



Legislation Details (With Text)

File #: 150103. **Version:** 3 **Name:** Evaluate Removing the Checkbox on the Job Application that Identifies if the Applicant has a Criminal Arrest History.

Type: Discussion Item **Status:** Passed

File created: 6/24/2015 **In control:** Legislative and Organizational Policy Committee

On agenda: 11/19/2015 **Final action:** 11/19/2015

Title: Removal of the Criminal Conviction History Checkbox from the Employment Application (B)

Discuss removing the Employment Application Checkbox that identifies whether applicantants have a criminal arrest history. ****STAFF PRESENTATION 5 MINS****

Sponsors:

Indexes:

Code sections:

Attachments: 1. 150103_Application Process_20151104.pdf

Date	Ver.	Action By	Action	Result
11/19/2015	3	City Commission		
6/10/2015	1	City Commission	Referred	Pass

Removal of the Criminal Conviction History Checkbox from the Employment Application (B)

Discuss removing the Employment Application Checkbox that identifies whether applicantants have a criminal arrest history. **STAFF PRESENTATION 5 MINS******

At the June 10, 2015 City Commission meeting, the City Commission referred to the Legislative and Organizational Policy Committee a discussion of removing the Employment Application Checkbox that identifies whether the applicant has a criminal arrest history.

The “Ban the Box” or “Fair Chance” initiative serves to 1) ensure that applicants who have a criminal background are not discouraged from applying for jobs for which they are qualified; and 2) provide applicants a fair chance at having qualifications considered for job opportunities without the stigma of a conviction record. The U.S. Equal Employment Opportunity Commission (EEOC) endorsed removing the conviction question from job applications as a best practice in 2012, and the movement to “Ban the Box” has gained momentum exponentially nationwide in recent years.

This item was discussed at the November 4, 2015 Legislative and Organizational Policy Committee with a recommendation to bring the item back to the full City Commission for discussion. The City will continue to conduct background checks on candidates prior to extending an offer of employment. Human Resources reviews the information received, and when negative information is obtained, makes individual assessments, considering the age of the offense and its relevance to the job in making hiring decisions.

There is no fiscal impact.

The City Commission 1) approve removing the Criminal Conviction History Checkbox from the City’s Employment Application; and 2) remove the item from the referral list.

Application Process – Criminal History Florida Municipalities and Agencies

Municipality/Agency	Criminal History on Application?	Discussion/Notes
City of Clearwater	no	<ul style="list-style-type: none"> Removed the box based on recommendation from the Attorney's office. Continue to perform background checks on candidates after the interview process and prior to hire, but we no longer ask up front if they have ever been convicted of a crime.
City of Daytona Beach	no	<ul style="list-style-type: none"> Effective 7/1/2015
City of Plantation	no	<ul style="list-style-type: none"> Banned approximately two years ago
City of Pompano Beach	no	<ul style="list-style-type: none"> Recently discontinued asking the question on the application Action was an administrative directive from the City Manager rather than an ordinance Still conduct criminal history checks on all candidates we are considering for employment, before an offer is made.
City of St. Petersburg	no	<ul style="list-style-type: none"> As of January 1, 2015, we "banned the box" on our initial applications (excluding police and fire) Only applicants scheduled for interviews with a hiring manager will be asked to complete the disclosure
City of Stuart	no	<ul style="list-style-type: none"> banned the box this year and only explore criminal histories after the extension of an offer
City of Tallahassee	no	<ul style="list-style-type: none"> City Commission approved removal
City of Tamarac	no	<ul style="list-style-type: none"> Effective August 1, 2015.
Hillsborough County	no	<ul style="list-style-type: none"> The box was banned around May 2014
City of West Palm Beach	no - except for police and fire	<ul style="list-style-type: none"> Removed the questions for all positions that are not public safety Still ask the question for all positions in Police and Fire
University of Florida	no - except for OPS & temp	<ul style="list-style-type: none"> Have not asked the question for around 3 years except for OPS and temp because departments are not required to conduct background checks on temporary employees
Citrus County	yes, but	<ul style="list-style-type: none"> Will be removing it from our application and placing it on our "waiver". The waiver never goes

