

New Illinois Law Limits An Employer's Ability to Conduct Criminal Background Checks of Job Applicants

Insights for Employers Alert | 2 min read

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On July 19, 2014, Illinois Governor, Pat Quinn, signed into law the Job Opportunities for Qualified Applicants Act, 30 ILCS 105/5.855. The Act, which goes into effect on January 1, 2015, significantly limits an employer's ability to request or review the criminal background information of applicants as part of the hiring process and is a victory for "Ban the Box" advocates working in several states. According to the Act, an employer may not inquire into or consider the criminal record or criminal history of a job applicant until the employer determines that the applicant is qualified for the position and either (1) selects the applicant for an interview; or (2) if there is not an interview, makes a conditional offer of employment to the applicant. However, the Act specifically does not apply where: (1) federal or State law requires the exclusion of applicants with certain criminal convictions; (2) a standard fidelity bond or equivalent is required and an applicant's conviction would disqualify the applicant from obtaining such a bond; or (3) when the employer employs individuals licensed under the Emergency Medical Services (EMS) Systems Act. The Act also permits employers to notify applicants in writing of the specific offenses that would disqualify an applicant from employment in a particular position. However, employers should note that such statements could invite scrutiny by the EEOC or the Illinois Department of Human Rights ("IDHR") under anti-discrimination laws. Employers who do not comply with the new Act are subject to monetary penalties from the Illinois Department of Labor, but there is no private right of action under the Act. All Illinois employers who conduct criminal background checks of applicants should review their hiring practices in light of the Act and contact their regular Hinshaw counsel for guidance as to how to adjust any hiring procedures prior to January.

A copy of the new law is available on the [Illinois General Assembly's website](#).

For more information, please contact your regular [Hinshaw attorney](#).

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