
On December 7, 2015, the New Jersey Department of Labor and Workforce Development adopted implementing regulations ([N.J.A.C. 12:68](#)).

On December 20, 2017, Governor Christie signed [S3306](#), amending the state's ban-the-box law to expressly prohibit both employer inquiries into expunged offenses and online record searches during the initial employment application process.

Commentary: Leading up to the introduction of the legislation, the [New Jersey Institute for Social Justice](#) engaged the private employer community through business roundtables as discussed in [NELP's webinar](#). The original version of the bill, available [here](#), included numerous strong provisions, such as delaying inquiry until a conditional offer.

21. NEW MEXICO SENATE BILL 254 (2010) (APPLIES TO PUBLIC EMPLOYMENT) On March 8, 2010, Governor Bill Richardson (D) signed [S.B. 254](#) into law adding [N. M. Stat. § 28-2-3](#) to the existing "Criminal Offender Employment Act" (1974). The bipartisan effort resulted in public employers, including cities and counties, being prohibited from inquiring into an applicant's conviction history on an initial employment application until an applicant has been "selected as a finalist." The law permits convictions to be considered when determining eligibility for public employment or licensure, but convictions "may not operate as an automatic bar." The law further prohibits, for employment and licensing, the use of records of arrest not leading to conviction and misdemeanor convictions not involving moral turpitude. [Drug Policy Alliance New Mexico](#) led the efforts on the bill, which was introduced by Sen. Clinton D. Harden (R). See [bill information](#). The statute took effect on May 19, 2010.

Commentary: The bill amended existing law, which permits a "moral turpitude" conviction that "directly relates" to employment to be the basis for denial. The existing law requires a written statement to the applicant of the reasons for denial and provides the parameters for a presumption of rehabilitation (§ 28-2-4).

In 2017, the New Mexico legislature passed [S.B. 78](#), which would have prohibited conviction inquiries on initial job applications for private employers. However, Governor Susana Martinez (R) [vetoed](#) the legislation.

22. NEW YORK (2015) (APPLIES TO STATE EMPLOYMENT) On September 21, 2015, Governor Andrew Cuomo (D) announced that the state would "adopt 'fair chance hiring' for New York State agencies." As explained in a [press release](#) about the policy change: "applicants for competitive positions with New York State agencies will not be required to discuss or disclose information about prior convictions until and unless the agency has interviewed the candidate and is interested in hiring him or her."

Commentary: The fair-chance hiring policy was part of a package of recommendations made by the state's Council on Community Re-Entry and Reintegration, created in July 2014 by the governor.

New York law prohibits employers from asking about, or acting adversely in response to, arrests or charges that did not result in conviction and are not currently pending. *See* N.Y. Exec. Law § 296, ¶ 16. New York law also makes it an “unlawful discriminatory practice” for any employer or licensing authority to deny employment or licensure, or take other adverse action, based on conviction history unless either “there is a direct relationship between one or more of the previous criminal offenses and the specific license or employment sought or held by the individual” or the employment or licensure “would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.” N.Y. Correct. Law § 752; N.Y. Exec. Law § 296, ¶ 15.

- 23. OHIO ADMINISTRATIVE POLICY HR-29 AND HOUSE BILL 56 (2015) (APPLIES TO PUBLIC EMPLOYMENT)** As of June 1, 2015, the Ohio Department of Administrative Services removed questions about conviction and arrest history from the initial application for state employment per [HR-29](#). The Department also required that every hiring decision-maker weigh [factors](#) similar to those found in the EEOC guidance. On December 22, 2015, Governor John Kasich (R) signed into law [HB 56](#), which prohibits all public employers, including cities and counties, from including any questions about criminal records on initial applications for employment. The Ohio Fair Hiring Act also prohibits a felony conviction from being used against certain classes of public employees unless the conviction occurs while that person is employed in the civil service. The law took effect on March 23, 2016.

Commentary: The Ohio Fair Hiring Act arose from the recommendations and advocacy of a strong coalition led by the [Ohio Justice & Policy Center](#) and the [Ohio Organizing Collaborative](#).

