

City of St. Louis, Missouri, Passes New ‘Ban the Box’ Ordinance

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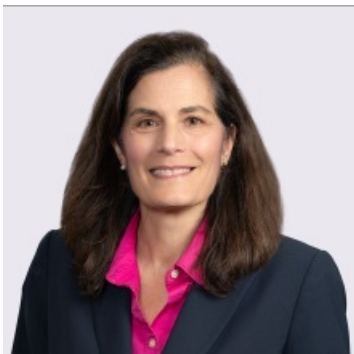
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The City of St. Louis Board of Alderman unanimously passed “ban the box” legislation prohibiting employers in the City of St. Louis, Missouri, from basing job hiring or promotion decisions on applicants’ criminal histories. The [Ordinance](#) will take effect on January 1, 2021, for employers with at least 10 employees.

The legislation asserts that applicants with criminal histories are less likely to be considered for an available job when the information is included on an initial job application, and that revealing a criminal history on an initial job application often results in an applicant’s elimination from consideration. The intent of the new Ordinance (Ordinance 71074) is to remove potential job barriers for people with criminal histories.

Prohibitions

Ordinance 71074 prohibits employers located in the City of St. Louis with at least 10 employees from basing a hiring or promotion decision on a job applicant’s criminal history, unless the employer can demonstrate its decision is based on all available information, including consideration of the frequency, recency, and severity of the criminal history, and that the history is reasonably related to or bear on the duties and responsibilities of the position. Further, the Ordinance prohibits an employer from asking about an applicant’s criminal history until after it has been determined an applicant is otherwise qualified for the position.

The Ordinance also prohibits employers from publishing job advertisements excluding applicants based on criminal history, as well as barring employers from including statements excluding applications based on criminal history in job application forms and other employer-generated forms used in the hiring process. Employers also are barred from seeking to obtain publicly available information concerning job applicants’ criminal history.

Penalties

Individuals aggrieved by a violation of this Ordinance may submit complaints to the Civil Rights Enforcement Agency, who must investigate such complaints and recommend those complaints to have been determined with merit to the Office of the License Collector for employer compliance.

Violations of the Ordinance may expose employers to significant penalties. For the first violation, an employer will receive a warning issued by the Office of the License Collector, or an order requiring that it come into compliance within 30 days. For the second violation, an employer will receive an order issued by the Office of the License Collector requiring that it come into compliance within 30 days and a civil penalty as determined by the License Collector. After three violations, the Office of the License Collector may revoke an employer’s business operating license. The Ordinance provides the authority for additional rulemaking relating to the policies and procedures relating to enforcement,

e.g., penalties, relating to this law.

Next Steps for Employers

City of St. Louis employers covered by the Ordinance should consider taking these steps to ensure they are in compliance with the Ordinance's requirements:

- Review employment applications to ensure they do not include any prohibited inquiries about an applicant's criminal history.
- Review their advertisements (paper and electronic) soliciting applications and remove any language that states applicants will not be considered for employment because of their criminal history.
- Educate key employees in the hiring process about the Ordinance's requirements.
- Update forms and practices for inquiring into an applicant's criminal record, after the initial employment application process is completed.

Employers should take steps to understand what other requirements may coincide with their compliance with this Ordinance.

Please contact a Jackson Lewis attorney for assistance or questions about this and other workplace developments.

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