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		to the individual who is screening the applicants. It has all of the ethnic, gender, etc. information on it.
City of Dania Beach	yes	<ul style="list-style-type: none"> Plan to in the near future once a written policy aligned on what are acceptable background results.
City of St. Pete Beach	yes	<ul style="list-style-type: none"> Will be reviewing in the near future
City of Mt. Dora	yes	<ul style="list-style-type: none"> Are not considering at this time
City of North Lauderdale	yes	<ul style="list-style-type: none"> Are not considering at all
Seminole County Sheriff's Office	yes	<ul style="list-style-type: none"> Are not considering at all
City of Margate	yes	<ul style="list-style-type: none"> Are not considering at all
Alachua County	yes	<ul style="list-style-type: none"> No plans to remove the box, but will discuss with attorney.
City of Cape Coral	yes	<ul style="list-style-type: none"> We continue to ask the questions because of our positions of special trust.
Lee County Mosquito/ Hyacinth Control Districts	yes	<ul style="list-style-type: none"> Not considering it at all
Leon County	yes	<ul style="list-style-type: none"> Not considering it at all
Miami Shores Village	yes	<ul style="list-style-type: none"> Not considering it at all
City of Coral Springs	yes	<ul style="list-style-type: none"> After recently reviewing the new law with our City Attorney's office we decided to keep the information within the form but make it easier to understand.
City of Fort Lauderdale	yes	<ul style="list-style-type: none"> No plans to remove the box. Feels that asking the criminal history questions allows applicants to demonstrate honesty and integrity should an offense appear on background.
City of Hialeah	yes	<ul style="list-style-type: none"> We have not discussed removing the criminal history questions from the employment

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Municipality/Agency	Criminal History on Application?	Discussion/Notes
		<ul style="list-style-type: none"> • applications • Will start looking into this
City of Hollywood	yes	<ul style="list-style-type: none"> • Yes, we still ask this question and we are not planning on removing the question from our application.
City of Lakeland	yes	<ul style="list-style-type: none"> • Not planning to remove the criminal history question
City of Maitland	yes	<ul style="list-style-type: none"> • Not considering it at this time
Manatee County Tax Collector	yes	<ul style="list-style-type: none"> • Researching information of other agencies.
City of Miami Gardens	yes	<ul style="list-style-type: none"> • (viewed online application)
City of Miramar	yes	<ul style="list-style-type: none"> • There have not been any serious discussions regarding “banning the box”.
City of Orlando	yes	<ul style="list-style-type: none"> • While our legal department is watching the situation very closely for us right now, we currently are not changing any processes
City of Palm Bay	yes	<ul style="list-style-type: none"> • Discussion pending - we will probably eliminate it for general positions but retain it for others (police, fire, finance) with specific language regarding its relationship to the job.
City of Zephyrhills	yes	<ul style="list-style-type: none"> • Considering it, but believe we will not make the change until it is required.
City of Daytona Beach Shores	yes	<ul style="list-style-type: none"> • Not considering it at all.
City of Fort Myers	yes	<ul style="list-style-type: none"> • N/A
Coconut Creek	yes	<ul style="list-style-type: none"> • N/A
City of Pembroke Pines	yes	<ul style="list-style-type: none"> • At this time it still a question listed on applications.
Hendry County	yes	<ul style="list-style-type: none"> • Thought about it some, but it isn't high on the list
Pinellas County	yes	<ul style="list-style-type: none"> • In current talks about how to implement this initiative
City of Casselberry	yes	<ul style="list-style-type: none"> • Considering it