- 24. OKLAHOMA (2016) EXECUTIVE ORDER 2016-03 (APPLIES TO STATE EMPLOYMENT)** On February 24, 2016 Governor Mary Fallin (R) signed an [executive order](#) directing all state agencies to remove questions regarding convictions and criminal history from job applications. The executive order does not apply to “sensitive government positions” and positions where a felony conviction would automatically disqualify an applicant. It is intended to allow for an opportunity for applicants to discuss their conviction records and provide rehabilitation information.

Commentary: The Executive Order arose from recommendations by the Oklahoma Justice Reform Steering Committee, a broad-based advisory committee that Governor Fallin created by executive order in 2015. *See* Governor Fallin’s [press release](#).

- 25. OREGON HOUSE BILL 3025 (2015) (APPLIES TO PUBLIC AND PRIVATE EMPLOYMENT)** Signed on June 25, 2015, [HB 3025](#) prohibits an employer from inquiring about an applicant’s prior criminal convictions until the initial interview with the applicant. There are exceptions for positions where an applicant with a conviction history would be automatically disqualified by law, and for law enforcement, criminal justice positions, and volunteers. The law took effect on January 1, 2016.

Commentary: A coalition of community groups and labor championed the fair hiring legislation in Oregon under the campaign [Fair Shot for All](#), which also included minimum wage, wage theft, and racial profiling legislation as part of its agenda.

26. PENNSYLVANIA ADMINISTRATIVE POLICY HR-TM001 (2017) (APPLIES TO STATE EMPLOYMENT) On May 5, 2017, Governor Tom Wolf (D) [announced](#) that state agencies would adopt a [fair-chance hiring human resources policy](#) for non-civil service positions that fall under the governor’s jurisdiction. In addition to removing questions about conviction history from job applications, the policy prohibits consideration of certain record information, including arrests, expunged convictions, and convictions not related to an applicant’s job suitability. Hiring entities are also required to consider the public’s interest in employing individuals with records when making hiring decisions. The policy includes exceptions for security personnel, law enforcement, and those working with vulnerable populations. The HR policy took effect on July 1, 2017. The Pennsylvania Civil Service Commission has announced that it will also implement the same policy for civil service jobs in the Commonwealth.

Commentary: Governor Wolf explained his rationale in a statement: “Banning the box will allow prospective applicants with criminal records to be judged on their skills and qualifications and not solely on their criminal history, while preserving a hiring agency’s ability to appropriately screen applicants as part of the hiring process.”

Existing Pennsylvania law ([18 Pa. Cons. Stat. § 9125](#)) also prohibits public and private employers from considering felony and misdemeanor convictions beyond the “extent to which they relate to the applicant’s suitability for employment in the position for which he has applied.” That statute also requires employers to notify an applicant in writing if he or she is not hired wholly or partly because of his or her criminal history.

27. RHODE ISLAND HOUSE BILL 5507 (2013) (APPLIES TO PUBLIC AND PRIVATE EMPLOYMENT) Signed into law on July 15, 2013 by Governor Lincoln Chafee (D), [HB 5507](#) prohibits an employer from inquiring about an applicant’s prior criminal convictions until the first interview with the applicant. An employer may inquire about the applicant’s criminal convictions during the first interview. The law includes exceptions for positions from which an applicant with a conviction history would be automatically disqualified by law. Introduced by Reps. Scott Slater (D), Michael W. Chippendale (R), Anastasia Williams (D), Joseph S. Almeida (D), and Grace Diaz (D), see [bill information](#). The statute took effect on January 1, 2014.

Commentary: [Direct Action for Rights and Equality](#) championed the efforts for years, producing the powerful video [Beyond the Box](#).

28. TENNESSEE SENATE BILL 2440 (2016) (APPLIES TO STATE EMPLOYMENT) On April 14, 2016, Governor Bill Haslam (R) signed [SB 2440](#), which prohibits state agencies from inquiring about criminal records on any initial application form. For an applicant with a conviction record, the employer must consider the specific job duties, relationship of the