

# **Ban the Box (Criminal Screening Practices)**

## **Labor and Employment Article, § 3-1501**

### **Frequently Asked Questions**

**When does an employer have to start complying with the Ban the Box law?**

The law became effective on February 29, 2020.

**Who does the law apply to?**

The law applies to employers who employ 15 or more full time employees.

**In calculating the 15 employee threshold, does an employer include employees that work in Maryland as well as employees that the employer employs in other states?**

The Commissioner will consider only those full-time employees employed in Maryland.

**What type of employment is covered?**

Although only employers with 15 or more full-time employees are subject to the law, “employment” under the law is broader than full-time employment and includes contractual, temporary, seasonal or contingent work. Employment also includes work through a temporary or other employment services agency. In addition, employment includes any form of vocational or educational training, with or without pay.

**Are there exemptions from the law?**

Yes. An employer is not prohibited from making a criminal background inquiry if the employer is required to do so or is expressly authorized to do so by another applicable state or federal law. Examples include certain positions in education, health care, information technology and the financial sector. Employers who provide programs, services, or direct care to minors or vulnerable adults are expressly exempt from the law.

**What does the law prohibit?**

The law prohibits an employer from asking an applicant for employment to disclose whether the applicant has a criminal record or has had criminal accusations brought against them. The prohibition applies for the time period up to the applicant’s first in-person interview.

**Does an in-person interview include an interview conducted telephonically or via a video-conferencing platform such as Skype?**

Yes. The Commissioner would consider an employment interview conducted remotely (by phone, video, Skype etc.) in which two or more persons are communicating in real time to be an "in person" interview within the meaning of the law.

**What constitutes a criminal record?**

A criminal record includes an arrest, a guilty plea or verdict, a plea of nolo contendere, the marking of a charge "stet" on the docket, a disposition of probation before judgment or a disposition of not criminally responsible.

**What are the penalties for a violation?**

If the Commissioner finds that an employer has violated the law, the Commissioner can issue an order compelling compliance. If the Commissioner finds that the employer has violated the law more than once, the Commissioner can assess a civil penalty of up to \$300 for each applicant or employee with respect to whom the employer violated the law.

**Does the law prohibit retaliation?**

Yes. The law also prohibits an employer from not taking a personnel action, discriminating or retaliating against an applicant or employee who has claimed a violation of the law.