

# BAN THE BOX

## Encouraging fair employment application practices for people with criminal histories

### What Is “Ban the Box”?

Ban the Box is about procedural practices. Under a Ban the Box law, criminal background checks are delayed until later in the hiring process, encouraging employers to focus on the current skills and qualifications of a candidate, rather than on past mistakes.

Ban The Box laws do **not** prevent employers from conducting background checks. They do **not** require an employer to hire an unqualified applicant. They do **not** eliminate an employer’s discretion to hire only people suitable for the position. They do **not** override any existing laws placing restrictions on eligibility for particular positions. They simply ask employers to consider an individual’s full application, providing a realistic opportunity for a person who has changed his or her life.

### Key Elements of Ban the Box Legislation

- **Timing of Criminal History Inquiry:** Criminal history inquiries may still be done, but are deferred until after a candidate receives a conditional offer of employment.
- **Size of Employers:** This legislation could exempt small employers to avoid administrative burden on employers who may not have the capacity to comply, except where criminal history inquiries are required under state or federal law.
- **Scope of Inquiry:** This legislation could have no time limitation on considering criminal records involving extremely serious violent crimes. A reasonable look back period could be provided for consideration of indictable offenses and shorter look back period might be considered for disorderly persons convictions or municipal ordinance violations, as those are less serious infractions. The look back period should start from the completion of the candidate’s sentence, including parole or probation.
- **Evaluation of Criminal History Information:** Employers should consider the nature of the criminal record, how long ago it occurred, the relationship between the record and the job, subsequent good conduct and community involvement, etc., as well as evidence of any errors in a candidate’s record.
- **Procedural Requirements:** Candidates should receive notice of the reason for the withdrawal of a conditional offer, and have a reasonable opportunity to quickly respond with additional information or evidence.
- **Local Employees Only:** The law should only apply to positions in New Jersey.

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### Benefits of Ban the Box

- **Enlarged Talent Pools:** Employers are assured that they are not missing the opportunity to compete for talented, desirably, productive employees.
- **Reduced Employment Screening Costs:** Delaying the point at which criminal history inquires occur would substantially reduce the number of background checks conducted and the associated expense.
- **Economic Growth:** The productive capacity of these individuals is tremendously underutilized. Reducing the high unemployment rate of those with criminal histories would spur economic growth in the communities in which they live and work.

### Jurisdictions with Ban the Box Laws

Ban the Box laws have been in effect since 1998, and have been adopted by 38 jurisdictions throughout the United States.

- **States:** Connecticut, Hawaii, Massachusetts, Minnesota, New Mexico (and the District of Columbia)
- **Counties:** Alameda, San Francisco (CA); Saginaw (MI); Durham (NC); Multnomah (OR); Travis (TX)
- **Cities:** Berkeley, Compton, Oakland, Richmond, San Francisco (CA); Bridgeport, Hartford, New Haven, Norwich (CT); Jacksonville (FL); Baltimore (MD); Boston, Cambridge, Worcester (MA); Detroit, Kalamazoo (MI); Minneapolis, St. Paul (MN); Durham (NC); Cincinnati, Cleveland (OH); Philadelphia (PA); Providence (RI); Memphis (TN); Austin (TX); Seattle (WA)

