

City of Columbia

701 East Broadway, Columbia, Missouri 65201



Agenda Item Number: B 328-14
Department Source: City Manager
To: City Council
From: City Manager & Staff
Council Meeting Date: October 20, 2014
Re: Ban the Box

Documents Included With This Agenda Item

Council memo, Resolution/Ordinance

Supporting documentation includes: Letter of support from Human Rights Commission

Executive Summary

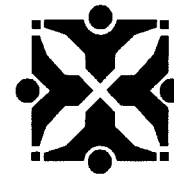
This ordinance is the product of the Mayor's Task Force on Community Violence's push to implement "Ban the Box" legislation in Columbia. "Ban the Box" aims to create a more level employment field for people returning to society from incarceration. If passed this ordinance would amend Chapter 12 of the City Code to prohibit employers in Columbia from asking job applicants about their criminal history until after a conditional job offer has been made. Certain jobs would be exempt as required by federal and state statutes. The ordinance would also encourage employers to consider the severity of the offense, time since the offense, and rehabilitation efforts since the offense before making any final decisions.

Discussion

The Mayor's Task Force on Community Violence has noted a strong correlation between recidivism rates and employment. Finding a job upon re-entry is one of the leading reasons offenders do not re-offend. Considering the large number of offenders returning to Boone County each year the Task Force sees increasing employment opportunities as a vital part of their task of reducing violence in Columbia.

Ban the Box is a national movement (<http://bantheboxcampaign.org/>) to remove any questions about an applicant's criminal history until the last stage of the application process and states if an applicant has a criminal record then the crime's severity, time since the crime, and actions after should be considered. Ban the Box is one step towards creating a more level employment field for ex-offenders.

To date over 60 local jurisdictions have adopted Ban the Box legislation, more than 15 have expanded that legislation to include private contractors doing business with the jurisdiction, and 4 have expanded the ban to all employers in the jurisdiction. Kansas City adopted a Ban the Box ordinance this Spring for city jobs only and is the first city in Missouri to do so. While the City of Columbia does not have a Ban the Box ordinance, it has removed the box from all City applications since 2012 and use best practices when considering applicants that are found to have a criminal history.



The proposed amendment to Chapter 12 of the City Code would prohibit an employer from asking about or searching for an applicant's criminal record until after a conditional offer of employment has been made. Certain exceptions are made for positions that must exclude certain offenders because of local, state, or federal regulations. Employers are allowed to notify applicants in writing of offenses that would disqualify them from obtaining the position. The ordinance also encourages employers to follow best practices when considering a candidate with a criminal history and to take into account the nature of the offense, time since the offense, and corrective measures taken in regards to the offense.

Enforcement of the ordinance would fall to the Human Right's Commission and their process for dealing with complaints (Chapter 12, Article III, Division 2). Additional enforcement is provided for Section 12-34.1 a (1) of the proposed ordinance concerning questions regarding criminal history found on the physical application. Anyone who notices a question concerning criminal history on a job application can file a written complaint with the Human Right's Commission, not just someone who is applying for the position. This provision will aid with compliance and awareness by broadening the pool of people able to file complaints concerning applications with questions regarding criminal history. This provision is only for questions on written or electronic applications and does not apply to questions about criminal history during other parts of the application process, such as interviews. Complaints regarding questions about criminal history during an interview will need to be brought forward by the aggrieved person (the job applicant).

Fiscal Impact

Short-Term Impact: N/A

Long-Term Impact: N/A

Vision, Strategic & Comprehensive Plan Impact

Vision Impact: Not Applicable

Strategic Plan Impact: Not Applicable

Comprehensive Plan Impact: Not Applicable

Suggested Council Action

Pass the ordinance amending Chapter 12 of the City Code to implement Ban the Box legislation in the City of Columbia.

Legislative History

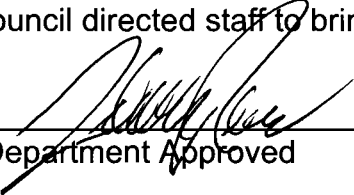
The Mayor's Task Force on Community Violence has discussed Ban the Box since January of 2014. During the Task Force's 4/26/14 retreat it was decided that the Task Force would further discuss Ban the Box. At the 5/8/14 meeting the task force decided to send a report to Council recommending the implementation of a Ban the Box ordinance. A report was given to Council at the 6/2/14 meeting and

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Council directed staff to bring forward an ordinance to implement Ban the Box legislation.



Department Approved



City Manager Approved

Introduced by _____

First Reading _____

Second Reading _____

Ordinance No. _____

Council Bill No. B 328-14

AN ORDINANCE

amending Chapter 12 of the City Code to add a new Article V pertaining to employment opportunities for qualified applicants; and fixing the time when this ordinance shall become effective.

