



california “bans the box”: pre-offer criminal inquiries generally outlawed in the state

MSK Client Alert

October 16, 2017

On October 14, 2017, California Governor Jerry Brown signed Assembly Bill 1008 a “Ban the Box” law that significantly restricts an employer’s ability to seek or obtain information about a job applicant’s criminal history. The California law is similar to laws that have been adopted in other jurisdictions, including New York City and the City of Los Angeles. California’s new law amends the California Fair Employment and Housing Act (“FEHA”), adding a new section, Government Code Section 12952, which prohibits all California employers **with five or more employees** from:

- Including on any employment application any question that seeks the disclosure of an applicant’s criminal conviction history; and
- Inquiring into or considering an applicant’s conviction history before he or she receives a conditional offer of employment.

The new law also reiterates existing prohibitions on considering, distributing or disseminating information about any of the following while considering an application for employment: (1) an arrest that did not result in a conviction, subject to certain exceptions; (2) referral to or participation in a pretrial or posttrial diversion program; and (3) convictions that have been sealed, dismissed, expunged or statutorily eradicated pursuant to law.

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