse Action Impact</b>              | None.  |
| <b>Special note</b>                       | This law does not preempt the more restrictive ban-the-box ordinances enacted in Montgomery County, Prince George’s County, and Baltimore City.  |

| State                                     | Massachusetts   |
|---|---|
| <b>Law/Ordinance</b>                      | Massachusetts General Laws, Chapter 151B, Section 4   |
| <b>Application</b>                        | Employers with 6 or more employees.   |
| <b>Timing of Criminal History Inquiry</b> | Employers may not inquire into criminal history information on an initial written application form.<br><br>Employers may also not inquire into an arrest, detention or disposition where no conviction resulted, a first conviction for the following misdemeanors: drunkenness, simple assault, speeding, minor traffic violations, affray or disturbance of the peace, or any misdemeanor conviction where the date of such conviction or completion of any period of incarceration (whichever is later) occurred five or more years prior to the date of application unless the person was convicted of any offense within five years immediately preceding the application. |



|                              |  |
|------------------------------|--|
| <b>Adverse Action Impact</b> | Must specify reason for potential denial, copy of record, and opportunity for appeal or complaint. If CORI is source, provide: 1) Employer's CORI Policy (per DCJIS model), and 2) <i>DCJIS Process for Correcting a Criminal Record</i> . |
|------------------------------|--|

| State                                     | Minnesota  |
|---|--|
| <b>Law/Ordinance</b>                      | Minnesota Statutes, Chapter 364  |
| <b>Application</b>                        | All Public and Private Employers.  |
| <b>Timing of Criminal History Inquiry</b> | Employers may not inquire into or consider or require disclosure of the criminal record or criminal history of an applicant for employment until the applicant has been selected for an interview by the employer or, if there is not an interview, before a conditional offer of employment is made to the applicant. |
| <b>Adverse Action Impact</b>              | None.  |

| State                                     | New Jersey  |
|---|---|
| <b>Law/Ordinance</b>                      | Revised Statutes Title 34, "Opportunity to Compete Act"   |
| <b>Application</b>                        | Employers with 15 or more employees over 20 calendar weeks that does business, employs persons or takes applications within the State. The physical location of the prospective employment shall be in whole, or substantial part, within this State.                             |
| <b>Timing of Criminal History Inquiry</b> | Employers may not inquire into or require disclosure of criminal history during the initial employment application process. Employers also may not publish job advertisements that that state candidates with arrest or conviction records will not be considered for employment. |
| <b>Adverse Action Impact</b>              | None.   |
| <b>Special Note</b>                       | This law prohibits cities and counties from enacting location-specific ban the box laws/ordinances. This effectively eliminated Newark's earlier ban the box ordinance.   |

| State                                     | New Mexico   |
|---|--|
| <b>Law/Ordinance</b>                      | Chapter 28, Article 2 NMSA 1978 "Criminal Offender Employment Act"   |
| <b>Application</b>                        | Any person employing four or more persons and any person acting for an employer  |
| <b>Timing of Criminal History Inquiry</b> | Employers shall not make an inquiry regarding an applicant's history of arrest or conviction on the employment application but may take into consideration an applicant's conviction after review of the applicant's application and upon discussion of employment with the applicant. |
| <b>Adverse Action Impact</b>              | None.  |

| State                                     | Oregon   |
|---|--|
| <b>Law/Ordinance</b>                      | HB 3025  |
| <b>Application</b>                        | Private employers in the state. Does not apply to non-employee volunteer screening.  |
| <b>Timing of Criminal History Inquiry</b> | Employers are prohibited from excluding an individual from an initial interview based solely on the existence of a past criminal conviction. This includes: <ol style="list-style-type: none"> <li>1) Requiring an applicant to disclose on an employment application a criminal conviction</li> <li>2) Requiring an applicant to disclose, prior to an initial interview, a criminal conviction</li> <li>3) If no interview is conducted, requiring an applicant to disclose, prior to making a conditional offer of employment, a criminal conviction</li> </ol> |
| <b>Adverse Action Impact</b>              | None.  |

| State                | Rhode Island   |
|----------------------|--|
| <b>Law/Ordinance</b> | General Laws, Chapter 28-5, Section 28-5-6 "Fair Employment Practices" |

|   |  |
|---|--|
| <b>Application</b>                        | Any person in Rhode Island employing four (4) or more individuals, and any person acting in the interest of an employer directly or indirectly.  |
| <b>Timing of Criminal History Inquiry</b> | Employers may not inquire into criminal history information on an employment application. Employers may ask an applicant for information about his or her criminal convictions at the first interview or thereafter, in accordance with all applicable state and federal laws. |
| <b>Adverse Action Impact</b>              | None.  |

