

Ban the Box Legislation (HB 1282, N.D.C.C. § 12.1-33)

This new law prevents most public employers from asking about or considering the criminal background of a job applicant prior to the interview or selection process. It is intended to allow a qualified candidate to demonstrate their abilities and get a chance at employment without being routinely screened out at the application stage for having a criminal record. Covered ND public employers must remove the check box and questions regarding criminal convictions or criminal history on all job application forms.

Some public employers are exempted. The new law does not apply to: (1) the department of corrections and rehabilitation, or (2) a public employer that has a statutory duty to conduct a criminal history background check or otherwise take into consideration a potential employee's criminal history during the hiring process. A "public employer" in this law section means the state, a county or city government or their agencies and instrumentalities. Park districts are included, but school districts are not.

Where criminal history may be considered for a particular position based on state law or the employer's policy, a notice could be placed on the employment application form, such as:

Some positions in (name of organization) require a criminal background check. If an applicant in that job category is selected for an interview or for a position, a criminal background check will be completed. Prior criminal history may be considered in the selection process for a particular position based on the nature, time and seriousness of the conviction and its relevance to the position.

When an interview is offered to an applicant, an employer may want to give formal notice of a background check, including securing a signature from an applicant acknowledging or consenting to a criminal background check. Criminal background can be discussed with an applicant as part of the interview.

Finally, all public employers should have a formalized process for reviewing criminal background checks to assure consistency in determining the relevance of criminal history. Section 2-10 on the **HR Reference guide for Local Government** (<http://www.hrndgov.org/hr-reference-guide/>) will be revised by January 2020.