

Seattle's Criminal Background Check Ordinance and New Rules Take Effect Nov. 1, 2013

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Seattle's new criminal background check ordinance goes into effect **Friday, Nov. 1, 2013**.

In anticipation, the Seattle Office for Civil Rights ("SOCR") recently issued rules implementing the new law. The ordinance restricts when and how employers may consider job applicants' and employees' criminal history when making employment decisions (DWT's advisory discussing the ordinance is available here). The rules clarify and, in some cases, expand the scope of the ordinance's restrictions and requirements.

Key aspects of the new rules:

- The ordinance applies to any employee who works at least 50 percent of the time in Seattle regardless of the location of their employer, including employees who drive through and make business stops in Seattle, seasonal, and temporary employees. The ordinance does not apply to employees who are already subject to criminal background check processes under state or federal law, including but not limited to employees with law enforcement or criminal justice duties, and employees with unsupervised access to children or vulnerable adults.
- Employers may inquire about and consider criminal history information only after conducting an **initial screen** of the applicant. An "initial screen" must include a screening to determine that an applicant meets *all* of the position's minimum requirements.
- Employers must ensure no advertisements, publications, or policies *appear to categorically exclude* employment based on the existence of criminal history.
- The ordinance's restrictions regarding arrest, conviction, and criminal history records extend to juvenile records.
- Before rejecting **any** job applicant based solely on criminal history information, employers must consider the totality of the circumstances, including mitigating factors like the type of offense and duration of time since the underlying criminal conduct.
- Before rejecting an applicant on the basis of criminal history information, employers *must* notify the applicant and allow at least two business days for response. Employers must consider any information provided by the applicant *or by anyone else on the applicant's behalf* that purports to respond, correct, or explain the criminal history information.
- Applicants who intentionally misrepresent criminal history information to an employer waive their right to respond, correct, or explain such inaccuracies.

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The ordinance *and* the newly published rules go into effect Nov. 1, 2013. Employers who believe they may not be in full compliance by Nov. 1 may petition the director of the SOCR for an extension.

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