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The California Fair Chance Act: Know Your Rights as a Jobseeker Under the New ‘Ban the Box’ Law

The [California Fair Chance Act \(AB 1008\)](#) takes effect on January 1, 2018. The law ensures that employers fairly consider job applicants with a record by delaying when an employer can ask about an applicant’s conviction history or run a background check.

What is the California Fair Chance Act?

The Fair Chance Act, also known as “Ban the Box,” is a new California law meant to ensure that workers with conviction records are more fairly considered for jobs. Starting January 1, 2018, most California employers are not allowed to ask you about your conviction history on a job application or run a conviction background check on you until they offer you the job.

When can an employer ask about my conviction record?

Only *after* selecting an applicant and offering him or her the job (sometimes called a “conditional offer”) can an employer ask about conviction history or run a background check. The employer must get your written permission before conducting a background check.

Are there any employers that don’t need to comply with the Fair Chance Act?

Most government and private employers must comply, with only a few exceptions:

- Employers with fewer than five employees are not covered by the law.
- Law enforcement and criminal justice employers are not covered by the law.
- If any law requires the employer to run a background check for the specific job you applied for, the employer may ask about your record up front. This will be the case for many positions in finance and other jobs that the government regulates.

I was offered a job. Now what?

After offering you a job, the employer can ask about your conviction history and run a background check. It may revoke the job offer but must follow certain rules before doing so.

Is any arrest or conviction information off limits?

Yes, with few exceptions, employers cannot ask about or consider arrests (except currently open cases), diversion programs, juvenile court records, and expunged (“dismissed”) convictions.

Can the employer revoke my job offer after learning of my conviction record?

Yes, but only after following certain procedures. The employer must:

1. Consider how long ago your conviction occurred and whether it is directly related to the job;
2. Notify you in writing, identify the conviction(s) that are the problem, provide you with a copy of your record, and tell you the date by which you can respond.
3. Allow you at least five business days to respond.
 - If the conviction report was inaccurate, you can respond by submitting evidence showing those inaccuracies.
 - You can also submit information showing that the employer should hire you anyway, such as letters of reference, an explanation of what led to the conviction, and proof of recent education, training, volunteering, or work experience.
4. Notify you in writing if the employer decides to revoke your job offer.

An employer broke the law when I applied for a job. What can I do?

If you believe your Fair Chance Act rights were violated after January 1, 2018, you can file a complaint with the California Department of Fair Employment and Housing (DFEH). The employer may be ordered to change its behavior and compensate you for violating your rights. There are a few ways to file a complaint:

1. File a complaint online at <https://ccrs.dfeh.ca.gov>
2. Download an [intake form](#) and either email it to contact.center@dfeh.ca.gov or mail it to 2218 Kausen Drive, Suite 100, Elk Grove, CA 95758
3. Visit a [DFEH office](#)

For more information, call DFEH at 800-884-1684.

What other rights do I have?

Other federal, state, and local laws protect the rights of workers with records:

- State and [federal civil rights laws](#) (and [California regulations](#)) forbid employers from discriminating against people of color, including when screening for conviction records. If you are a Black or Latinx worker and you were denied a job (or fired) because of a conviction that was not related to the job, you may file a complaint.
- [Federal law](#) requires the employer to get your written permission before running a background check. ([California law](#) requires this, too.)
- [San Francisco](#) and [Los Angeles](#) also have local ban-the-box laws.

