

Louisiana Legislature Passes “Ban the Box” for State Employers

Article By:

Nicole A. Eichberger

Tulio D. Chirinos

Louisiana is anticipated to become the latest state to enact state-wide protections for applicants with criminal backgrounds under the well-known “ban the box” movement. The bill, [HB 266](#), recently passed both houses of the Louisiana Legislature and is currently awaiting approval from Governor John Bel Edwards, who is expected to sign the bill into law.

Louisiana private employers will not be affected by the law as written. This bill only affects state employers, which are defined as “any department, office, division, agency, commission, board, committee, or other organizational unit of the state.” Once enacted, state employers may not inquire about a prospective employee’s criminal history at any time prior to an initial interview. If the prospective employer does not conduct an interview, then the employer may not require the applicant to disclose a criminal conviction prior to making a conditional offer of employment.

The law will not prohibit a state employer from considering a prospective employee’s criminal history in the final determination on whether to employ the applicant. The proposed law sets forth permissive factors that the state employer may consider when making a final determination including:

- The nature and gravity of the criminal conduct;
- The time that has passed since the occurrence of the criminal conduct;
- The specific duties and essential functions of the position and the bearing, if any, that the criminal conduct will have on the ability of the prospective employee to perform one or more of those duties or functions

The law provides exceptions for positions in law enforcement, corrections, or a position for which a criminal background check is required by law.

Louisiana’s decision to “ban the box” for public agencies may signal a willingness to move in that direction for private employers in the future – a step which several other states have already taken

([discussed here](#)). Private employers would do well to consider how to implement changes in their hiring procedures if any future law becomes applicable to the private sector.

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