| <b>State</b>                              |  |
|---|--|
| <b>State</b>                              | <b>US Virgin Islands</b>   |
| <b>Law/Ordinance</b>                      | US Virgin Island Code Title 24, Chapter 17, Subchapter II – Limited Use of Criminal Records in Hiring Practices  |
| <b>Application</b>                        | Any individuals, corporations, other legal entities, and all departments, offices, boards, institutions, branches, independent instrumentalities, and other agencies of the Government of the Virgin Islands.  |
| <b>Timing of Criminal History Inquiry</b> | Prohibits employers from asking an applicant for employment to disclose, through any written form or orally, information concerning: <ul style="list-style-type: none"> <li>• An arrest or detention that did not result in a conviction</li> <li>• Information concerning referral to or participation in any pretrial or post trial diversion programs; or</li> <li>• Any conviction that has been judicially dismissed or ordered sealed</li> </ul> <p>Employers may also not use this information for an employment decision; however, they may ask applicants about an arrest for which the employee or applicant is out on bail or on his or her own recognizance.</p> |
| <b>Adverse Action Impact</b>              | None.  |

| <b>State</b>                              |  |
|---|--|
| <b>State</b>                              | <b>Vermont</b>   |
| <b>Law/Ordinance</b>                      | Vermont Statutes Title 21, Chapter 5, Subchapter 6: Fair Employment Practices  |
| <b>Application</b>                        | Any person having employees in his or her service.   |
| <b>Timing of Criminal History Inquiry</b> | Employers may not inquire into an individual’s criminal history on an initial employment application; however, an employer may ask about criminal history in an interview or once the prospective employee has been deemed otherwise qualified for the position. |
| <b>Adverse Action Impact</b>              | None.  |

| <b>State</b>                              |  |
|---|--|
| <b>State</b>                              | <b>Washington</b>  |
| <b>Law/Ordinance</b>                      | The Fair Chance Act (HB 1298)  |
| <b>Application</b>                        | Private individuals, businesses and corporations, contractors, temporary staffing agencies, training and apprenticeship programs, and job placement, referral, and employment agencies.  |
| <b>Timing of Criminal History Inquiry</b> | Employers may not include any question on any application for employment, inquire either orally or in writing, receive information through a criminal history background check, or otherwise obtain information about an applicant's criminal record until after the employer initially determines that the applicant is otherwise qualified for the position. <p>Employers may not advertise employment openings in a way that excludes people with criminal records from applying, nor may they implement automatically or categorically exclude individuals with a criminal record from consideration prior to an initial determination that the applicant is otherwise qualified for the position.</p> |
| <b>Adverse Action Impact</b>              | None   |

## City and County Ban the Box Laws

| State Effective Date                            | Adverse Action Impact | Requires Individualized Assessment | Additional Notice Requirements | Additional Notice Requirements (Pre-Adverse Enclosures)   | Days between Pre-Adverse and Adverse |
|---|-----------------------|------------------------------------|--------------------------------|---|--------------------------------------|
| <b>Austin, TX</b><br>04/04/2016                 | Yes                   | Yes                                | Yes                            | Must specify reason for potential denial  |                                      |
| <b>Baltimore City, MD</b><br>08/13/2014         | Yes                   | Yes                                | No                             |   |                                      |
| <b>Buffalo, NY</b><br>01/01/2014                | Yes                   | Yes (Using NY Article 23-A)        | No                             |   |                                      |
| <b>Chicago, IL</b><br>01/01/2015                | Yes                   | Yes                                | Yes                            | If adverse action was taken based in whole or in part on criminal records history, the employer shall inform the applicant of this basis at the time they are informed of the decision. |                                      |
| <b>Columbia, MO</b><br>12/01/2014               | No                    | Encouraged                         | No                             |   |                                      |
| <b>Cook County, IL</b><br>07/29/2015            | No                    | No                                 | No                             |   |                                      |
| <b>Kansas City, MO</b><br>06/09/2018            | Yes                   | Yes                                | No                             |   |                                      |
| <b>Grand Rapids, MI</b><br>12/01/2019           | Yes                   | Yes                                | No                             |   |                                      |
| <b>Los Angeles, CA</b><br>01/22/2017            | Yes                   | Yes                                | Yes                            | 1) Must specify reason for potential denial, and 2) <i>FCIHO Individual Assessment and Reassessment Form</i>  | 5 Business Days                      |
| <b>Montgomery County, MD</b><br>01/01/2015      | Yes                   | Yes                                | Yes                            | Must specify reason for potential denial  | 7 Days                               |
| <b>New York City, NY</b><br>10/27/2015          | Yes                   | Yes (Using NY Article 23-A)        | Yes                            | 1) Must specify reason for potential denial, and 2) Completed <u>Fair Chance Act Notice</u> (Article 23 Evaluation Form)  | 3 Business Days                      |
| <b>Philadelphia, PA</b><br>03/14/2016           | Yes                   | Yes                                | Yes                            | Must specify reason for potential denial. Employers cannot consider convictions older than 7 years as measured from date of sentencing.   | 10 Business Days                     |
| <b>Portland, OR</b><br>07/01/2016               | Yes                   | Yes                                | Yes                            | Must specify reason for potential denial  |                                      |
| <b>Prince George's County, MD</b><br>01/20/2015 | Yes                   | Yes                                | Yes                            | Must specify reason for potential denial  | 7 Days                               |
| <b>Rochester, NY</b><br>11/18/2014              | Yes                   | Yes (Using NY Article 23-A)        | No                             |   |                                      |
| <b>San Francisco, CA</b>                        | Yes                   | Yes                                | Yes                            | Must specify reason for potential denial; employers cannot consider   | 7 Days                               |



