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Impact of “Ban the Box” on Hiring Processes

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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 lapsed** since last offence are strong deterrents to recidivism (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 ($N = 60$).

Instrument & Question Items: Electronic survey questionnaire distributed via SurveyMonkey.com through the Minnesota SHRM State Council to local chapter members in January, 2015.

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.

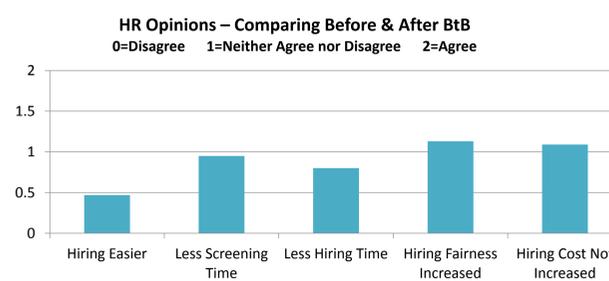
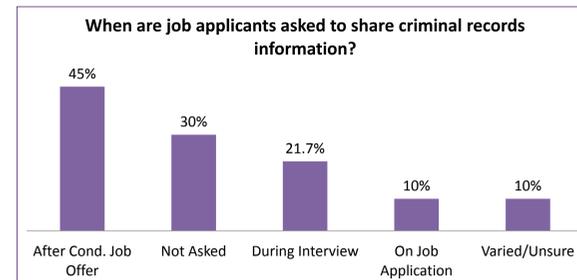
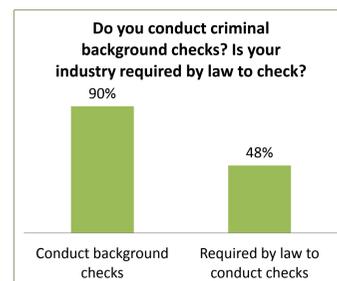
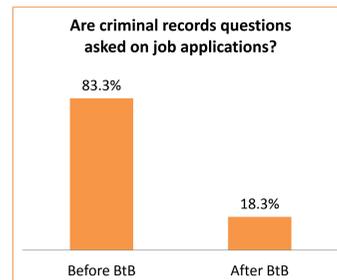
Part III: Opinions of how Minnesota's BtB law affected screening time, hiring time, hiring fairness, and hiring costs.

Scales:

Hiring ease: 6 items coded 0-2; higher scores mean greater ease in hiring since BtB; $\alpha = .76$

Hiring fairness: 4 items coded 0-2; higher scores mean increased hiring fairness since BtB; $\alpha = .80$

Hiring cost: 4 items coded 0-2; higher scores mean lack of increased cost since BtB; $\alpha = .77$



Findings & Discussion

- **Job applications** – paper (60%) and online (73.3%) 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** ($N = 59$).
- **No significant change in applicant screening time or hiring time**. Finding supports hypothesis that MN BtB would not negatively impact employers.
- **Of those that felt hiring time had increased, the primary reason cited was repetition of hiring processes** after discovery of unacceptable criminal records during conditional offer background checks.
- **No significant change in overall hiring fairness or hiring cost**.
- **Companies with fewer employees reported significantly higher scores on hiring fairness than companies with large numbers of employees**.



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, Sect. 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**.

Selected References

- Harris, P. M., & Keller, K. S. (2005). Ex-offenders need not apply: The criminal background check in hiring decisions. *Journal of Contemporary Criminal Justice*, 21(1), 6-30. doi: 10.1177/1043986204271678
- Hickox, S. A., & Roehling, M. V. (2013). Negative credentials: Fair and effective consideration of criminal records. *American Business Law Journal*, 50(2), 201-279. doi: 10.1111/ablj.12009
- Lageson, S. E., Vuolo, M., & Uggen, C. (2015). Legal ambiguity in managerial assessments of criminal records. *Law & Social Inquiry*, 40(1), 175-204. doi: 10.1111/lsi.12066
- National Employment Law Project. (2015). Ban the box resource guide [Fact sheet]. Retrieved from <http://www.nelp.org/page/-/SCLP/Ban-the-Box-Fair-Chance-State-and-Local-Guide.pdf?nocdn=1>
- Pager, D. (2003). The mark of a criminal record. *American Journal of Sociology*, 108(5), 937-975. Retrieved from <http://www.jstor.org/stable/10.1086/374403>
- Raphael, S. (2010). Improving employment prospects for former prison inmates: Challenges and policy (Working Paper No. 15874). Retrieved from National Bureau of Economic Research website: <http://www.nber.org/papers/w15874>
- Rodriguez, M. N. (n.d.). "Ban the box" research summary [Fact sheet]. *National Employment Law Project*. Retrieved from http://www.nelp.org/page/-/SCLP/2014/Guides/NELP_Research_Factsheet.pdf?nocdn=1
- Society for Human Resource Management. (2012). Background checking - the use of criminal background checks in hiring decisions [Supplemental material]. Retrieved from <http://www.shrm.org/research/surveyfindings/articles/pages/criminalbackgroundcheck.aspx>

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