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Laura S. Bogardus
Clemson University

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Impact of “Ban the Box” on Hiring Processes
Laura S. Bogardus
Institute On Family and Neighborhood Life, Clemson University, Clemson, SC
(lbogard@g.clemson.edu)

Abstract

• Ban-the-Box (BtB) laws prohibit employers from inquiring about criminal histories prior to job interviews or offers.
• This descriptive pilot study used a non-experimental survey design to examine human resource professionals' hiring experiences and opinions of BtB.
• An online survey of Minnesota human resource professionals, where a statewide BtB law became effective January 1, 2014, was conducted.
• BtB law appeared to carry limited to no effects on hiring processes and costs; there was mild support from companies with fewer employees that BtB increased hiring fairness.
• Limitations included small sample size, limited geographic scope, and HR professional association members only.
• Employers should examine policies regarding applicants with criminal records and methods for communicating these policies.
• More industry-specific research on risks and benefits of employing workers with criminal backgrounds is needed to address fair hiring issues.

Introduction & Literature Review

• An estimated 70 million U.S. adults have some type of criminal record. BtB laws have arisen out of concern over lack of employment access for people with records, especially considering provisions in Title VII of the Civil Rights Act (NELP, 2015).
• Employers screen job applicants using criminal background information to reduce negligent hiring liability, ensure safe work environments, reduce criminal activity, comply with laws, discover job-related offenses, and assess applicant honesty (Lageson, Vuolo, & Uggen, 2014; SHRM, 2012).
• Screening begins with job applications, where questions about criminal records first appear. Applicants who report criminal history on job applications are less likely to receive an interview or job (Pager, 2003; Lageson, Vuolo, & Uggen, 2014).
• Screening continues with criminal background checks (Harris & Keller, 2005; Hickox & Roehling, 2013).
• Employers may have inflated views of the risks such workers pose.
• Employment and time lapse since last offense are strong deterrents to employment (Hickox & Roehling, 2013; Raphael, 2010; Rodriguez, N.d.).
• Workplace violence is primarily a result of employees’ exposure to risky situations, not exposure to co-workers with records (Harris & Keller, 2005).
• Few studies have explored BtB effects on employers and job applicants.

Research Questions & Methodology

Q1: Did BtB change job applications, background checks, or communication with job applicants?
Q2: Are more job applicants with criminal records hired as a result of the law?
Q3: How are screening time and hiring time affected by implementation of the law?
Q4: How do human resource professionals view Minnesota’s BtB law?

Sample: Human resource association chapter members located in Minnesota and affiliated with the Society for Human Resource Management (N = 60).


Part I: Hiring authority, size of company, industry sector and industry type.
Part II: When and how used criminal background information; awareness of BtB and related laws.
Part III: Opinions of how Minnesota’s BtB law affected screening time, hiring time, hiring fairness, and hiring costs.

Scales:
Hiring ease: 6 items coded 0-2; higher scores mean greater ease in hiring since BtB; α = .76
Hiring fairness: 4 items coded 0-2; higher scores mean increased hiring fairness since BtB; α = .80
Hiring cost: 4 items coded 0-2; higher scores mean lack of increased cost since BtB; α = .77

Selected References


Research Findings

• Job applications – paper (60%) and online (73.5%) formats remained an important tool for gathering initial information about job applicants (N = 60).
• Requests for criminal background on job applications fell from 83.3% before MN BtB to 18.3% after BtB became effective, indicating general adherence to BtB law unless exempt.
• Criminal background data was collected via background check by almost all participants (90%), including those not required by law to perform background checks (51.9%).
• Few employers (21.7%) discussed criminal history with applicants during interviews. Most communicated with applicants during conditional job offers (45%) or did not ask (30%).
• No increase in hiring ease including hiring more people with criminal records. Finding did not support hypothesis that more individuals with records would be hired (N = 59).

Conclusions

• Implementation of BtB did not carry excessive administrative screening, hiring, or cost burden for human resource professionals. Most reported little to no increase in hiring fairness, though companies with fewer employees rated hiring fairness higher than companies with more employees.
• Background checks were widely used but not widely required across all industries. Employers that implement 2012 EEOC screening guidelines and review negligent hiring protections provided by Minn. Stat. 2014, Sec. 181.981 may reduce reliance on background check reports. This may improve hiring access and reduce potential for violation of Title VII of the Civil Rights Act.
• Employers that craft clear hiring policies regarding applicants with criminal records and communicate those policies to staff, applicants, and staffing agencies may reduce duplicative efforts associated with discovery of unacceptable offenses during later stage conditional job offers.
• Employers may consider training recruiters to properly discuss criminal records with job applicants at the conclusion of interviews. Research shows that applicants with criminal records are viewed more favorably when afforded the opportunity to explain their background and present evidence of rehabilitation. This practice may reduce hiring costs.
• Limitations included small sample size, limited geographic scope, and the fact that all respondents belonged to SHRM affiliated professional associations.
• Further research on BtB legislation implications for employers and job applicants is merited, along with study of the interplay between criminal records and employment risk.

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