



Fair Chance Initiative Ordinance

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Housekeeping Items for Today's Webinar

- ▶ Session will be recorded
 - ▶ Recording link will be shared via the City website and the City's YouTube channel
- ▶ All participants will be muted

- ▶ To ask a question during the session:
 1. Select Q&A on the right side of the screen
 2. Type your question in the compose box, and then select Send

If you have additional questions after the webinar, visit the City of Waterloo website to submit your question and for additional resources.

Legal Disclaimer

- ▶ No information in this presentation is intended to provide or suggest legal advice.
- ▶ You should seek legal advice from your in-house counsel or other third-party legal counsel.

Why Enact the Fair Chance Initiative?



Remove Barriers to Employment



Judge Applicants on Their Qualifications



Reduce Recidivism

[Iowa Job Honor Awards Winner 2017:
Steve Shewry's Story](#)



Good Business Practice and
Workforce Needs

Cedar Valley: 3.1% unemployment
(Dec. 2019 data, Bureau of Labor Statistics)

Why Enact the Fair Chance Initiative? (Continued)

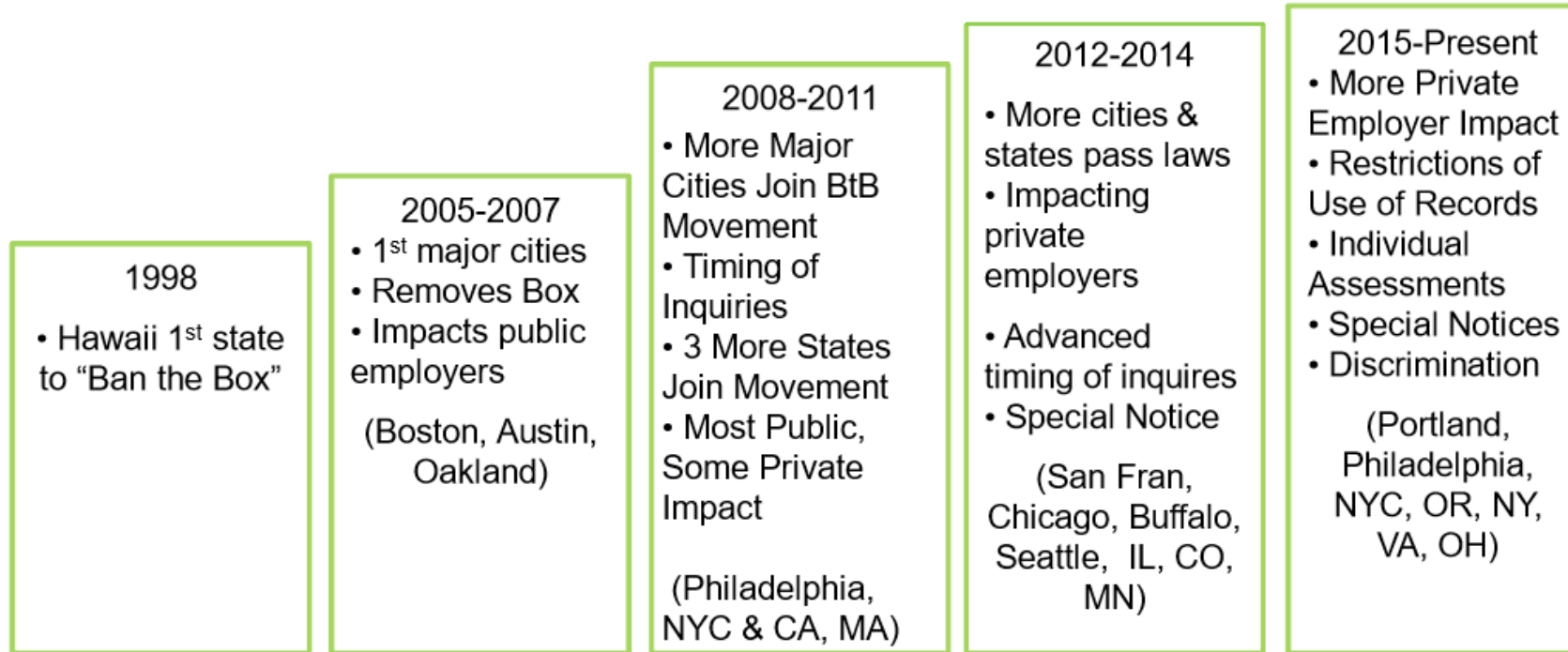
Who is Championing?

