

FAIR CHANCE ACT

The **FAIR CHANCE ACT** (AB 1008), which went into effect on January 1, 2018, is a California law that generally prohibits employers of more than 5 employees from asking about your conviction history before making you a job offer. This type of law is also known as a “Ban the Box” law.

THE LAW GENERALLY PROHIBITS EMPLOYERS FROM:

- Including on a job application any questions about conviction history before a conditional job offer has been made
- Asking about or considering your criminal history before a conditional job offer has been made
- Considering information about arrests not followed by conviction, participation in pretrial or posttrial diversion programs, or convictions that have been sealed, dismissed, expunged, or statutorily eradicated

After offering you a job, employers are allowed to conduct a criminal history check, but the law requires an individualized assessment about your conviction history. That means that an employer can't take back the job offer without considering the nature and gravity of the criminal history, the time that has passed since the conviction, and the nature of the job you are seeking. If the employer decides to take back the job offer based on your criminal history, they must tell you so in writing, provide a copy of any conviction history report they relied on, and give you at least five business days to respond.

Q After a conditional offer of employment, what can an employer ask me about my criminal history?

A After a conditional offer, an employer may ask you if you have any history of convictions. But employers may not ask about or consider information about (1) an arrest that did not result in a conviction (subject to the exceptions in Labor Code § 432.7(a)(1) and (f)); (2) referral to or participation in a pretrial or posttrial diversion program; or (3) convictions that have been sealed, dismissed, expunged or statutorily eradicated pursuant to law.

Q What should I do if I think an employer has violated the law?

A Within one year of an employer's violation of the law, you may file a complaint directly with California Department of Fair Employment and Housing (DFEH).

TO FILE A COMPLAINT

DFEH

dfeh.ca.gov

Toll Free: 800.884.1684

TTY: 800.700.2320

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