

Legal Rights of People with Criminal Records: Employment

WHAT CAN EMPLOYERS CONSIDER UNDER FEDERAL LAW?

- Employers **CANNOT** consider arrests that did not lead to convictions (e.g. withdrawn, dismissed, nolle prossed, or “not guilty” charges).
- Employers can consider a **conviction**, but **MUST** consider: 1) how minor the conviction is, 2) how long ago it happened, and 3) how it relates to the job sought.
- Each case should be treated **individually!** An employer should consider “individualized evidence” including:
 - Facts surrounding the offense
 - Number of convictions the applicant has
 - Age at the time of conviction
 - History of performing similar work since the conviction with no incidents of criminal conduct
 - Work history before and after conviction
 - Rehabilitation efforts, including education and training
 - Employment and/or character references
- If an employer plans to use information from a commercial background report to reject or terminate you, they **MUST** give you notice, a copy of the report first, and an opportunity to correct any mistakes in the report.

WHAT CAN EMPLOYERS CONSIDER UNDER STATE LAW?

- Under Pennsylvania law, employers can consider **felony and misdemeanor convictions ONLY to the extent they relate to the job.**
- Employers should **NOT** consider summary convictions (e.g. disorderly conduct, low-level retail theft), juvenile adjudications, or arrests without convictions.



Center City Office:

1424 Chestnut St. | Philadelphia, PA 19102-2505 | Telephone: 215-981-3700 clsphila.org

North Philadelphia Law Center:

1410 West Erie Ave. | Philadelphia, PA 19140-4136 | Telephone: 215-227-2400

WHAT CAN PHILADELPHIA EMPLOYERS CONSIDER?

- **The Philadelphia Fair Chance Hiring Ordinance** prevents Philadelphia employers from asking about criminal records on job applications or in interviews. Employers can only run background checks after making **conditional offers of employment**.
- If a background check reveals a conviction, an employer can take back the offer if:
 - The conviction or incarceration occurred in the **past 7 years AND**
 - The conviction is **so related to the job** that the employer determines the applicant poses an unacceptable risk.
- This Philadelphia law does not apply when state or federal laws have different rules for hiring people with records (e.g. in child care jobs).

WHERE CAN YOU GO TO FILE COMPLAINTS?

If you are African American/Latino and feel an employer improperly rejected or fired you because of a criminal record, you can file a charge of race discrimination with:

- **Equal Employment Opportunity Commission:** 801 Market Street, Suite 1300 (walk in hours M-F, 8:30-3:30); <http://www.eeoc.gov/field/philadelphia/charge.cfm>
- **Pennsylvania Human Relations Commission:** 110 North 8th Street, Suite 501; http://www.portal.state.pa.us/portal/server.pt/community/file_a_complaint/18976/employment_discrimination_complaint_forms/726963
- **Philadelphia Commission on Human Relations:** 601 Walnut Street, Suite 300 S.; <http://www.phila.gov/HumanRelations/DiscriminationAndEnforcement/Documents/Employment%20Discrimination.pdf>

If you apply for a job in Philadelphia and an employer violates the **Philadelphia Fair Chance Hiring Ordinance** you can file a complaint with:

- **Philadelphia Commission on Human Relations:** 601 Walnut Street, Suite 300 S.; <http://www.phila.gov/HumanRelations/DiscriminationAndEnforcement/Pages/FilingABanTheBoxComplaint.aspx>

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