



Details matter.

## **Los Angeles “Ban the Box” FAQs Fair Chance Initiative for Hiring, Ordinance No. 184652**

### **1. Who does the law apply to?**

The Initiative applies to any “employer” that is located or does business in the City of Los Angeles and employs 10 or more employees. “Employee” is defined as any person who performs at least two hours of work on average each week in Los Angeles and who qualifies as an employee entitled to minimum wage under California’s minimum wage law.

### **2. What is the effective date?**

The Initiative will go into effect on Jan. 1, 2017. However, penalties cannot be imposed under the Initiative prior to July 1, 2017.

### **3. When is it permissible to ask an applicant about criminal records?**

It is permissible to ask an applicant about criminal records after a conditional offer of employment is made.

### **4. Does the law affect when you can conduct a background check?**

Yes. Employers may not conduct criminal background checks until after a conditional offer of employment has been extended.

### **5. Are there any “pre-adverse” notification requirements beyond those of the FCRA?**

Yes. Before an employer can take an “adverse action,” including a withdrawal or cancellation of the employment offer, the employer must first perform “a written assessment that effectively links the specific aspects of the Applicant’s Criminal History with risks inherent in the duties of the Employment position sought by the Applicant.” At a minimum, the employer must consider factors identified by the EEOC and any other factors as may be promulgated by the Department of Public Works.

The employer must then provide the applicant with written notification of the proposed adverse action, a copy of the performed written assessment, and any other information supporting the proposed adverse action, and must also provide the applicant with a “Fair Chance Process,” allowing the applicant to provide information regarding the accuracy of the criminal history information, evidence of rehabilitation or other mitigating factors.

The employer may not take adverse action or fill the employment position for at least five business days after the applicant has received this notification. If the applicant provides the employer with



additional information or documentation, the employer must consider the new information and perform a written reassessment.

**6. Are there any “adverse action” notification requirements beyond those of the FCRA?**

Yes. If the employer, after performing the reassessment of the proposed adverse action, takes the adverse action against the applicant, then the employer must notify the applicant of the decision and provide that applicant with a copy of the written reassessment.

**7. Are there any other additional notice/disclosure requirements?**

No.

**8. Does the law impose any additional restrictions or requirements on employers?**

Yes.

Employers must state in all solicitations or advertisements seeking applicants for employment that the employer will consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of the Initiative.

Employers must also post a notice informing applicants of the provisions of the Initiative in a conspicuous place at every workplace, job site or other location in the City of Los Angeles under the employer's control and visited by employment applicants, and shall send a copy of the notice to each labor union or representative of workers with which they have a collective bargaining agreement or other agreement or understanding that is applicable to employees in the City of Los Angeles.

**9. Does the law allow employment applications to still include the criminal history question with a carve-out for this jurisdiction?**

The law makes no mention of whether or not this practice is permitted.

**10. Does the law provide any exceptions?**

The Initiative does not apply in the following circumstances: A) the employer is required by law to obtain information regarding a conviction of an applicant; B) the applicant would be required to possess or use a firearm in the course of his or her employment; C) an individual who has been convicted of a crime is prohibited by law from holding the position sought by the applicant, regardless of whether that conviction has been expunged, judicially ordered sealed, statutorily eradicated or judicially dismissed following probation; or D) an employer is prohibited by law from hiring an applicant who has been convicted of a crime.

**11. Does the law supersede or preempt any other law?**

No.