



As 'Ban The Box' Widens, Employers Review Criminal Screens

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Spencer Waldron was quoted in the *Law360* article "As 'Ban The Box' Widens, Employers Review Criminal Screens" featured on August 15, 2014.

New Jersey Gov. Chris Christie's recent signing of a "ban the box" law preventing employers from asking up front about a job applicant's criminal history extends a trend that some predict will continue to spread across the U.S. and prompt multijurisdictional employers to evaluate how they use criminal background checks while hiring.

This has been passed in at least some form in 13 states and nearly 70 cities and localities across the country.

Management-side attorneys say that, in their view, employers have legitimate concerns that justify running background checks at some point during the hiring process — even if employers are not asking about criminal history on job applications.

"Advocates of adopting ban-the-box laws and ordinances are too black-and-white in their position that inquiring about one's criminal history is an unfair barrier to employment," says Spencer. "It is one arrow in a quiver that employers need to be able to evaluate an applicant's suitability for a job position."

As an example, if a person with felony convictions for larceny or embezzlement is applying for a position that requires handling large amounts of cash, "the employer should have this information available to it."

"Of course," he added, "the age and time of the offenses, the seriousness and nature of the violation, and rehabilitation should be taken into account by the employer."

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