- National Employment Law Project (NELP)
- Equal Employment Opportunity Commission (EEOC)
- Civil liberty & workers' rights groups

Who Has Joined the Movement?

- 2010: Wal-Mart
- 2013: Target
- 2014: Bed Bath & Beyond
- 2015: Koch Industries, Home Depot
- 2016: Big Lots, Marshalls

A Brief History



Source: Montana SHRM

- ▶ 35 states have adopted statewide Fair Chance Initiative laws.
 - ▶ 13 states and 18 cities and counties have extended these laws to private employers as well.

Source: NELP

Local Statistics and Background

- ▶ **Championed by the Waterloo Commission on Human Rights**
 - ▶ Local committee to develop employer training and resources included professionals from the City of Waterloo, Grow Cedar Valley, UnityPoint, Waterloo Schools, CPM Roskamp, VGM, and PDCM Insurance.
- ▶ **3.1% Unemployment rate** (Dec. 2019)
- ▶ **Non-participation rate**
- ▶ **#1 barrier to business growth in the Cedar Valley is hiring employees.**

Who Has Joined the Movement?

- Waterloo Schools
- CPM Roskamp
- Bertch Manufacturing
- VGM
- PDCM Insurance

City of Waterloo Ordinance Requirements

- ▶ Affects Waterloo employers with 4-14 employees
 - ▶ Some employers are exempt.
 - ▶ No question asking about criminal convictions on employment applications.

- ▶ Waterloo employers with 15 or more employees:
 - ▶ No question asking about criminal convictions on employment applications.
 - ▶ No question during interview pertaining to criminal background.
 - ▶ No background check until after a conditional job offer is extended.
 - ▶ Adverse hiring decision can't be made without legitimate business reason.

Business Practices Allowed Under Ordinance

- ▶ Candidate can voluntarily disclose criminal background.
 - ▶ If a candidate shares his/her criminal background prior to the conditional offer of employment, employers should disregard and continue with the usual hiring process.
- ▶ Background check can be run after conditional job offer.
- ▶ Conditional job offer can be rescinded with legitimate business reason.
 - ▶ Ex: a candidate who has been convicted of tax fraud is seeking a job as a financial accountant.
- ▶ Federal and state laws are still applicable.

Federal Laws Impacting Background Checks

Equal Employment Opportunity (EEO)

- Must comply with federal laws that protect applicants and employees from discrimination.
 - Race, national origin, color, sex, religion, disability, genetic information (including family medical history), or age (40 or older).

EEOC's 2012 Guidance

- “Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964.”

Fair Credit Reporting Act (FCRA)

- When you use a 3rd party company for compiling background information, you must comply with FCRA notification and appeal requirements.

Fair Credit Reporting Act (FCRA) Requirements

- ▶ Prior to running background check:
 - ▶ Provide applicants written notice that background information may be used in employment-related decisions.
 - ▶ This notice must be a separate document from the employment application.
 - ▶ Get applicant's written authorization to run a background check.
 - ▶ This authorization can be included on the required notice.
 - ▶ Certify to the background check company that you complied with all FCRA requirements.

Source: EEOC.gov

FCRA Requirements (Continued)

- ▶ After Running Background Check:
 - ▶ If deciding not to hire the applicant, applicant will have the right to appeal, and the employer must give the following **pre-adverse action notices** prior to the adverse action:
 - ▶ A notice that includes the copy of the report you relied on to make your decision; and
 - ▶ A copy of “A Summary of Your Rights Under the Fair Credit Reporting Act.”
 - ▶ After the adverse action, applicants must receive **adverse action notice** that states:
 - ▶ that he or she was rejected because of information in the report;
 - ▶ the name, address, and phone number of the company that sold the report;
 - ▶ that the company selling the report didn't make the hiring decision, and can't give specific reasons for it; and
 - ▶ that he or she has a right to dispute the accuracy or completeness of the report, and to get an additional free report from the reporting company within 60 days.

