



## Austin Becomes the First City in Texas to “Ban the Box” for Private Employers

### THE BASICS

Location	Austin, TX
Legislation	<b>Ordinance 20160324-019 (DRAFT)*</b>
Type	Ban the Box
Effective	<b>April 4, 2016</b>

### KEY TAKEAWAYS

- ✓ Applies to employers that employ at least 15 individuals in the City.
- ✓ Employer may not inquire about criminal history in an application, or solicit criminal history information or consider an individual’s criminal history unless a **conditional offer** has been made.
- ✓ Employer may not take adverse action unless they have determined the individual’s criminal history **bears direct relation to the job**.
- ✓ Employers taking adverse action must inform the individual in writing that the **adverse action was based on the individual’s criminal history**.

Austin’s City Council passed **Ordinance 20160324-019 (DRAFT)\***, adding Chapter 4-15 to the City Code and making Austin the first city in Texas to expand “Fair Chance Hiring” practices to private employers. The new law takes effect on **April 4, 2016**.

### Which employers are affected?

The law applies to **employers that employ at least 15 individuals** whose primary work location is in the City, including but not limited to employees, temporary workers, and contingent workforce. It is important for all impacted employers to read this Ordinance and discuss with their legal counsel how it may affect their organization.

### What does the law prohibit?

An employer may not:

- ✓ Publish or cause to be published information about a job that states or implies that an individual’s criminal history automatically disqualifies the individual from consideration;
- ✓ Solicit information about or consider an individual’s criminal history unless the employer has first made a conditional employment offer;
- ✓ Refuse to consider employing an individual who submits an application for a job because they did not provide criminal history information before receiving a conditional offer;
- ✓ Take adverse action against an individual because they reported a violation of this ordinance by an employer, or participated in an administrative proceeding under this ordinance.

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

Yes, nothing limits an employer’s authority to withdraw a conditional offer of employment for any lawful reasons, but the employer may not take adverse action against an individual because of their criminal history unless the employer has determined that their criminal history bears a direct relation to the duties and responsibilities of the job and makes them unsuitable for the job. If this determination is made, the employer must inform the individual in writing that the adverse action was based on their criminal history.

### Are there any exceptions?

Yes, please review the ordinance and discuss with your legal counsel to determine if your organization meets one of the exceptions.

### 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 relating to this legislation, please email [resources@accuratebackground.com](mailto:resources@accuratebackground.com). For more information regarding recent Ban the Box initiatives in other states and jurisdictions, visit our [Legislative Updates](#) page.

*\*Please note the final draft has not been posted so Accurate Background will advise of any changes if they differ from the above.*