

ECONOMIC DEVELOPMENT COMMITTEE REPORT relative to enforcement, outreach, and implementation of a Fair Chance Initiative, aka Ban the Box, including individual assessment requirements and a Fair Chance process.

Recommendations for Council action:

1. DIRECT the Bureau of Contract Administration (BCA) to incorporate in its enforcement strategy utilization of the City's contractual services to expand information and outreach to applicants for employment, employers, and employees and include its Qualified On-Call Community and Business Outreach Consultants List to assist with education and outreach.
2. DIRECT the BCA to:
  - a. Utilize a transparent, accessible communication submission system that allows applicants for employment, employees, or employers to submit complaints or concerns in a variety of languages and methods.
  - b. Allow a period of 365 days from the date of violation to file complaints.
  - c. Implement a fast track system for investigating, handling, and/or resolving complaints received.
  - d. Proactively monitor job posting websites for violations and providing for the initiation of Designated Administrative Agency (DAA) complaints or random audits.
3. DIRECT the BCA to incorporate the following in the enforcement policies:
  - a. To specify a list of exemptions based on the requirements set forth in State and Federal law, including positions that involve working with minors and vulnerable adults.
4. DIRECT the implementation of a penalty/fine structure, as detailed below in Recommendation Nos. 7 and 8, that not only will encourage compliance with the law but also incentivize those who have been negatively affected to come forward and voice their concerns.
5. PROVIDE for a private right of action, if so allowed under the law, for the complainant to give them an additional enforcement option.
6. DIRECT the implementation of the following penalty schedule, with up to \$500 awarded to the complainant, regardless of whether it is a first, second, or subsequent violation, for violations of applicable sections of the Los Angeles Administrative Code (LAAC):

<u>Violation</u>	<u>Penalty</u>
First Violation	Up to \$500 per aggrieved party- subject to being waived with full compliance.
Second Violation	Up to \$1,000 per aggrieved party
Subsequent	Up to \$2,000 per aggrieved party

Violation

7. DIRECT the implementation of the following fine schedule, for violations of applicable sections of the LAAC with all fines payable to the City of Los Angeles:

<u>Violation</u>	<u>Fine</u>
Failure to post Ban the Box notification at work site or on job posting website	Up to \$500
Failure to retain documentation for three years	Up to \$500
Failure to cooperate with the DAA's investigation	Up to \$500

8. REQUEST the City Attorney to prepare and present an Ordinance to provide authority to implement the directions as detailed above and, as appropriate, the recommendations contained in the June 9, 2016 BCA report, attached to the Council file, into the ORDINANCE previously requested by Council action on November 25, 2015 (Council File No. 14-0746); and furthermore incorporate in said ORDINANCE the following:

- a. A provision for retaliation which in concept reflects the following:
  - i. Neither an employer, as defined in this article, nor any other person employing individuals shall discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the City with regard to the employer's compliance or anticipated compliance with this article, for opposing any practice proscribed by this article, for participating in proceedings related to this article, for seeking to enforce his or her rights under this article by any lawful means, or for otherwise asserting rights under this article.
- b. Providing, where applicable and consistent with State and Federal law, that requires that employers assess the relationship between job duties and implications of a past conviction prior to start of the employment process, and if considering an adverse action, employers conduct individual assessments in line with Equal Employment Opportunity Commission guidelines.
- c. Providing for the DAA to have subpoena power allowing it to obtain documentation from employers that complainants may not be able to access.
- d. Providing for requiring employers to post a notification in the workplace or on an employer website posting for jobs.
- e. Providing for requiring that employers assess the relationship between job duties and implications of a past conviction prior to start of the employment process, and if considering an adverse action, employers conduct individual assessments in line with Equal Employment Opportunity Commission guidelines as provided by Ordinance.
- f. Providing for requiring that the employer provide the applicant/employee with a Fair Chance process, as provided by Ordinance, if an adverse action is taken to possibly include:

- i. Notification of adverse action in writing
- ii. Requiring the employer to provide applicant/employee with a copy of the individual assessment; and the employer holds the job open for five days to allow the applicant to provide documentation of errors that may have been made in the criminal history or examples of rehabilitation.

9. AUTHORIZE the Chief Legislative Analyst (CLA) to make technical corrections as necessary to accomplish the intent of the above recommendations.

Fiscal Impact Statement: None submitted by the BCA. Neither the City Administrative Officer nor the CLA has completed a financial analysis of this report.

Community Impact Statement: None submitted.

**(Entertainment and Facilities Committee waived consideration of the above matter)**

Summary:

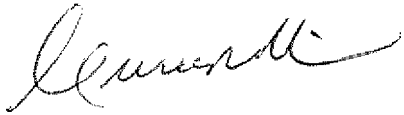
On June 14, 2016, your Committee considered a June 9, 2016 BCA report relative to enforcement, outreach, and implementation of a Fair Chance Initiative, aka Ban the Box, including individual assessment requirements and a Fair Chance process. On November 25, 2015, Council requested the City Attorney to prepare and present an Ordinance to require City contractors and private employers with ten or more employees to remove questions relating to criminal history from job applications and to require any questions related to criminal history be made after a conditional offer of employment has been made. Additionally, Council instructed the BCA, with the assistance of the City Attorney, to report in regard to an enforcement strategy including monitoring, compliance, and penalty structure.

According to the BCA, the Fair Chance Initiative, or a Ban the Box Policy and its accompanying Ordinance is to promote public health, safety and welfare in the City by eliminating some barriers to employment of persons who have been convicted of crimes. Some studies show that implementation of "Ban the Box" policies has helped to reduce recidivism, facilitate the reintegration into society of persons with conviction records, and decrease unemployment in parts of the community in which persons who have been convicted of crimes predominately reside.

The BCA provided an overview of its recommendations and answered questions from the Committee members. After consideration and having provided an opportunity for public comment, the Committee moved to continue the matter. Subsequently, on June 28, 2016, the Committee considered this matter further. After further consideration and having provided an opportunity for public comment, the Committee moved to recommend approval of the recommendations contained in the June 9, 2016 BCA report. Additionally, the Committee moved to recommend that the forthcoming Ordinance to contain language prohibiting retaliation and that the CLA be authorized to make any necessary technical corrections to the above recommendations in order to effectuate the intent of the above recommendations. This matter is now submitted to Council for its consideration.

Respectfully Submitted,

ECONOMIC DEVELOPMENT COMMITTEE

A handwritten signature in black ink, appearing to read "L. Quintero", is written over the committee name.

<u>MEMBER</u>	<u>VOTE</u>
PRICE:	YES
CEDILLO:	YES
HARRIS-DAWSON:	YES
KREKORIAN:	YES
MARTINEZ:	YES

ARL  
6/28/16

**-NOT OFFICIAL UNTIL COUNCIL ACTS-**