| State Effective Date                        | Adverse Action Impact | Requires Individualized Assessment | Additional Notice Requirements | Additional Notice Requirements (Pre-Adverse Enclosures)            | Days between Pre-Adverse and Adverse |
|---|-----------------------|------------------------------------|--------------------------------|--|--------------------------------------|
| 08/13/2014;<br>amended<br>10/01/2018        |                       |                                    |                                | convictions older than 7 years as measured from date of sentencing |                                      |
| <b>Seattle, WA</b><br>11/01/2013            | Yes                   | Yes                                | Yes                            | Must specify reason for potential denial                           | 2 Days                               |
| <b>Spokane, WA</b><br>05/28/2018            | Yes                   | Yes                                | No                             |  |                                      |
| <b>St. Louis, MO</b><br>01/01/2021          | No                    | No                                 | No                             |  |                                      |
| <b>Waterloo, IA</b><br>07/01/2020           | Yes                   | Yes                                | No                             |  |                                      |
| <b>Westchester County, NY</b><br>03/03/2019 | Yes                   | Yes (Using NY Article 23-A)        | No                             |  |                                      |

## Additional City/County-Specific Information

*Note: this information does not address exceptions or penalties provided under each ordinance or law. Consultation with qualified legal counsel to determine if an exception exists and applies is recommended.*

| Jurisdiction                              | Austin, TX  |
|---|---|
| <b>Law/Ordinance</b>                      | Ordinance No. 20160324-019: "Fair Chance Hiring Ordinance"  |
| <b>Application</b>                        | Any person, company, corporation, firm, labor organization, or association that employs at least fifteen individuals whose primary work location is in the City for each working day in each of 20 or more calendar weeks in the current or preceding calendar year. Includes any agency acting on behalf of an employer.   |
| <b>Timing of Criminal History Inquiry</b> | Employers may not publish information about a job that implies that an applicant will be automatically disqualified due to criminal history. Employers also may not solicit/inquire about criminal history on job applications. Employers may not require applicant to disclose or reveal criminal record information or other criminal accusation, conduct a criminal record check or otherwise make any criminal history inquiry until after a conditional offer of employment has been extended. |
| <b>Adverse Action Impact</b>              | Employer may not take adverse action against an applicant based on their criminal history unless the employer has determined that the individual is unsuited for the job based on an individualized assessment. If adverse action is taken, Employer must specify in writing that the adverse action was based on the individual's criminal history.  |

| Jurisdiction                              | Baltimore City, MD  |
|---|---|
| <b>Law/Ordinance</b>                      | Council Bill 13-0301, "Fair Criminal-Record Screening Practices"  |
| <b>Application</b>                        | Employers with 10 or more full-time equivalent employees in the City. Includes contractual, temporary, seasonal or contingent work and work through services of a temporary or other employment agency.   |
| <b>Timing of Criminal History Inquiry</b> | Employers may not require applicant to disclose or reveal criminal record information or other criminal accusation, conduct a criminal record check or otherwise make any criminal history inquiry until after a conditional offer of employment has been extended. |
| <b>Adverse Action Impact</b>              | None.   |

