



## **City of Buffalo joins others to “Ban the Box”**

The Common Council for the City of Buffalo passed an ordinance amending Chapter 154 of the Code of the City of Buffalo, titled “Fair Employment Screening,” joining several other jurisdictions, such as Seattle and Minnesota, in passing “Ban the Box” legislation. The ordinance may be read [here](#).

### **Who does this affect?**

The ordinance will apply to the City of Buffalo, its vendors, including those outside the City of Buffalo, and all private employers with fifteen or more employees.

### **When does this go into effect?**

An amendment has been filed to delay the effective date to **January 1, 2014**.

### **What is included in the ordinance?**

This legislation:

- Prohibits employers from inquiring in an applicant’s criminal history on the initial application; and
- Prohibits employers from inquiring into an individual’s criminal history prior to the individual’s first interview. If the employer does not conduct interviews, the employer must inform the applicant if a criminal background check will be conducted prior to employment; and
- Requires an employer to continue to comply with Article 23-A of the New York State Correction Law when considering an applicant’s prior criminal conviction.

### **Are there any exceptions?**

The prohibitions in the ordinance do not apply to the following:

- If the inquiries or adverse actions prohibited herein are specifically authorized by any other applicable law;
- The Department of Police or the Department of Fire, or to any other employer hiring for police officer and peace officer positions as defined by Criminal Procedure Law;
- Any public or private school, nor to any public or private service provider of direct services specific to the care or supervision of children, young adults, senior citizens, or the physically or mentally disabled.

### **Can employers still consider a candidate’s criminal history?**

Yes, it merely delays the time frame in which an employer may inquire into the prior criminal history. The ordinance states that in accordance with Article 23-A nothing in this ordinance shall be construed to limit an employer’s authority to withdraw a conditional offer of employment for any lawful reason, including the determination that the candidate has a conviction that bears a direct relationship to the duties and responsibilities of the position sought, or that hiring the individual would pose an unreasonable risk to property or the safety of others.

### **What are the penalties?**

The ordinance allows for any aggrieved person to file a civil action or proceeding for injunctive relief, damages, and other appropriate relief. It also permits any entity, whether or not an aggrieved party, to file a complaint with the Commission on Citizens’ Rights and Community Relations, which may result in fines of \$500 for the first violation and \$1,000 for each subsequent violation.

### **Recommendations**

You may want to review, and discuss with your legal counsel, your organization’s policies and procedures, including your application if all applications contain a criminal history question, to ensure compliance with this ordinance.

### **Contact Accurate Background**

For additional questions, please contact Accurate Background at 800.216.8024.