



OFFICE OF HUMAN RIGHTS

Isiah Leggett  
County Executive

James L. Stowe  
Director

## **Ban The Box FAQ**

### **What is Ban the Box?**

Ban the Box, officially the Fair Criminal Record Screening Standards Law (Bill 36-14), was enacted by Montgomery County Council October 28, 2014 and signed into law by the County Executive on November 10, 2014. The law prohibits employers from inquiring about arrests, accusations of crime, or criminal convictions in the application process until the conclusion of a first interview.

### **What are the restrictions on the use of criminal record histories?**

Ban the Box prohibits potential employers from:

- On the employment application, inquiring about any (1) arrest or accusation of crime or (2) criminal conviction.
- Before the conclusion of a first employment interview, (1) inquiring about any arrest or accusation of crime; (2) inquiring about any criminal conviction or (3) conducting any background check or inquiries regarding any arrest, accusation of crime, or criminal conviction.

A potential employer may make inquiry regarding an applicant's arrest, accusation of crime, or conviction before the conclusion of a first interview only if first voluntarily disclosed by the applicant. Once such information is voluntarily provided by the applicant the employer may ask follow up questions to clarify information. In addition a potential employer may make inquiries concerning an applicant's work history when there are gaps in employment.

### **What is the intended purpose of Ban the Box?**

Assist in the successful reintegration into the workforce of people with criminal records by removing improper barriers to employment and enhance the health and safety of the community by assisting people with criminal records to lawfully provide for themselves and their families. Encourage the hiring of people with criminal records and to ensure that employers screen

applicants based on their work qualifications, without sole consideration of their prior criminal history.

**When does Ban the Box go into effect?**

January 1, 2015

**Which employers are subject to Ban the Box?**

With certain specified exceptions, the law applies to the County and all private employers doing business in the County that employ 15 or more full-time employees in the County.

**Which employers are exempt from the law?**

The law does not apply to the federal or state government as an employer in the County. The law does not apply to the County Police Department, the County Fire and Rescue Service, or the County Department of Corrections and Rehabilitation. Other exempt employers include those that provide program or services to vulnerable adults or minors and employers requiring federal security clearance. Finally, the law does not apply to inquiries expressly authorized by federal, state, or county law or regulation.

**What are the other consequences failing to comply?**

A violation of the Ordinance may require any employer except the County to pay a civil penalty to the County of \$1,000 for each violation. Complainant will not receive any compensation or other damages for a violation of Ban the Box.

**Who enforces Ban the Box?**

The Montgomery County Office of Human Rights enforces the ordinance.

**How can I file a complaint for a violation of Ban the Box?**

If you feel that your potential or current employer has violated Ban the Box, you can file a complaint with the Montgomery County Office of Human Rights (MCOHR). You can complete a complaint form in person at our office Monday through Friday from 8:30 am - 4:00 pm. You can also print a copy of the form from our website, complete the form and send it to our office. Telephone calls and inquiries are also welcome at any time during business hours.

**If my complaint is accepted MCOHR, what will be the process?**

Your case will be assigned to an investigator for a formal investigation. Every effort will be made to determine the existence of a violation of this ordinance. If a violation is found; every

attempt will be made to resolve the complaint. If evidence of no violation is determined then the case will be dismissed.

**Where can I receive additional information about the MCOHR and Ban the Box?**

For more information on how to file a complaint call the MCOHR at 240-777-8450 or visit the website at [www.montgomerycountymd.gov/humanrights](http://www.montgomerycountymd.gov/humanrights).





OFFICE OF HUMAN RIGHTS

Isiah Leggett  
County Executive

James L. Stowe  
Director

## Ban The Box Complaint

**“Ban the Box,”** or the Fair Criminal Record Screening Standards Law, helps to make sure that employers make hiring decisions based on relevant work qualifications without improperly considering a person’s criminal record. The law does this by restricting when during the application process an employer can inquire about someone’s criminal history. Ban the Box is part of the County Code, in Chapter 27-7 and 27-8; Article XII. Ban the Box applies to most employers in Montgomery County with 15 or more employees. The law generally prohibits potential employers from:

1. Asking about any criminal arrest, accusation of crime, or criminal conviction on an employment application.
2. Conducting any criminal records check or asking about any criminal arrest, accusation of crime or criminal conviction until the conclusion of a first employment interview.

The law also requires employers to provide prior notice to an applicant when rescinding conditional offer based upon a prior arrest or criminal conviction.

You should complete the Montgomery County Office of Human Rights Discrimination Intake/Inquiry Form if you feel that an employer has violated Ban the Box.

If your complaint is based on unlawful questions asked on an employment application (example 1 listed above) please indicate on the form. (a copy of the employment application would be helpful)

If your complaint is based on unlawful questions asked before the conclusion of a first employment interview (example 2 listed above) please indicate on the form.

Once your complaint is accepted, the complaints will be assigned to an investigator.

All employers that are obligated to follow the requirements of Ban the Box and are subject to civil penalties of up to \$1,000 for each violation. All penalties assessed are payable to Montgomery County. **You will not receive any compensation or other damages for a violation of Ban the Box.**

Note: If you believe that you have been discriminated against on the basis of any category protected by the Human Rights and Civil Liberties Code (for example, race, religion, sexual orientation, or national origin), you must complete a separate Discrimination Intake/Inquiry Form to be filed with the Montgomery County Office of Human Rights to pursue such a claim.



OFFICE OF HUMAN RIGHTS

Isiah Leggett  
County Executive

James L. Stowe  
Director

**Ban The Box Fact Sheet**

**“Ban the Box,”** or the Fair Criminal Record Screening Standards Law, assists in the successful reintegration into the workforce people with criminal records by removing improper barriers to employment. The law helps to make sure that employers make hiring decisions based on relevant work qualifications without improperly considering a person’s criminal record. The law does this by restricting when during the application process an employer can inquire about someone’s criminal history.

**Ban the Box Does....**

Require employers to remove questions about criminal arrest and convictions from their applications.

Prevent employers from asking about criminal arrests or convictions until the conclusion of a first interview.

Protects job applicants from having criminal background checks done before the conclusion of a first interview.

Requires employers to provide prior notice to an applicant when rescinding a conditional offer based upon a prior arrest or criminal conviction

Provides for enforcement by the Office of Human Rights and the Human Rights Commission.

**Ban the Box Does Not...**

Prevent employers from ever asking about the criminal record of an applicant or employee. The law only prohibits an employer from asking about an applicant’s criminal record before the conclusion of a first interview.

Guarantee that a person with a criminal record will get the job.

Cover Criminal Justice Agencies, such as police, fire, courts, corrections and rehabilitation.

Prevent any employer from doing anything authorized by federal, state, county or regulation.

Protect applicants for jobs located outside Montgomery County.

Apply to employers with fewer than 15 employees.

**Ban the Box Does....**

**Ban the Box Does Not...**

Employers that violate the law may be required to pay a civil penalty up to \$1,000 for each violation payable to Montgomery County.