

Employment Flash Alert

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Los Angeles 'Ban the Box' Ordinance

The city of Los Angeles recently passed an ordinance called the Los Angeles Fair Chance Initiative for Hiring (Ban the Box),¹ which will impact employers located or doing business in Los Angeles who employ more than 10 employees.² Effective January 22, 2017, covered employers may not inquire into or require disclosure of the criminal history (including criminal convictions) of an applicant for employment until a conditional offer of employment has been made to the applicant.

Once a conditional offer has been made, employers may not take adverse action against an applicant based on his/her criminal history without first providing the applicant a "Fair Chance Process," which requires that:

- employers provide written notification of the proposed adverse action (*e.g.*, demotion, refusal to hire), a copy of the written assessment that links the specific aspects of the applicant's criminal history with risks inherent in the position sought by the applicant and any other documents supporting the employer's adverse action;
- employers must give the applicant at least five business days to provide documentation to negate or mitigate the assessment of his/her criminal history;
- if the applicant provides such documentation, the employer must perform a written reassessment of the proposed adverse action; and
- if the employer takes adverse action against the applicant, the employer must notify the applicant and provide a copy of the written reassessment.

Further, the new ordinance includes notice and posting requirements. Employers must:

- post notices informing applicants of the provisions of the ordinance in a conspicuous place at worksites in the city under the employer's control or visited by employment applicants;
- send a copy of the notice to each labor union with which the employer has a collective bargaining or other labor-related agreement; and
- state in all solicitations seeking applicants for any occupation, vocation, job or work performed in the city that the employer will consider for employment qualified applicants with criminal histories in a manner consistent with the ordinance.

Companies with employees in the city of Los Angeles should plan for the ordinance by developing a "fair chance process" to be incorporated into their hiring practices, preparing the requisite postings and notices, and updating their job application forms and background check processes, as well as covered employment solicitations.

¹ Click [here](#) for a copy of the ordinance.

² Employee means any individual who performs at least two hours of work on average each week within the geographic boundaries of the city of Los Angeles for an employer.