

News and Legislation Relating to Employment and Background Checks

Federal News and Legislation:

Background Checks

- On December 15th, the Office of Personnel Management (OPM) published in the Federal Register a notice and request for comment “proposing modifications to its rules to better ensure that applicants from all segments of society, including those with prior criminal histories, receive a fair opportunity to compete for Federal employment.” Specifically, the proposed regulations would prohibit federal employers from conducting background checks “until the best qualified candidates are referred to a hiring manager.” This proposal is in response to President Obama’s recently announced “Rehabilitation and Reintegration for the Formerly- Incarcerated” initiatives, which call on Congress and federal agencies “to pass meaningful criminal justice reform.” One of the President’s long term initiatives is for Congress to pass a national “ban the box” law for federal hiring. However, the President called on OPM to modify its regulations on criminal background checks in the meantime. Other initiatives for the formerly incarcerated include education grants, technology training programs, supportive housing, increased access to health care, and increased access to employment. (Federal Register Notice: <https://www.gpo.gov/fdsys/pkg/FR-2015-12-15/pdf/2015-30690.pdf>; White House Announcement: <https://www.whitehouse.gov/the-press-office/2015/11/02/fact-sheet-president-obama-announces-new-actions-promote-rehabilitation>).

State News and Legislation:

Background Checks

- On December 15th, Philadelphia Mayor Michael Nutter signed amendments to the city’s “ban the box” law known as the Fair Criminal Screening Standards. The amendments, which take effect in March, further limit an employer’s ability to conduct background checks on job applicants. Specifically, the amendments:
 - Expand the scope of the ordinance to apply to all private employers with one or more employees;

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- Prohibit employers from conducting a background check unless they have made a conditional offer of employment to the applicant;
- Restrict what can be asked on applications and in the pre-conditional offer phases of the application process;
- Require an individualized assessment of criminal history information;
- Prohibit employers from considering criminal convictions more than seven years old;
- Prohibit employers from automatically excluding applicants with criminal convictions;
- Require that employers notify applicants in writing if they have been rejected based on a criminal conviction record;
- Creates a private right of action.

The ordinance includes certain exceptions for law enforcement and actions authorized or mandated by other laws or regulations.

<https://phila.legistar.com/LegislationDetail.aspx?ID=2506577&GUID=DA9B300A-625B-4B6C-B5B8-6CFD0A321FBF&Options=ID%7CText%7C&Search=Fair+Criminal+Screening+Standards+Ordinance&FullText=1>

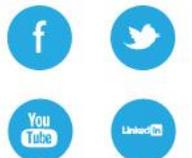
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