Thinking Outside the Box: Eliminating the Criminal Conviction Box from Employment Applications

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As most employees and employers are aware, a standard employment application normally includes a box or line item for the applicant to document whether he/she has ever been convicted of a crime. In the employment relations realm, however, there exists a growing initiative to “ban-the-box” – meaning that job applications no longer ask about one’s criminal history.

Nearly ten states have adopted ban-the-box policies; among these, five states instituted the law in 2013.[1] Each state’s laws vary. For example, some ban-the-box policies apply only to public employers, while others apply to both public and private employers. Recently, Target announced that it will eliminate the box from its applications nation-wide in 2014. Wal-Mart removed its box in 2010. At the federal level, the Equal Employment Opportunity Commission (EEOC) announced the following in a 2012 Enforcement Guidance Memorandum: “As a best practice, and consistent with applicable laws, the Commission recommends that employers not ask about convictions on job applications and that, if and when they make such inquiries, the inquiries be limited to convictions for which exclusion would be job related for the position in question and consistent with business necessity.”

Ban-the-box proponents believe that individuals with a criminal history have a better chance to attain employment if not eliminated immediately from the pool based solely on the application. By removing the box, these individuals may apply for positions which they would not normally consider because of their past, and may have more confidence in an interview setting. Additionally, ban-the-box proponents assert that by excluding those with a criminal history from the hiring process, employers may be unconsciously excluding certain populations at a disproportional rate. According to ban-the-box proponents, the elimination of the criminal history box or line encourages individuals to get their foot in the employment door, and helps alleviate the public stigma against criminal offenders.

Should other employers follow Wal-Mart and Target’s lead to ban-the-box? Check back next week for more on this topic.


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