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Municipality/Agency	Criminal History on Application?	Discussion/Notes
City of Port St. Lucie	yes	<ul style="list-style-type: none"> Discussed with legal department (labor attorney). At this time we are keeping it on the application until our legal department gets back to us. At that time it may change.
City of Punta Gorda	yes	<ul style="list-style-type: none"> We've talked about it and are going to leave it on our application until we are required to eliminate it.
Town of Lake Park	yes	<ul style="list-style-type: none"> Not considering it at all
Escambia County	yes	<ul style="list-style-type: none"> We don't ban the box but we review the charge, the lapse in time and the position to determine if it is in fact sufficient to disqualify from the roster.
Palm Beach County Property Appraiser's Office	yes	<ul style="list-style-type: none"> We are not considering it at this time.
Southwest Florida Water Management District	yes	<ul style="list-style-type: none"> Not considering doing so but monitoring the issue.
Florida Dept of Management Services (State of Florida)	yes	<ul style="list-style-type: none"> The state is aware of the concerns and is currently discussing their official position.
Okaloosa County BCC	yes	<ul style="list-style-type: none"> Not considering it at all.
Town of Davie	yes	<ul style="list-style-type: none"> Not removing it; still interested if applicants are telling the truth.
Town of Ponce Inlet	yes	<ul style="list-style-type: none"> We have taken no action on this issue at this time.



Human Resources Practices

Background Screening Process

Administrative Procedure

In an effort to ensure that appointments to employment with the City are made based on merit and fitness alone, and without regard to race, color, gender, age, religion, national origin, marital status, sexual orientation, disability, or gender identity and that all selection and hiring practices are managed consistently and fairly, the practice described herein shall be followed in recruitment and selection processes when filling job vacancies.

Applicability

An applicant and/or an employee who is promoted, transferred, voluntarily demoted in a full-time and/or part-time regular and temporary positions as a result of a job vacancy or competitive hiring process or an employee who is employed in a position requiring access to NERC CIP cyber systems may be subject to background screening.

- I. After a verbal employment offer is made, the recommended candidate must complete the Pre-Employment Certification/Release form and return it to the Human Resources Department. The chosen candidate is not to begin work prior to the hiring manager receiving approval from Human Resources.
- II. The HR Technician will order the background screening upon receipt of the signed release form and the Task via NeoGov. Collection of background information will include the items in Table 1.
- III. If an unfavorable report is received, the Human Resources/Organizational Representative will notify the Staffing Services Manager regarding the results of the report.

- IV. The Staffing Services Manager will review the results of the report and determine whether the individual should be hired.
 - a) In instances where unfavorable information is obtained, the Staffing Services Manager, accompanied by the Human Resources Director, the Hiring Manager and/or the City Attorney will jointly assess the potential risks and liabilities related to the job's requirements.
 - b) When filling full-time or part-time regular or temporary vacancies, Human Resources will follow EEOC guidance which requires that each case be reviewed individually rather than having a set of guidelines in which individuals are disqualified from employment eligibility. Regardless of the level of offense, each case will be reviewed individually and consideration will be given to:
 - i. The nature of work to be performed and responsibilities
 - ii. The level of unreasonable risk the offense may pose
 - iii. The time that has passed since the offense or sentence.
 - c) Additionally, if there appears to be a pattern of same or similar violations over a period of time, additional scrutiny may be given to the applicants record.
- V. If a decision not to hire or promote a candidate is made based on the results of a background check, there may be certain additional Fair Credit Reporting Act (FCRA) notification requirements. The Human Resources representative will be responsible for handling such FCRA requirements as necessary.
- VI. Background check information will be maintained electronically in a file separate from employees' personnel files.

Table 1 – Background screening items

Screening type	Agency	Report name	History
Identify confirmation	Equifax	ID Report	10 years
	Edge Information Management	Driver's License history	7 years
Consumer Report (When credit history is directly related to the job)	Equifax	TotalView Report	N/A
Criminal history	Edge Information Management	Out of state criminal history	Life
	FDLE (Florida Department of Law Enforcement)	Sex offender listing	Life
	FDLE (Florida Department of Law Enforcement)	State criminal history	Life
	ASO (Alachua County Sheriff's Office)	Local county criminal history	Life
	GPD (Gainesville Police Department)	Local city criminal history	Life

NEOGOV Insight - Application Detail

- . Q: Answering "yes" to the following question does not necessarily disqualify an applicant from employment; however, misstatements or omissions of material fact will cause an offer of employment made by the City of Gainesville to be withdrawn, or employment with the City terminated. Have you ever been convicted or found guilty by a jury or court of a misdemeanor or a felony, which includes pleading guilty or nolo contendere, regardless of whether or not adjudication is withheld or have you received probation or made restitution?

A: No

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10. Q: If yes, please describe or type "N/A" if not applicable:

A: N/A