| Jurisdiction                       | Buffalo, NY   |
|------------------------------------|---|
| Law/Ordinance                      | Chapter 154, Article V, "Fair Employment Screening"   |
| Application                        | Employers with 15 or more employees located within the City.  |
| Timing of Criminal History Inquiry | Employers may not make any inquiry, or require any person to disclose or reveal any criminal conviction information during the application process, or before a first interview. The application process begins when the applicant inquires into employment and ends when employer accepts employment application.<br><br>If an employer does not conduct an interview, the employer must inform the applicant if a criminal background check will be conducted before employment begins. |
| Adverse Action Impact              | Before taking adverse action, Employers must perform an individualized assessment of criminal history and other factors under NY Article 23-A. Individualized assessment and reason for denial must be provided to the applicant upon request.  |

| Jurisdiction                       | Chicago, IL  |
|------------------------------------|--|
| Law/Ordinance                      | Chicago Municipal Ordinance 2-160-054 (Chicago Human Rights Ordinance)   |
| Application                        | Employers with 1 or more employees in the current or preceding calendar year with a business facility within the geographic boundaries of the City or that is subject to one or more of the license requirements in Title 4 of the Municipal Code. Does not apply to employers who are subject to the Illinois "Job Opportunities for Qualified Applicants Act" (see Illinois for more information below).             |
| Timing of Criminal History Inquiry | Employers may not inquire into, consider or require disclosure of an applicant's criminal record or history until after the applicant has been determined qualified for the relevant position and notified he/she has been selected for an interview. If there is no interview, the inquiry must take place after a conditional offer of employment is extended.   |
| Adverse Action Impact              | Individual assessment must be conducted when determining whether to employ an applicant with a criminal conviction. Employers, including those subject to the Illinois "Job Opportunities for Qualified Applicants Act", who make a hiring decision based in whole or in part on the applicant's criminal record, must inform the applicant of that fact at the time they inform the applicant of the hiring decision. |

| Jurisdiction                       | Columbia, MO   |
|------------------------------------|--|
| Law/Ordinance                      | Ordinance #022286, Amending Article V, "Employment Opportunities for Qualified Applicants"   |
| Application                        | All employers in the City.   |
| Timing of Criminal History Inquiry | Prohibits employers from inquiring into whether an applicant has ever been arrested for, charged with or convicted of any crime on an employment application and until the applicant has received a conditional offer of employment.   |
| Adverse Action Impact              | Employers may notify applicants of specific offenses that may disqualify them. Though not required, Employers are encouraged to make final employment-related decisions based on all of the information available to them, including consideration of the frequency, recentness and severity of the criminal record as well as the rehabilitation efforts against the duties and responsibilities of the position. |

| Jurisdiction  | Cook County, IL   |
|---------------|---|
| Law/Ordinance | Ordinance 15-4214, amended the Cook County Human Rights Ordinance   |
| Application   | All private employers except positions for which a satisfactory criminal background check is an established bona fide occupational requirement and positions for which federal or state law require exclusion of individuals with certain criminal convictions. Does not apply to employers who are subject to the Illinois "Job Opportunities for Qualified Applicants Act" (see Illinois for more information below). |

|   |  |
|---|--|
| <b>Timing of Criminal History Inquiry</b> | Employers may not inquire into, consider or require disclosure of an applicant’s criminal record or history until after the applicant has been selected for an interview. If there is no interview, the inquiry must take place after a conditional offer of employment is extended. |
| <b>Adverse Action Impact</b>              | If a decision is made to not hire a candidate based on criminal history, the employer must notify the candidate.   |

|   |   |
|---|---|
| <b>Jurisdiction</b>                       | <b>Kansas City, MO</b>  |
| <b>Law/Ordinance</b>                      | Ordinance No. 180034; effective 6/9/2018  |
| <b>Application</b>                        | Employers with six or more employees.   |
| <b>Timing of Criminal History Inquiry</b> | Employers may not inquire into criminal history until the applicant has been determined qualified and interviewed for the position. |
| <b>Adverse Action Impact</b>              | Employers are required to conduct an EEOC-like individualized assessment.   |