Source: EEOC.gov

Other Considerations

- ▶ Reviewing Iowa Courts Online instead of running a formal background check is not recommended.
 - ▶ Applicants are not able to avail themselves to the appeal process under the FCRA.
 - ▶ A best practice for background checks is to only review convictions (not charges) within the last 7 years - Iowa Courts Online does not limit the search.
 - ▶ Therefore, employers can be open to potential liability if they take adverse action based on information available in the public record.
- ▶ Using the State of Iowa Criminal History Record Search may be compliant if applicants receive the required notices under the FCRA.
 - ▶ However, this only checks Iowa records - it is recommended to do a nationwide search to mitigate negligent hiring claims.
- ▶ A background check vendor can assist with ensuring compliance with the FCRA and conducting a nationwide search.

Sample Hiring Process Timeline With Background Check

1. Employment Application
2. Standard Interview Process
3. Conditional Offer of Employment
4. Obtain Appropriate Consent Forms
5. Background Check
6. Review Background Check Result
7. Final Hiring Decision

Key Takeaways



Background checks are not required. If done, they must be conducted after conditional offer of employment.



If you have a valid business reason, you can rescind a conditional job offer.



Sample FCRA language and other resources will be available on the City website.

Next Steps

- ▶ **Employers with 4-14 employees:**
 - ▶ Review employment applications, both paper and electronic, and remove any criminal questions on application.
- ▶ **Employers with 15 or more employees:**
 - ▶ Review employment applications, both paper and electronic, and remove any criminal questions on application.
 - ▶ Review hiring process, including interview questions and background check requirements, to ensure compliance with federal law and City ordinance.
- ▶ **All Waterloo employers:**
 - ▶ Consider legal review of your hiring process.
 - ▶ Train recruiters & hiring managers on legal hiring practices.

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How to Submit Questions and Access Resources

- ▶ Visit the City of Waterloo website to:
 - ▶ View sample FCRA language and additional resources:
https://www.cityofwaterlooia.com/residents/human_rights/fair_chance_initiative.php
 - ▶ Submit a question about the Fair Chance Initiative and receive a response from local HR professionals
- ▶ The recording link from today's session will be shared via the City website and the City's YouTube channel
- ▶ HR Continuing Education Information:
 - ▶ SHRM Activity ID: 20-56DDE
 - ▶ HRCI Activity ID: 525247

The screenshot shows a webpage titled "FAIR CHANCE INITIATIVE". The page has a dark blue header with the title and a breadcrumb trail: "Home > Human Rights > Fair Chance Initiative". On the left is a dark blue sidebar menu with white text: "Human Rights Home", "About the Commission", "Education Outreach", "Enforcement", "Fair Chance Initiative", "Resources", "Brochures", and "Freedom Bus Tour". The main content area has a white background with a green and blue geometric design. It features a large heading: "WATERLOO FAIR CHANCE INITIATIVE ORDINANCE TRAINING WEBINAR". Below this, it says "For Waterloo Business Owners and HR Professionals" and "WEDNESDAY, JUNE 17, 8:30AM". A registration link is provided: "REGISTER AT: www.cityofwaterlooia.com/fairchance". There are two photos of speakers: Kyle D. Roed, HR Director, CPM, and Lauren Peterman, HR Specialist, PDCM Insurance. A text box explains the webinar's purpose: "The webinar will explain why the City of Waterloo enacted the ordinance and how hiring processes for Waterloo businesses may be impacted because of it. The presentation will provide actionable steps and resources to help companies comply with the ordinance." Below the photos, it says "This training is approved for SHRM and HRCI continuing education credits." At the bottom, there is a registration instruction: "Please click [here](#) to register for the webinar. Once registered, the meeting information will be sent to you via email." A red circle highlights the "Resource Links:" section, which contains a list of 11 links: 1. [Waterloo Ban The Box Ordinance](#), 2. [Waterloo Ban The Box Ordinance Amendment March 2020](#), 3. [Rights Under the Fair Credit Reporting Act](#), 4. [Fair Credit Reporting Act Disclosure Statement](#), 5. [SHRM FCRA Preliminary Notice of Adverse Action](#), 6. [SHRM FCRA Final Notice of Adverse Action](#), 7. [SHRM FCRA Checklist](#), 8. [FCRA Authorization to obtain a Consumer Report](#), 9. [Sample Reference and Criminal Background Check Authorization Form](#), 10. [Federal Bonding Program](#), 11. [SHRM Toolkit](#).

Thank You!