

ALERTS**Labor & Employment Law Alert - Governor Quinn Approves Illinois “Ban The Box” Law Limiting Private Employers’ Ability To Screen Job Applicants By Criminal History**

July 23, 2014 | [Atlanta](#) | [Chicago](#) | [Columbus](#) | [Delaware](#) | [Elkhart](#) | [Fort Wayne](#) | [Grand Rapids](#) | [Indianapolis](#) | [Los Angeles](#) | [Minneapolis](#) | [South Bend](#)

On July 19, Illinois Governor Pat Quinn approved the Job Opportunities for Qualified Applicants Act, which prohibits private employers with fifteen or more employees and employment agencies from inquiring about or into, considering, or requiring disclosure of an applicant’s criminal history, until an applicant: (1) has been determined to be qualified for the applied-for position and has been notified that he or she has been selected for an interview, or (2) has been given a conditional job offer. The law will go into effect on January 1, 2015.

The Act “bans the box” by preventing employers from screening applicants based on criminal history prior to the interview or conditional offer stage of the application process. It does not, however, prohibit inquiry into or consideration of such history at these later stages. Employers are cautioned to note, however, that the Illinois Human Rights Act prohibits use of the fact of an arrest or expunged criminal history record information in making employment decisions, including hiring. Further, the Equal Employment Opportunity Commission (EEOC) has focused on the consideration of criminal history in employment decisions in recent years. The EEOC’s 2012 Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions should be heeded by employers using or considering the use of conviction records in making employment decisions.

The Act does not apply to positions where: (1) the employer is required by federal or state laws to exclude applicants with certain criminal convictions; (2) a standard fidelity bond or an equivalent bond is required and a specific conviction would disqualify the applicant from obtaining such a bond, in which case questions related to those convictions are permitted; and (3) the employer employs individuals licensed under the Emergency Medical Services Systems Act.

Employers are permitted under the law to provide applicants advance notice about specific offenses that would disqualify an applicant due to employer policy or under state or federal law.

The Illinois Department of Labor is empowered to investigate violations and impose civil penalties for violations of the Act. Multiple violations and failures to remedy violations can lead to heightened or additional penalties.

Illinois joins an increasing number of states with some form of “ban the box” or “fair chance” policies to help citizens with criminal histories find employment. According to an April 2014 report by the National

RELATED PEOPLE**Kenneth J. Yerkes**

Partner
Indianapolis

P 317-231-7513
F 317-231-7433
ken.yerkes@btlaw.com

**John T.L. Koenig**

Partner
Atlanta

P 404-264-4018
F 404-264-4033
john.koenig@btlaw.com

**David B. Ritter**

Partner
Chicago

P 312-214-4862
F 312-759-5646
david.ritter@btlaw.com

**William A. Nolan**

Partner
Columbus

P 614-628-1401
F 614-628-1433
bill.nolan@btlaw.com

Employment Law Project, four other states have similar laws covering private employers. More than a dozen other states and many cities and counties have passed or are considering similar measures.

Illinois employers are encouraged to review their hiring policies and written applications to ensure compliance with the new law before January 1, 2015.

For more information, please contact the Barnes & Thornburg Labor and Employment attorney with whom you work, or a leader of the firm's Labor and Employment Department in the following offices:

Kenneth J. Yerkes
Department Chair
(317) 231-7513

John T.L. Koenig
Atlanta
(404) 264-4018

David B. Ritter
Chicago
(312) 214-4862

William A. Nolan
Columbus
(614) 628-1401

Mark S. Kittaka
Fort Wayne
(260) 425-4616

Robert W. Sikkell
Grand Rapids
(616) 742-3978

Peter A. Morse
Indianapolis
(317) 231-7794

Scott J. Witlin
Los Angeles
(310) 284-3777

Teresa L. Jakubowski
Washington, D.C.
(202) 371-6366

Janilyn Brouwer Daub
South Bend
(574) 237-1139

Visit us online at www.btlaw.com or [@BTLawLE](https://twitter.com/BTLawLE), and don't forget to bookmark our blogs at www.btlaborelations.com and www.btcurrenents.com.

© 2014 Barnes & Thornburg LLP. All Rights Reserved. This page, and all information on it, is proprietary and the property of Barnes & Thornburg LLP. It may not be reproduced, in any form, without the express written consent of Barnes & Thornburg LLP.

This Barnes & Thornburg LLP publication should not be construed as legal advice or legal opinion on any specific facts or circumstances. The



Mark S. Kittaka

Partner

Fort Wayne, Columbus

P 260-425-4616

F 260-424-8316

mark.kittaka@btlaw.com



Robert W. Sikkell

Of Counsel (Retired)

P 616-742-3978

robert.sikkell@btlaw.com



Peter A. Morse, Jr.

Partner

Indianapolis, Washington, D.C.

P 317-231-7794

F 317-231-7433

pete.morse@btlaw.com



Scott J. Witlin

Partner

Los Angeles

P 310-284-3777

F 310-284-3894

scott.witlin@btlaw.com

contents are intended for general informational purposes only, and you are urged to consult your own lawyer on any specific legal questions you may have concerning your situation.



Teresa L. Jakubowski

Partner

Washington, D.C.

P 202-371-6366

F 202-289-1330

teresa.jakubowski@btlaw.com



Janilyn Brouwer Daub

Partner

South Bend, Elkhart

P 574-237-1139

F 574-237-1125

janilyn.daub@btlaw.com

RELATED PRACTICE AREAS

Labor and Employment