

Minnesota Becomes First State to “Ban the Box”, Narrows Employer Liability for Criminal Records

On May 11th Minnesota Governor Tim Pawlenty signed into law a public safety policy omnibus bill (House File 1301) which includes two provisions that begin to address the growing problem of individuals with criminal records finding employment.

One provision requires all Minnesota public employers to wait until a job applicant has been selected for an interview before asking about criminal records or conducting a criminal record check, except for positions that already require a background check. Passage of this legislation makes Minnesota the first state to adopt a statewide “Ban the Box” law since the initiative was started by a group called All of Us or None in California several years ago.

The other provision limits the admission of evidence of an employee’s criminal record against an employer if: (1) the duties of the position did not expose others to a greater degree of risk than that created by the employee interacting with the public outside of the duties of the position or that might be created by being employed in general; (2) a court order sealed any record of the criminal case; or (3) the record did not result in a criminal conviction.

The legislation was passed in large part due to the grassroots organizing efforts of the Second Chance Coalition, a diverse coalition of 24 community organizations, including: 180 Degrees, Inc., AMICUS, Goodwill/Easter Seals MN, Council on Crime and Justice, Rebuild Resources, Jacob Wetterling Foundation, RS Eden, Minnesota Council of Churches, NOLA Investigates – Criminal Defense Investigation, MN Catholic Conference, Minnesota Fathers & Families Network, Northside Policy Action Coalition, People Escaping Poverty Project, Project for Pride in Living, Children’s Defense Fund, Peace Foundation, Minneapolis Urban League, HIREd, LIFE in Recovery, NAMI MN, the Barbara Schneider Foundation, Elim Transitional Housing, Emerge Community Development, Greater Minneapolis Council on Churches, and Juel Fairbanks Chemical Dependency Services.

The Minneapolis-based Council on Crime and Justice led direct lobbying efforts for the legislation. According to Council President and former Hennepin County Judge Pamela Alexander: “Over the last several decades increases in criminalization combined with easier access to criminal records and heightened fear and scrutiny have created an entire class of people who are subject to permanent punishment and find it extremely difficult to become fully-contributing members of their communities through stable housing and gainful employment. It includes hundreds of thousands of Minnesotans. Passage of this legislation is an important first step towards alleviating this situation, making our communities more safe, economically stable, and just.”

According to the Council’s Director of Public Policy and Advocacy, Mark Haase, the “Ban the Box” law reduces discrimination and confusion based only upon initial application, does not limit access to the criminal record, saves public employers time and money and gives them a more diverse applicant pool, increases employment opportunities for otherwise-qualified applicants, and does not limit *private* employer discretion but provides them with a best practice model. The civil liability, or “Safe Hiring” law, gives employers some tools in knowing when criminal records are relevant and which types of records need not be considered at all. Employers will need to be trained on how this law can help them increase employment opportunities for individuals with criminal records.

The bills’ chief authors were Senators Mee Moua and Ron Latz and Representatives Sheldon Johnson and Bobby Champion.