

OUR INSIGHTS

Connecticut Passes Ban-the-Box Legislation

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On June 1, 2016, Connecticut Governor Dannel P. Malloy signed into law a “ban-the-box” statute, which will take effect on January 1, 2017. The law, “[An Act Concerning Fair Chance Employment](#),” [Public Act No. 16-83](#), prohibits covered employers from inquiring about a prospective employee’s prior arrests, criminal charges, or convictions on an initial employment application.

Definitions

Connecticut’s ban-the-box law defines a “covered employer” as “any person engaged in business who has one or more employees.” Because “employer” is broadly defined, this law arguably applies when businesses have applicants who either reside in Connecticut or are applying for positions in Connecticut.

Scope of the Law

Although the state’s ban-the-box law generally prohibits employers from inquiring into applicants’ prior arrests, criminal charges, or convictions on initial employment applications, there are exceptions to this restriction. An employer may inquire about an applicant’s prior arrests, criminal charges, or convictions on an employment application form only if:

- the employer is required to do so by an applicable state or federal law; *or*
- a security or fidelity bond or an equivalent bond is required for the position.

In light of this broad prohibition, employers may want to review their application materials to ensure that they are compliant with the new law and remove any impermissible criminal history questions from their initial employment applications by January 1, 2017.

Under the law, employers may still inquire into applicants’ criminal histories, but such background inquiries must occur *after* an employment application has been completed, e.g., during an interview.

The law further establishes a “fair chance employment task force” to study issues related to the hiring process, including the employment opportunities available to individuals with criminal histories.

Enforcement

The Connecticut Labor Commissioner will handle complaints filed by individuals alleging an employer's violation of the state's ban-the-box statute. The law does not provide aggrieved individuals with a private right of action against a covered employer.

Connecticut's ban-the-box law and ban-the-box laws in other jurisdictions, including all federal and state background check requirements, are summarized in the firm's [O-D Comply: Background Checks and O-D Comply: Employment Applications](#) subscription materials, which are updated and provided to [O-D Comply](#) subscribers as the laws change.

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Emily O'Brian is an attorney in Ogletree Deakins' Greenville, South Carolina office. Emily assists employers with human resources and employment-related matters and litigation, including defending against wage and hour, discrimination, wrongful discharge, and breach of contract claims. Emily regularly counsels clients on practical, lawful ways to comply with state ban-the-box laws, Title VII, the Fair Labor Standards Act as well as state wage and hour laws and regulations, the federal Fair...

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As a member of the firm's Background Check Advice team, Jennifer offers practical, real-world advice on analyzing, drafting, and implementing valid background check authorization and disclosure forms, pre-adverse and adverse action letters, background check processes and procedures, and other background-check-related documents and communications. Leveraging her experience for one of the country's largest background check companies, Jennifer provides client consultation on employer...
