

ILLINOIS EMBRACES “BAN THE BOX”

Insights

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On July 19, 2014, Illinois joined a growing number of states prohibiting employers from asking about applicants' criminal histories early in the hiring process.

The Job Opportunities for Qualified Applicants Act, also known as “ban the box,” goes into effect in Illinois on January 1, 2015. This law prevents companies with more than 15 employees from asking about job applicants' criminal histories until after they have been deemed qualified for the position and either selected for an interview or given a conditional offer of employment. The act imposes penalties ranging from a written warning for the first violation to up to \$1,500 every 30 days for continuing violations.

This law adds to the legal minefield surrounding criminal-background checks and criminal histories of employees. While the new law permits you to inquire about criminal histories late in the hiring process, it is silent on what you can do with that information. You must still watch out for Illinois law prohibiting employment decisions based on an arrest or a sealed or expunged criminal record. Moreover, while the new law permits you to inform candidates in writing of specific disqualifying offenses early in the process, you need to be mindful of the EEOC's warnings about blanket policies that do not contain a targeted screen with individualized assessment.

As the name “ban the box” suggests, you should do a thorough review of your employment applications to make sure there are no boxes asking whether the applicant has been convicted of any crimes. It is also a prime opportunity

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to review your hiring policies and ensure that all involved in the process are trained on the latest EEOC guidance and Illinois laws regarding handling arrest records and convictions.

For more information, contact any attorney in the Chicago office of Fisher Phillips at (312) 346-8061.

This Legal Alert provides a summary of a particular state law. It is not intended to be, and should not be construed as, legal advice for any specific fact situation.