



CLIENT ALERT

Ban the Box: What You Need to Know

The Fair Criminal Record Screening Act of 2014, also known as “**Ban the Box**,” has passed and will be in effect following the statutorily mandated 30-day period of U.S. Congressional review and after publication in the D.C. Register.

The Facts:

- The Act disallows employers with more than 10 employees working in the District of Columbia (D.C.) from asking job candidates about their criminal history on initial job applications.
- The Act also prohibits an employer from inquiring about or requiring an applicant to disclose criminal activity verbally or in the form of a background check until after a conditional offer of employment has been made.
- An employer may only take adverse action or prevent employment on the basis of the applicant’s criminal record for a "legitimate business reason."
- In the event that adverse action is taken, within 30-days of the adverse action, the applicant may request for the employer to provide a copy of any and all records used by the employer in consideration of the applicant, including criminal records and job description, and secondly, a notice advising the applicant of right to file an administrative complaint with the D.C. Office of Human Rights ("OHR").
- As stated in the legislation, for violations of this Act, OHR will impose fines to the employer (based on the size of the organization), half of which is to be awarded to the complainant.

Takeaway:

In an effort to comply with recent **Ban the Box** legislation, **Legal E Employment Partners** has removed any inquiries concerning an applicant's criminal history from its job applications. We also exclude any discussions regarding past criminal activity during the initial interview phase and will only conduct a criminal background check after extending a conditional offer of temporary employment. In order to ensure that hiring guidelines related to the employment of individuals with criminal records are consistent with federal, state, and local laws, Legal E encourages its clients to provide updated and detailed job descriptions. These more thorough descriptions allow Legal E to properly conduct individualized assessments of candidates when necessary.

Legal E has educated all members of its staff on the appropriate procedures regarding criminal history as it pertains to hiring and separation. As a standard practice, we adhere to state and local requirements at the outset of engagement, during our background check process, and when considering or taking adverse actions against applicants or employees based on criminal history.

Please note Legal E is not authorized to practice law and the above information should not be construed as legal advice.

About Legal E:

Founded in 2003, **Legal E** is a premier legal employment service provider and has been recognized for the past three years as one of DC's top Legal/Litigation Staffing firms by Legal Times Readers Survey. As a certified WBENC business, **Legal E** is dedicated to providing area law firms, corporations and non-profits with highly qualified attorneys, paralegals and support staff for contract and direct-hire services.

To learn more about **Legal E**'s services and business practices, please contact Jeanette Derby, President, at [**jderby@mylegale.com**](mailto:jderby@mylegale.com) or call (202) 319-1500 or visit [**www.mylegale.com**](http://www.mylegale.com).