

Ban the Box: Westchester County Passes Legislation Prohibiting Conviction History Questions on Job Applications

Following the trend of other counties and municipalities throughout New York State who have adopted “fair chance” or “ban the box” legislation, the Westchester County Board of Legislators passed a [local law](#) on December 3 which would prohibit employers from inquiring about an applicant’s criminal conviction or arrest record in employment applications. The law, which will go into effect 90 days after it is signed by the County Executive, also bans employment advertisements, solicitations, or publications containing any “limitation, or specification in employment based on a person’s arrest record or criminal conviction.”

Earlier this year, County Executive George Latimer signed an Executive Order that banned criminal conviction questions on any applications for employment with the County government. The County Executive’s office released a statement confirming that he intends to sign this legislation that will extend the prohibition to other employers within the County as well.

Unlike New York City’s “ban the box” law that prohibits any inquiries relating to an applicant’s criminal history until after a conditional offer of employment has been extended, the Westchester County law explicitly allows an employer to make such inquiries after the employee submits his/her employment application. However, the Westchester County law reiterates the employer’s obligation to perform an analysis of the applicant’s criminal record and other factors under [New York State Correction Law Article 23-A](#) before taking any adverse employment action based on the applicant’s criminal history.

Notably, this law does not apply to applications for employment as a police officer, peace officer, or at a law enforcement agency, as statutorily defined and referenced in the law. The law also does not apply to “any actions taken by an employer pursuant to any state, federal or County law that requires criminal background checks for employment purposes or bars employment based on criminal history.”

Employers located within Westchester County should take this opportunity to review their employment applications to ensure that they do not contain any questions related to an applicant’s criminal conviction or arrest record.

If you have any questions about this Information Memo, please contact [Jacqueline A. Smith](#), any of the [attorneys](#) in our [Labor and Employment Law Practice](#), or the attorney in the firm with whom you are regularly in contact.



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