



Ban the Box: Overview for Private Employers

The Ban the Box law is designed to provide job candidates with an arrest or conviction with more opportunities to be evaluated on their skills and experience when applying for positions with private employers. According to the National Employment Law Project, 1 in 4 Americans have either an arrest or conviction on their record, in most cases for nonviolent offenses. This law offers the vast majority of these individuals a second chance at an opportunity for employment.

The new Ban the Box law will not only provide an opportunity for those with a criminal background to better their lives, it encourages best practices that will help employers be better prepared for Minnesota's changing demographics. The number of working age adults shrinks daily as more than 10,000 Americans turn 65 years of age each day well into the next decade. The increased use of criminal background checks complicates matters for employers as they face a dramatic worker shortage in the foreseeable future.

The expanded use of criminal background checks also contributes to employment disparities. Minnesota has some of the deepest economic disparities in the nation based on race, and while the reasons are multifaceted, involvement in the criminal justice system is a significant factor driving these disparities. In Minnesota, the disparity between Whites and African Americans with criminal records is four times higher than the national average. The Ban the Box law can mitigate disparate impact based on race and national origin in the job applicant pool, and is one tool to help reduce these inequalities.

What the Ban the Box law does - and does not do

Governor Dayton signed the criminal background check bill, which expanded Ban the Box to private employers on January 1, 2014. This requirement has been in effect for public employers in Minnesota since 2009.

The law does not require an employer to hire any candidate with a criminal background, and employers may still conduct background checks. Ban the Box simply requires an employer to wait until later in the hiring process -- at the interview stage or a when a conditional job offer has been extended -- before asking the applicant about their criminal record or conducting a criminal background check.

For certain jobs, background checks are required by state or federal laws. The Ban the Box law does not remove these requirements. Employers may still exclude applicants if required by law not to consider candidates who have been convicted of a crime; thus, existing laws will continue to protect vulnerable adults and children from people with certain criminal histories. Employers may still exclude applicants if a crime is relevant to the position's job duties.

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The Minnesota Department of Human Rights (MDHR) is charged with enforcing the Ban the Box law. MDHR is seeking to engage in a comprehensive education program to encourage compliance by employers. This commitment is reflected in the first-year period that provides for notification and education before any penalties are applied. The Department is partnering with other agencies to provide training and technical assistance through a series of seminars and webinars. Watch our website for upcoming training opportunities.

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Minnesota Department of Human Rights
Freeman Building • 625 Robert Street North • Saint Paul MN 55155
Tel: 651.539.1100 • MN Relay 711 or 1.800.627.3529 • Toll Free 1.800.657.3704 • Fax: 651.296.9042 • mn.gov/mdhr