



Montgomery County joins others to “Ban the Box”

Montgomery County, MD, has joined other jurisdictions, such as [San Francisco](#) and [District of Columbia](#), by passing [Bill 36-14](#). The new law adds Article XII “Fair Criminal Record Screening Standards” to, and amends Sections 27-7 and 27-8 of, [Chapter 27](#) of the Montgomery County Code.

Who does this affect?

The law applies to both private and public sector employers in Montgomery County employing 15 or more persons full-time in the County.

When does this go into effect?

This law goes into effect **January 1, 2015**.

What is included in the law?

The legislation states an employer **must not**:

- Require an applicant or potential applicant to disclose the existence or details of their arrest or conviction record on an employment application.
- Require or inquire with the applicant or others whether the applicant has an arrest or conviction record or otherwise has been accused of a crime at any time before the conclusion of a first interview.
- Conduct a criminal record check on the applicant at any time before the conclusion of a first interview.

Are there any exceptions?

Yes. The prohibitions of this law do not apply if they are expressly authorized by an applicable federal, State, or County law or regulation. Prohibitions do not apply to the County Police Department, the County Fire and Rescue Service, the County Department of Corrections and Rehabilitation, an employer that provides programs, services, or direct care to minors or vulnerable adults, and/or an employer hiring for a position that requires a federal government security clearance.

Are there any penalties?

Yes. Violations carry possible civil penalties up to \$1,000, as well as any other relief and damages (other than punitive) as warranted.

Can employers still consider and take adverse action based on an applicant’s criminal history?

Yes. Employers may inquire into an applicant’s criminal history after the conclusion of a first interview. If an employer intends to rescind a conditional offer based on item(s) in the applicant’s criminal history, the employer must:

- Provide the applicant with a copy of any criminal record report, and notify the applicant of the intention to rescind the conditional offer and the item(s) that are the basis for the intention, before rescinding the conditional offer.
- If, within 7 days after the employer provides the notice required, the applicant gives the employer notice of evidence of the inaccuracy of any item(s) on which the intention is based, the employer must delay rescinding the conditional offer for a reasonable period after receiving the information.
- Within 7 days after rescinding the conditional offer based on the arrest or conviction record of an applicant, an employer must notify the applicant of the rescission of the conditional offer in writing.

Recommendations

We recommend you review, and discuss with your legal counsel, your organization’s policies and procedures, including your company’s application, criminal history questions and adverse action process to ensure compliance with the changing laws.

Contact Accurate Background

For additional questions, please contact Accurate Background at 800.216.8024. For more information regarding recent Ban the Box initiatives in other states and jurisdictions, visit our [Legislative Updates page](#).