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Rochester, New York Adopts “Ban the Box” Criminal Background Check Law

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Effective November 18, 2014, the City of Rochester, New York will join various states and municipalities around the country—including Buffalo, New York—that prohibit employers from inquiring about a job applicant’s prior criminal conviction on initial employment applications. Under city ordinance No. 2014-155, it is impermissible for Rochester employers to make inquiries about criminal convictions during the “application process,” which is deemed to have ended once the employer conducts an “initial employment interview” or makes a conditional offer of employer. Under the ordinance, criminal convictions are broadly defined to encompass convictions and guilty pleas for any misdemeanor or felony. Further, the ordinance applies to any position where the primary place of work is located within Rochester, and to any city employees (except fire or police) or vendors regardless of location. The ordinance does not apply where criminal background inquiries are authorized by another applicable law. Further, employers are permitted to withdraw conditional offers of employment for lawful reasons that are consistent with Article 23-A of the New York Correction Law and the federal Fair Credit Reporting Act.

The ordinance provides for a private right of action under which job applicants may seek compensatory damages, injunctive relief, and attorneys’ fees. The Rochester Corporation Counsel also is authorized to bring an action to enforce the ordinance and seek civil penalties up to \$500 for the first violation and \$1,000 for each subsequent violation.

Employers that operate in Rochester, New York are advised to review their application forms and procedures to ensure compliance with the ordinance prior to its November 18, 2014 effective date. Employers also should confirm that they comply with “ban the box” laws in other states and municipalities, including in Buffalo, New York. The full text of Rochester’s ordinance is available [here](#) (see pages 127-131).

Note: This article was published in the June 30, 2014 issue of the New York eAuthority.

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