



JANE KIM

Fair Chance Ordinance

Legislative Fact Sheet

Summary

The Fair Chance ordinance would provide that certain affordable housing providers, private employers with 20 or more employees, and contractors doing business with the City and County of San Francisco, may not inquire into an individual's conviction history until after the decision-maker has determined the individual's qualifications meet the requirements for the position or housing unit and may not include such an inquiry in the initial application for employment or housing.

Problem

As estimated one in four adults has an arrest or conviction record, creating unnecessary and significant barriers to employment and/or housing. The U.S. Department of Justice generates over 1.7 million criminal background checks annually for employment and licensing purposes. Otherwise qualified individuals are often discouraged from applying for work in the public and private sectors and from applying for housing because of a conviction history inquiry on an initial job or housing application.

The U.S. Equal Employment Opportunity Commission (EEOC) requires employers to establish a strong nexus between an individual's conviction history and the specific responsibilities of the job. On a statewide level, realignment of California's criminal justice system seeks to reduce recidivism and promote rehabilitation to achieve budgetary savings and improve public safety for all. Studies have consistently shown that stable employment and housing are key factors to lower recidivism and boost public safety.

Solutions

As of November 2013, ten states and over 50 U.S. cities and counties have already responded to this growing societal challenge by removing the conviction history inquiry from initial job and housing applications in public employment. On October 10, 2013, Governor Jerry Brown signed AB 218, which removed conviction history inquiries from state agency, city, and county job applications.



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Locally, the City and County of San Francisco removed the question from job applications for city and county positions in 2005 and currently conducts conviction history checks only after issuing a conditional offer of employment. In 2011, the San Francisco Human Rights Commission and the San Francisco Reentry Council recommended expanding the City's policy to all private employers, vendors, and most housing providers. In 2012-2013, 13 cities and counties nationwide extended these policies to private contractors and, in the case of Buffalo, Newark, Philadelphia, and Seattle, to private employers.

Fair Chance Ordinance

The Fair Chance Ordinance will remove any inquiry into a conviction history on a job or housing application and delay any background check until the employer or housing provider has determined that the individual's qualifications meet the requirements for the position or the housing unit. After a conditional offer or a first live interview, the employer or housing provider may obtain conviction history information and consider any conviction that bears a direct relationship to the position or housing situation. The individual shall have the right to a copy of any background check obtained and the right to provide additional information regarding the specific conviction(s) at issue, including evidence of rehabilitation and other mitigating circumstances.

This ordinance will make employment practices more consistent with the EEOC's recommended best practices on hiring people with arrest and conviction records and standardize the practices for nonprofit affordable housing providers city-wide.

The provisions of the ordinance do not bar employers and housing providers from asking about an individual's conviction history. The ordinance concerns when, not whether, employers and housing providers may obtain and consider conviction information from employees, applicants for employment, and applicants for housing. Under the Fair Chance ordinance, this information may be sought and considered after an individual's qualifications have first been assessed and the individual deemed otherwise qualified.

This ordinance does not contain a private right of action but instead provides for administrative and civil enforcement through the Office of Labor Standards Enforcement (OLSE) in the employment context and the Human Rights Commission in the housing and contractor contexts.

Member, Board of Supervisors
District 6



City and County of San Francisco

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If an employer or housing provider is otherwise required or permitted by law to conduct a conviction history background check for certain occupations, such as positions in law enforcement or positions working with children, seniors, or vulnerable adults, nothing in this ordinance preempts such requirements imposed by applicable state or federal law. The provisions will only apply to businesses with more than 20 employees.

In order to provide sufficient time for employers and housing providers to implement the ordinance, the ordinance will take effect in two phases. The first phase will entail outreach and education for employers, housing providers, and the general public and no imposition of penalties until the second phase, which will begin one year after the effective date of the ordinance.

The Fair Chance Ordinance will remove unnecessary barriers to employment and housing for qualified, skilled individuals seeking jobs and stable homes and will promote public safety by reducing obstacles to stabilizing factors for the nearly 7 million adult Californians with a conviction record.

Supporters (excerpted from full list):

African American Chamber of Commerce – San Francisco
All of Us or None
Alliance of Boys and Men of Color
Community Housing Partnership
Equal Rights Advocates
Greenlining Institute
Jobs With Justice
Lawyers Committee for Civil Rights of the SF Bay Area
Legal Services for Prisoners with Children
NAACP
National Employment Law Project
San Francisco Chamber of Commerce
San Francisco Reentry Council
San Francisco Public Defender
Tenderloin Neighborhood Development Corporation