



Philadelphia Passes Law Restricting Inquiries About Criminal Convictions on the “Initial Application”

Recent legislation surrounding Philadelphia’s “Fair Criminal Recording Screening Standards” will prohibit employers from engaging in unlawful and discriminatory practices by, among other things, including a criminal history question on the initial employment application and by using criminal offenses that did not result in conviction in hiring decisions and taking adverse action.

Who does this law affect?

This legislation impacts both private and public employers with 10 or more employees within the City of Philadelphia. As a best practice, employers outside of Philadelphia that hire people to work in Philadelphia are advised to follow these same guidelines.

When does this law go into effect?

The law goes into effect **July 12, 2011**.

What is the provision that goes into effect on July 12, 2011?

This legislation prohibits employers from asking about a candidate’s criminal history until after the employer receives the employment application from the candidate **and** conducts the first interview either in-person or via telephone. If the employer does not conduct an interview, then they are prohibited from asking information about the candidate’s criminal history.

In addition, this legislation restricts employers from requesting information from, or taking adverse action against, a candidate based on an arrest that is not pending and did not result in a conviction.

Can Accurate Background still ask about criminal history if we are using Accurate Background’s Candidate Portal?

Yes, as long as Accurate Background’s Candidate Portal is not considered the “initial application” by your organization. For example, if you are using Accurate Background’s Candidate Portal as the sole method to collect the job application, then inquiries about an individual’s criminal history cannot be asked. If you are using Accurate Background’s Candidate Portal as a method for strictly collecting the information for the background check, then inquiries regarding an individual’s criminal history can be asked inside our Candidate Portal and any discrepancies between the candidate’s response to the inquiry and the information uncovered by Accurate Background can be flagged and reported.

Can employers still consider a candidate’s criminal history?

Yes, however the scope of the information is now subject to some conditions. The legislation does not prohibit an employer considering a candidate’s criminal history:

1. AFTER the initial in-person or telephone interview
2. As long as inquiries are not made on arrests or accusations that are not pending and/or do not result in a conviction

** Criminal Justice Agencies, such as police and prisons, and certain employers who are required to conduct background checks due to the nature of their business and/or industry regulations may be exempt from this legislation.

Contact Accurate Background

For any questions regarding this legislation, please contact Accurate Background at 800.784.3911. For more in-depth information from law firm Seyfarth Shaw, click [here](#).