

Date: 11/8/16
Submitted in EFC Committee
Council File No: 14-0746
Item No.: 1
Deputy: Public

Recommended Amendments

- First, we strongly recommend the language about conditional offer of employment be expanded to allow employers to explore criminal history during the interview process as well. Five (5) of the 12 cities we reviewed do not require private sector employers to wait until a conditional offer of employment. We suggest the following language:
 - Require City contractors and private employers with 10 or more employees to remove questions relating to criminal history from job applications and require any questions related to criminal history *not* be made *until an interview or* a conditional offer of employment has been made.
- Modify the Fair Chance Process for Adverse Action: The FCO requires “an Employer, prior to taking an Adverse Action against an Applicant, shall provide that person a Fair Chance Process, including...a copy of the written assessment performed pursuant to Section 189.03(A)...” Only one (1) of the cities we researched require this of private sector employers (New York City). Such a requirement can be burdensome for employers of all sizes, even when they are already doing their own internal assessments. We suggest the following language from San Francisco’s Fair Chance Ordinance:

“Before taking adverse action such as failing/refusing to hire, discharging, or not promoting an individual based on a conviction history or unresolved arrest, give the individual an opportunity to present evidence that the information is inaccurate, the individual has been rehabilitated, or other mitigating factors.”
- Remove Private Right of Action: The FCO allows for “an Applicant or Employee may bring a civil action in a court of competent jurisdiction against an Employer for violation of this article within one year of the alleged violation of this article.” Nine (9) of the 12 cities we analyzed do not allow individuals to pursue legal action against the business. The Chamber is concerned about the costs associated with frivolous lawsuits that could disproportionately harm small businesses, when the penalties enacted from this law should be sufficient enforcement.

Additional Suggestions

- Modify Records Retention Period: The FCO includes a record retention requirement of three (3) years. However, California state law requires employers retain employment records such as job applications, resumes, employment inquiries, and job opening announcements for two (2) years. We recommend that the LA FCO align with state law (two year retention requirement) to ensure continuity of business operations for employers throughout the state.
- Include Stakeholder Engagement of the Business Community: The FCO provides no guidelines for if/how the City will engage the business community to get a balance of perspectives on rules, guidelines and recommendations for

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implementation. This type of outreach was conducted in Seattle, San Francisco, and Washington, D.C.

- Include Training and Educational Outreach to the Business Community: The FCO provides no guidelines for how this training and educational outreach to the business community will be conducted. Seattle, San Francisco and Washington, D.C. all employ city staff to act as business liaisons/trainers and have prioritized easy access to resources and training for the business community. Furthermore, the FCO includes no mention of conducting outreach and proactively informing the business community of how to comply with the law.
- Include Grace Period for Implementation: The FCO includes no grace period that would allow the City to conduct appropriate outreach and training for businesses and allow business to update hiring policies and train employees before enforcing penalties.

Legend	
	The FCO does not include this feature
	The FCO does include this feature
***	The FCO includes this feature but allows for exceptions

Analysis of Fair Chance Ordinances (FCO) the LA Bureau of Contract Administration reviewed when drafting the LA FCO

LA Chamber Requests for Modification	Seattle, WA	San Francisco, CA	Washington, DC	New York, NY	Philadelphia, PA	Los Angeles Proposed FCO
Requires "Conditional Offer of Employment" before inquiry					***	
Requires Written Assessment to be shared with Applicant						
Includes Private Right to Action					***	

Analysis of Additional Cities with FCOs

LA Chamber Requests for Modification	Chicago, IL	Buffalo, NY	Rochester, NY	Baltimore, MD	Columbia, MO	Austin, TX	Portland, OR	Los Angeles Proposed FCO
Requires "Conditional Offer of Employment" before inquiry								
Requires Written Assessment to be shared with Applicant								
Includes Private Right to Action								

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Friday, August 5, 2016

RE: FAIR EMPLOYMENT POLICY IN THE CITY OF LOS ANGELES

Council File 14-0746

To the Los Angeles City Council,

Date: 11/8/16
Submitted in EFC Committee
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As business owners in Los Angeles, we fully support increasing our employee and applicant pools to the best of our ability and working to give workers in Los Angeles a fair chance at employment. This is why we support the Fair Chance Initiative. According to the National Institute of Justice, a criminal record reduces the likelihood of a job offer by 50 percent. Since nearly one in three Americans of working age have a criminal record, many business leaders have recognized that it not only makes good economic sense to adopt fair hiring practices, but it also strengthens communities to provide access to a fair chance. Too often, a criminal record disqualifies individuals from full participation in our communities, even if they have paid their debt to society. We believe that we should not reject people at the start of our hiring process who are otherwise capable, qualified, and deserving of the opportunity to work for our business. If we want to stop the revolving door of imprisonment, we must limit the stigma so often associated with a criminal record and instead allow applicants to be judged on their job-related qualifications.

On July 1, 2014, AB 218 (Ban the Box), which removes the question about one's criminal history from initial employment applications for local and state jobs in California, became state law. The time is right for the city of Los Angeles to carry forward the mandate of AB 218 and pass our own comprehensive Fair Chance legislation for private jobs. Seven states and a number of major cities including New York, San Francisco, Chicago, and Washington D.C. have already passed ban-the-box legislation that applies to private employers. We ask your support on the Fair Chance Initiative, which—if passed by Los Angeles City Council—would help thousands of Angelenos regain their status as productive citizens by removing unnecessary barriers to employment for individuals with criminal records.

Los Angeles is home to the largest number of people who have criminal records anywhere in the nation, and the adverse consequences of mass incarceration disproportionately affect our most disadvantaged communities. Allowing individuals with a criminal history more access to the job market will decrease the city's unemployment numbers and improve the overall economy in Los Angeles. The economic reintegration that comes with access to employment is vital to patching the fabric of our city, making it stronger. That is why we strongly support the principles behind the Fair Chance Initiative. As members of the business community, we agree that:

- Background checks and questions about criminal history, verbal or written, should be delayed until after a conditional offer of employment has been made.
- People's current character and their ability to effectively do the job should have more weight than their old criminal records; no denial or adverse action upon application for license or employment should be made unless (1) there is a direct relationship between the acts underlying one or more of the previous criminal offenses and the specific license or employment sought or held by the person; and, (2) issuance or continuation of the license or the granting or continuation of the employment would create a specific risk to property or to the safety or welfare of specific individuals or the general public.
- We need a strong enforcement mechanism where private employers are held accountable to comply with the ordinance so that employees discriminated against feel inclined to pursue the reporting process. This will create legal clarity for us around hiring practices and believe all employers in LA should be held to the same standards.

We ask your support for the Fair Chance Initiative, which will create a larger applicant pool for Los Angeles private employers like us with potential qualified employees. Without opportunities for employment, a prison sentence becomes a life sentence. We hope that you will vote to end unnecessary discrimination, and instead allow individuals with criminal records the opportunity to work, contribute to society, regain their dignity, and keep their families together.

Abe's Garage Doors
Acent Group
All About You Live Answering Services
All Auto Parts
Alta Centers
Benecondor LLC
Bensoussan Investment Services Inc
Bub and Grandma's
Community Dynamics
Diesel, A Bookstore
Empower LA
Five Keys Charter School
In-Depth Appraisals
Geyen + del Campo
Gray Swan Asset Management
inMarket
Los Angeles Metro Employer Advisory Council
Kosher Foods Unlimited, Inc.
Robin Realty
Uber
Vernon-Central/LATTC WorkSource Center