|   |  |
|---|--|
| <b>Jurisdiction</b>                       | <b>Grand Rapids, MI</b>  |
| <b>Law/Ordinance</b>                      | Human Rights Ordinance to Amend Title IX of City Code  |
| <b>Application</b>                        | Any person compensating one or more individuals for the performance of work in a lawful business or enterprise.  |
| <b>Timing of Criminal History Inquiry</b> | Timing of inquiry not specified; blanket employment ban based on criminal history prohibited.  |
| <b>Adverse Action Impact</b>              | Employers may not have blanket prohibitions on prospective employees with criminal backgrounds. Employers must carefully evaluate any considered conviction(s) on a “case-by-case” basis before taking adverse action. |
| <b>Special Note</b>                       | Of note: State law prohibits local ban the box laws, but this law is categorized as a “discrimination” law.  |

|   |   |
|---|---|
| <b>Jurisdiction</b>                       | <b>Los Angeles, CA</b>  |
| <b>Law/Ordinance</b>                      | “Los Angeles Fair Chance Initiative for Hiring (Ban the Box)” Ordinance 184652  |
| <b>Application</b>                        | Employers located in or doing business in the City that has at least 10 employees. “Employee” is defined broadly to include any individual who performs at least two hours of work on average each week within the geographic boundaries of the City and who qualifies as an employee entitled to payment of minimum wage under the California minimum wage law.  |
| <b>Timing of Criminal History Inquiry</b> | Employers cannot inquire into or require disclosure of an individual’s criminal history until after extending a conditional offer, or include the criminal history question on an employment application.<br><br>The Ordinance has numerous other requirements including:<br><br><ol style="list-style-type: none"> <li>1. Employers must state in all job advertisements and solicitations that qualified applications with criminal history will be considered for employment.</li> <li>2. Employers must post a notice informing individuals of the law’s provisions in a conspicuous place at every workplace, job site or other location within the City under the employer’s control. A copy of the notice must also be sent to each labor union or representative of workers with which they have a collective bargaining agreement or other agreement.</li> <li>3. Employers are prohibited from discharging, reducing the compensation of or otherwise taking action against any employees who complain to the City or who seek to enforce his or her rights under the law.</li> </ol><br>Employers must retain all records and documents related to employment applications, written assessments and reassessments for a period of three years following receipt of an individual’s employment application. |
| <b>Adverse Action Impact</b>              | Employers are prohibited from taking adverse action based on an individual’s criminal history   |

unless a written assessment is conducted that “effectively links the specific aspects” of the individual’s criminal history “with risks inherent in the duties” of the position sought. At a minimum, employers must consider the three factors outlined by the Equal Employment Opportunity Commission: the nature and gravity of the offence or conduct, the time that has passed since the offence or conduct and the nature of the job held or sought.

Following the written assessment, employers may still not take adverse action against an individual until after conducting the “Fair Chance Process”. Under the Fair Chance Process, employers must provide the individual with written notification of the potential adverse action, a copy of the written assessment and any other information or documentation that supports the decision. Employers must then wait at least five (5) business days before making a final decision. If an applicant provides additional information or documentation, employers must take that into consideration and perform a written reassessment of the proposed adverse action. Finally, if adverse action will still be taken, the applicant must be notified and provide a copy of the written reassessment.

|   |   |
|---|---|
| <b>Jurisdiction</b>                       | <b>Montgomery County, MD</b>  |
| <b>Law/Ordinance</b>                      | Montgomery County Code, Chapter 27, Article XII “Fair Criminal Record Screening Standards”  |
| <b>Application</b>                        | Employers doing business in the County that employs 15 or more persons full-time in the County.   |
| <b>Timing of Criminal History Inquiry</b> | Employers may not require an applicant to disclose arrest or conviction records on an employment application. Employers may also not inquire into criminal history or conduct a criminal record check until after the conclusion of a first interview.  |
| <b>Adverse Action Impact</b>              | If making a decision based on an applicant’s/Employee’s arrest or conviction record, an Employer must conduct an individualized assessment, considering only specific offenses that may demonstrate unfitness to perform the duties of the position as well as other details. If an employer intends to rescind a conditional offer based on an arrest or conviction record, the employer first must provide the individual with a copy of any criminal record report, notify the individual of the employer’s intention to rescind the conditional offer and the items that are the basis for that intention, and delay rescinding the conditional offer for 7 days to permit the individual to provide notice of any inaccuracies on the report. Following that process, if the employer decides to rescind the conditional offer based on the arrest or conviction record, the individual must be notified of the decision in writing. |

