



Oregon Governor Signs "Ban the Box" Bill Preventing Questions about Criminal Convictions

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With Governor Kate Brown's signing of House Bill 3025 last week, Oregon joins a growing number of states barring employers from including questions about criminal convictions on job applications. Oregon is now the seventh state to prohibit the practice for all employers. Eleven states prohibit government employers to ask applicants about criminal convictions.

The new law makes it unlawful to inquire into or consider an applicant's conviction history on an application form or prior to a job interview. If no interview is conducted, then an employer may not inquire into or consider an applicant's criminal history prior to a conditional offer of employment. Under the new law, employers still retain the right not to ultimately hire an applicant due to criminal background issues.

The bill also creates an exemption for employers who are legally required to consider a job applicant's criminal background, such as public safety and criminal justice agencies. Additionally, applications for volunteer positions can still contain questions about an applicant's criminal background. Finally, the prohibition does not apply if federal and state laws allow consideration of an applicant's criminal background.

Enforcement of the law will be handled by the Oregon Bureau of Labor and Industries. The version introduced by the Oregon House of Representatives included a provision permitting applicants to sue an employer for violating the law. The senate version of the bill also creates an exemption for employers who are legally required to consider a job applicant's criminal background.

Employers in Oregon will need to modify their employment applications to comply with the new law. If an employer's job applications include a question regarding an applicant's criminal history, that question must be removed. Employers are still permitted to ask applicants about criminal history in job interviews, or to make a job offer contingent on a criminal background check. However, no questions regarding an applicant's criminal background should be asked, prior to either an interview or a contingent offer, unless the employer qualifies for one of the exceptions discussed above.