



Vermont “Ban the Box” FAQs

Act 81 of 2015-2016

1. Who does the law apply to?

The law applies to “any individual, organization, or governmental body including any partnership, association, trustee, estate, corporation, joint stock company, insurance company, or legal representative, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, and any common carrier by mail, motor, water, air or express company doing business in or operating within this State, and any agent of such employer, which has one or more individuals performing services for it within this State.”

2. What is the effective date?

July 1, 2017.

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

An employer may inquire about a prospective employee’s criminal history record during an interview or once the prospective employee has been deemed otherwise qualified for the position.

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

The law does not mention background checks specifically; however, employers would be well advised to abide by the same restrictions that apply to criminal history inquiries by delaying the background check until after an interview or until the individual is deemed otherwise qualified for the position.

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

Yes. If an employer is considering taking an adverse employment action based on a criminal record, it must afford the applicant “an opportunity to explain the information and circumstances regarding any convictions, including post-conviction rehabilitation.”

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

No.

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

No.

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

No.



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?

Yes. An employer may inquire about criminal convictions on an initial employment application form if the prospective employee is applying for a position for which any federal or State law or regulation creates a mandatory or presumptive disqualification based on a conviction for one or more types of criminal offenses, or if the employer is subject to an obligation imposed by any federal or State law or regulation not to employ an individual who has been convicted of one or more types of criminal offenses. However, in both instances, the questions on the application form must be limited to the types of criminal offenses creating the disqualification or obligation.

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

No.