|   |  |
|---|--|
| <b>Jurisdiction</b>                       | <b>New York City, NY</b>   |
| <b>Law/Ordinance</b>                      | New York City Human Rights Law; Local Law No. 63 (2015) <i>Revised 6/24/2016</i>   |
| <b>Application</b>                        | Employers with 4 or more employees. Individuals employed as independent contractors to carry out work in furtherance of an employer’s business enterprise who are not themselves employers shall be counted as employees.  |
| <b>Timing of Criminal History Inquiry</b> | Employers may not inquire into pending arrest information or criminal conviction records until after extending a conditional offer of employment. Employers also may not conduct a search of publicly available records or obtain a criminal background check until the conditional offer is extended.   |
| <b>Adverse Action Impact</b>              | Employers must provide a written copy of the inquiry to the applicant, perform an analysis as outlined by Article 23-A. Employer must provide a copy of that analysis to the applicant including any supporting documentation. Employers must then hold the position open and wait at least three business days to allow the applicant time to respond. The Fair Chance Act Notice – published by the New York City Commission on Human Rights – may be used by employers to meet the law’s requirements. Employers may also make modifications to the form, provided that “the material substance does not change.” |

Employers are also barred from publishing or circulating any job advertisement that directly or indirectly notes that individuals with criminal history may not be eligible for employment.

| Jurisdiction                       | Philadelphia, PA  |
|------------------------------------|---|
| Law/Ordinance                      | Chapter 9-3500, "Fair Criminal Record Screening Standards" (amended effective March 14, 2016).  |
| Application                        | All employers with any employees within the City.   |
| Timing of Criminal History Inquiry | Employers may not inquire into an individual's criminal history until after a conditional offer of employment has been extended. The inclusion of a criminal history inquiry on an employment application is "unlawful".<br><br>Additionally, employers may only consider an individual's conviction record for a period of 7 years from the date of the inquiry. Periods of incarceration are not included in the calculation of the 7 year period. Further, employers must post a summary of the law's requirements in a conspicuous place on the employer's website and premises.  |
| Adverse Action Impact              | Employers may not automatically exclude individuals based on criminal conviction history. Before denying an applicant employment based on a criminal record, the employer must conduct an individualized assessment, taking into account: The nature of the offense, time passed since the offense, individual's employment history before and after the offense in addition to any period of incarceration, the particular duties of the job position, character and/or employment references provided by the individual and any evidence of the individual's rehabilitation.<br><br>Following the individualized assessment, if an employer chooses to take adverse action, it must notify the individual in writing including the basis for that decision and provide a copy of the criminal history report. The employer must then allow the individual 10 business days to provide evidence of an inaccuracy or a further explanation. |

| Jurisdiction                       | Portland, OR   |
|------------------------------------|--|
| Law/Ordinance                      | Ordinance 187459   |
| Application                        | Private employers within the city that have 6 or more employees.   |
| Timing of Criminal History Inquiry | Employers may not inquire into a candidate's criminal history until after a conditional offer of employment has been extended. Employers may rescind a conditional offer based upon a candidate's criminal history only after determining "in good faith" that the offense/conduct was "job-related" and "consistent with business necessity".<br><br>Further, employers may not consider employers from considering the following when making hiring decisions:<br><ol style="list-style-type: none"> <li>1. An arrest that did not lead to a conviction, except for unresolved or pending charges;</li> <li>2. Convictions that have been judicially voided or expunged; or</li> </ol> Charges that were resolved through completion of a diversion or deferral of judgment program for offenses not involving physical harm or attempted physical harm. |
| Adverse Action Impact              | Covered employers must conduct an individualized assessment that analyzes: the nature and gravity of the criminal offense, the time that has elapsed since the offense took place and the nature of the employment held/sought. If the employer wishes to rescind the conditional offer following this analysis, it must first provide the candidate written notice identifying the relevant criminal convictions that are the basis for the decision.   |

| Jurisdiction  | Prince George's County, MD   |
|---------------|--|
| Law/Ordinance | Title 17, the Public Local Laws of Prince George's County, Subtitle 2, Division 12, Subdivision 10, "Fair Criminal Record Screening Standards" |
| Application   | Employers with 25 or more persons full-time in the County.   |