WHEREAS, people with criminal records suffer from pervasive discrimination in many areas of life, including employment, housing, education and eligibility for many forms of social service benefits; and

WHEREAS, the City of Columbia, Missouri seeks to assist with the successful reintegration of formerly incarcerated people into the community after their release; and

WHEREAS, lack of employment opportunities for people with criminal records is a principal factor for recidivism, with people who are employed proving significantly less likely to be re-arrested; and

WHEREAS, removal of obstacles to employment for people with criminal records increases public health and safety by providing economic and social opportunities for numerous groups of citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. A new Article V of Chapter 12 of the Code of Ordinances of the City of Columbia, Missouri, is hereby enacted as follows:

ARTICLE V. EMPLOYMENT OPPORTUNITIES FOR QUALIFIED APPLICANTS

Section 12-90. Criminal records in employment.

- (a) Except as provided in subsection (b), it shall be unlawful:
 - (1) For an employer to inquire, question or otherwise seek information on an employment application as to whether an individual has ever been arrested for, charged with, or convicted of any crime.

(2) For an employer to inquire, question or otherwise seek information as to whether an applicant has ever been arrested for, charged with, or convicted of any crime until after the applicant has received a conditional offer of employment.

(b) The requirements set forth in subsection (a) of this section do not apply for positions where:

(1) Employers are required to exclude applicants with certain criminal convictions from employment due to local, state or federal law or regulation;

(2) A standard fidelity bond or an equivalent bond is required and an applicant's conviction of one or more specified criminal offenses would disqualify the applicant from obtaining such a bond; in which case, an employer may include a question or otherwise inquire whether the applicant has ever been convicted of any of those offenses; or

(3) Employers employ individuals licensed under the Emergency Medical Services (EMS) Systems Act.

(c) This section does not prohibit an employer from notifying applicants in writing of the specific offenses that will disqualify an applicant from employment in a particular position.

(d) Employers are encouraged to not automatically ban jobseekers with a criminal history. Employers may make final employment-related decisions based on all of the information available to them, including consideration of the frequency, recentness and severity of a criminal record as well as rehabilitation efforts against the duties and responsibilities of the position.

Section 12-91. Complaints.

(a) Any individual who claims to be aggrieved by a violation of this article may file with the commission a complaint in writing stating the name and address of the person alleged to have committed such practice, the particulars thereof, and such other information as may be required by the commission. If the alleged violation is that an employer is seeking criminal history information on an employment application, then any individual may file a complaint and that individual need not necessarily be aggrieved before filing a complaint.

(b) All such complaints shall be filed within one hundred eight (180) days of the date of the alleged violation.

Section 12-92. Investigation, resolution.

(a) The investigator shall promptly investigate the allegations of the complaint. After completing the investigation, the investigator shall report to the commission the results of the investigation and the investigator's opinion on whether there is probable cause to credit the allegations of the complaint.

(b) After receiving the investigator's report, the commission may direct further investigation. When the commission is satisfied that the complaint has been properly investigated, it shall determine whether there is probable cause to credit the allegations of the complaint. If the commission determines that there is no probable cause, it shall dismiss the complaint. If the commission determines that there is probable cause, the commission may forward the matter to the city prosecutor.

(c) At any stage in the process, the commission may close the case for good administrative reasons. Such reasons shall include but not be limited to the following:

- (1) The complainant has failed to cooperate with the commission.
- (2) The commission is unable to locate the complainant or respondent.
- (3) The complainant wishes to withdraw the complaint.

Section 12-93. Prosecutions; time limitations.

(a) No prosecution for a violation of any provision of this article shall be commenced unless a complaint shall have first been filed with the commission.

(b) The period of limitation for any violation of this article shall not run during any time while a complaint involving the alleged violation is pending before the commission.

Section 12-94. Penalty for violation of article.

Any person who shall violate any provision of this article shall be deemed guilty of a misdemeanor and shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000.00), or imprisonment not exceeding thirty (30) days, or by both such fine and imprisonment.

SECTION 2. This ordinance shall be in full force and effect from and after its passage.

PASSED this _____ day of _____, 2014.

ATTEST:

City Clerk

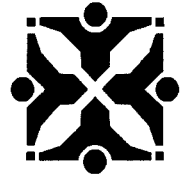
Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor

City of Columbia

701 East Broadway, Columbia, Missouri 65201



SUPPORTING DOCUMENTS INCLUDED WITH THIS AGENDA ITEM ARE AS FOLLOWS:

Letter of support from Human Rights Commission



October 9, 2014

Re: Ban the Box Proposed Ordinance

Honorable Mayor and Council Members,

At the October 7th meeting of the Human Rights Commission, commission members had an opportunity to review a draft copy of the Ban the Box ordinance. Though the commission was unable to review the draft that will be likely be discussed with the City Council, members were able to get an overall sense of the proposed ordinance as well as prospective changes. The Human Rights Commission chose to review the draft as it currently places enforcement with the commission. After discussing the proposal, the members voted unanimously that, if passed, we would review complaints concerning the Ban the Box ordinance with the same due diligence we use when reviewing all complaints of discrimination under Chapter 12 of the City ordinances. In addition, we are willing to work further with the Mayor's Task Force on Community Violence and the City Council if needed. Thank you for your time and consideration with this matter.

Gabriel Scott Dean
Chair, Human Rights Commission