|   |   |
|---|---|
| <b>Timing of Criminal History Inquiry</b> | Employers may not require an applicant to disclose criminal history information on an employment application. Employers also may not inquire into criminal history or conduct a criminal record check until after the conclusion of the first interview.  |
| <b>Adverse Action Impact</b>              | <p>Employers must conduct an individualized assessment (considering specific offenses that may demonstrate unfitness to perform the duties of the position, the time elapsed since the offense(s) and any evidence of inaccuracies in the record) if making an employment decision based on an individual’s arrest or conviction record.</p> <p>If an employer intends to rescind a conditional offer based on an arrest or conviction record, the employer first must provide the individual with a copy of any criminal record report, notify the individual of the employer’s intention to rescind the conditional offer and the items that are the basis for that intention, and delay rescinding the conditional offer for 7 days to permit the individual to provide notice of any inaccuracies on the report. Following that process, if the employer decides to rescind the conditional offer based on the arrest or conviction record, the individual must be notified of the decision in writing.</p> |

|   |   |
|---|---|
| <b>Jurisdiction</b>                       | <b>Rochester, NY</b>  |
| <b>Law/Ordinance</b>                      | Chapter 63, Article II of the City of Rochester Municipal Code  |
| <b>Application</b>                        | Employers with 4 or more employees in a position for which the primary place of work is the City.   |
| <b>Timing of Criminal History Inquiry</b> | <p>Employers may not inquire into prior criminal convictions on an initial employment application or prior to the end of the initial application process. The “application process” shall be deemed to begin when the applicant inquires about the employment sought and shall end when an employer has conducted an initial employment interview or made a conditional offer of employment.</p> <p>If an employer does not conduct an interview, that employer must inform the applicant whether a criminal background check will be conducted before employment begins.</p> |
| <b>Adverse Action Impact</b>              | Before taking adverse action, Employers must perform an individualized assessment of criminal history and other factors under NY Article 23-A. Individualized assessment and reason for denial must be provided to the applicant upon request.  |

|   |   |
|---|---|
| <b>Jurisdiction</b>                       | <b>San Francisco, CA</b>  |
| <b>Law/Ordinance</b>                      | City & County of San Francisco Fair Chance Ordinance  |
| <b>Application</b>                        | Employers with 5 or more employees regardless of location.  |
| <b>Timing of Criminal History Inquiry</b> | <p>Employers and housing providers may not inquire about, obtain, require disclosure of, or base housing and employment decisions on a person's conviction history until after a conditional offer of employment is made.</p> <p>Employers may never consider:</p> <ol style="list-style-type: none"> <li>(1) An Arrest not leading to a Conviction</li> <li>(2) Participation in or completion of a diversion or a deferral of judgment program</li> <li>(3) A Conviction that has been judicially dismissed, expunged, voided, invalidated, or otherwise rendered inoperative</li> <li>(4) A Conviction or any other determination or adjudication in the juvenile justice system, or information regarding a matter considered in or processed through the juvenile justice system</li> <li>(5) A Conviction that is more than seven years old, the date of Conviction being the date of sentencing</li> <li>(6) Information pertaining to an offense other than a felony or misdemeanor, such as an infraction, except that an Employer may inquire about, require disclosure of, base an Adverse Action on, or otherwise consider an infraction or infractions contained in an applicant or employee's driving record if driving is more than a de minimis element of the</li> </ol> |



|                              |   |
|------------------------------|---|
|                              | <p>employment in question</p> <p>(7) A Conviction that arises out of conduct that has been decriminalized since the date of the Conviction, the date of the Conviction being the date of sentencing.</p>  |
| <b>Adverse Action Impact</b> | <p>Employers are required to conduct an individualized assessment considering only directly-related convictions, the time that elapsed since the conviction or unresolved arrest and any evidence of inaccuracy, mitigating factors or rehabilitation.</p> <p>If an employer intends to take adverse action based on anything in the individual’s conviction history, the employer must provide the individual with a copy of the background check report and identify the items forming the basis for the prospective adverse action. The employer must wait 7 days before taking a final adverse action. If during that 7 day period the individual provides the employer notice (orally or in writing) of any evidence of inaccuracy or evidence of rehabilitation or other mitigating factors, the employer must delay final adverse action for a reasonable period and shall reconsider its decision during that time.</p> |
| <b>Special Note</b>          | <p>Additional requirements are imposed upon employers under the San Francisco “Fair Chance Ordinance”. Employers are encouraged to review the OLSE website (<a href="http://sfgsa.org/index.aspx?page=6615">http://sfgsa.org/index.aspx?page=6615</a>) and consult with qualified legal counsel.</p>  |

|   |   |
|---|---|
| <b>Jurisdiction</b>                       | <b>Seattle, WA</b>  |
| <b>Law/Ordinance</b>                      | Ordinance 124201 & Chapter 14.17: “Fair Chance Employment Ordinance”  |
| <b>Application</b>                        | Employers with 1 or more employees. Employee is any individual performing services for the employer when the physical location of the services is in whole or part (at least 50% of the time) within the City. The Ordinance applies to employees who perform 50% or more of their employment services in Seattle regardless of the location of their employee.   |
| <b>Timing of Criminal History Inquiry</b> | Employers may perform a criminal background check or inquire into criminal history after completing an initial screening of applications or resumes to eliminate unqualified applicants. Employers may not advertise or implement any policy to categorically or automatically disqualify individuals with arrest or conviction records.  |
| <b>Adverse Action Impact</b>              | <p>Employers may not take adverse action based solely on an individual’s arrest record, pending criminal history or conviction history; however, employers may inquire into the conduct related to the record and may then take adverse action based solely on the conduct if there is a legitimate business reason (as defined in the Ordinance).</p> <p>Before taking adverse action, employers must identify the record or information on which they are relying and provide the individual with an opportunity to explain or correct the information. During this time, employers must hold the position open for a minimum of 2 business days. After that time, employers may – but are not required – to hold open the position until the pending charge is resolved or until questions about an individual’s criminal convictions or conduct relating to an arrest are resolved.</p> |

|   |   |
|---|---|
| <b>Jurisdiction</b>                       | <b>Spokane, WA</b>  |
| <b>Law/Ordinance</b>                      | Ordinance Number C-35564  |
| <b>Application</b>                        | All employers   |
| <b>Timing of Criminal History Inquiry</b> | Employers may not include any question in an application for applicable employment, inquire orally or in writing, receive information through a criminal record background check, or otherwise obtain information about an employee’s arrest or conviction record until after the employee has participated in an in-person or video interview or received a conditional offer of employment. |
| <b>Adverse Action Impact</b>              | Employers may not advertise applicable employment openings in a way that excludes people with arrest or conviction records from applying, such as using advertisements which state “no felons,” “no criminal records,” or which otherwise convey similar messages. Employers may not disqualify an employee from applicable employment solely because of a prior arrest or conviction unless  |

|  |  |
|--|--|
|  | the conviction is related to significant duties of the job or disqualification is otherwise allowed by this chapter or reject or disqualify an applicant for failure to disclose a criminal record prior to initially determining the applicant is otherwise qualified for the position. |
|--|--|

|   |   |
|---|---|
| <b>Jurisdiction</b>                       | <b>St. Louis, MO (Effective 01/01/2021)</b>   |
| <b>Law/Ordinance</b>                      | St. Louis City Ordinance 71074  |
| <b>Application</b>                        | Employers with 10 or more employees   |
| <b>Timing of Criminal History Inquiry</b> | Employers may not inquire into criminal history until it has been determined the candidate is otherwise qualified for the position and also has been interviewed for the position.  |
| <b>Adverse Action Impact</b>              | Employers may not publish written or electronic job advertisements that exclude candidates based on criminal history or include such statements on application forms or other employer-generated forms. Employers may also not seek publicly available information about a candidate's criminal history, including seeking from a background-screening company. |

|   |  |
|---|--|
| <b>Jurisdiction</b>                       | <b>Waterloo, IA</b>  |
| <b>Law/Ordinance</b>                      | Ban the Box Ordinance  |
| <b>Application</b>                        | Employers with 15 or more employees, including the City of Waterloo  |
| <b>Timing of Criminal History Inquiry</b> | Employers may not inquire about a candidate's criminal record until a conditional offer of employment has been made.   |
| <b>Adverse Action Impact</b>              | Employers are prohibited from making an adverse employment decision based on arrests, pending charges, and convictions that have been erased, expunged, pardoned or nullified. |

|   |  |
|---|--|
| <b>Jurisdiction</b>                       | <b>Westchester, NY</b>   |
| <b>Law/Ordinance</b>                      | Westchester Fair Chance to Work Act  |
| <b>Application</b>                        | All Employers.   |
| <b>Timing of Criminal History Inquiry</b> | Employers may not inquire about a candidate's criminal record on the initial job application; however, they may inquire during interviews. Employers may conduct a background check after the initial application.                             |
| <b>Adverse Action Impact</b>              | Before taking adverse action, Employers must perform an individualized assessment of criminal history and other factors under NY Article 23-A. Individualized assessment and reason for denial must be provided to the applicant upon request. |

*The preceding information is provided for general educational purposes only and does not constitute legal advice. Consultation with qualified legal counsel is highly recommended.*