

## - Minnesota Hiring Advantage -



*Realizing the potential of Minnesota's workforce through merit based employment applications.*

The **Minnesota Hiring Advantage** removes questions about criminal and credit history from employment applications, while allowing employers to conduct comprehensive background checks once an applicant is selected for an interview. It does not override or limit any law or private policy prohibiting the hiring of people with negative backgrounds.

**Employers benefit** by opening the initial step of their hiring process to a larger, potentially more qualified, pool of applicants. Employers also avoid the appearance of having policies that could be the basis for a discriminatory hiring lawsuit – the EEOC is stepping up enforcement of these lawsuits based upon use of criminal and credit history.

**Workers benefit** by being evaluated on all of their skills and qualifications, not just their past. Those who have offended will then have greater opportunity to become responsible and tax-paying community members.

**Minnesota benefits** by developing a workforce that is employed to its full potential, both now and into the future when the demand for trained and skilled employees will increase.

An estimated one million Minnesotans throughout the state now have some type of a criminal record and the number of people with adverse credit histories has recently increased. When employers do not consider hiring people with adverse credit or criminal histories, they miss applicants who have the skills, qualifications, and character needed for the job. They also expose themselves to potential discriminatory hiring lawsuits, and they limit the current and future potential of Minnesota's workforce. Waiting until an applicant has been selected for an interview before inquiring about credit or criminal history is a sound and safe business practice that will help employers to select employees based upon all of their skills and qualifications, not just their past as it appears on a background check.

In 2009, Governor Pawlenty signed legislation that made Minnesota one of the first states in the country to require all *public* employers to remove questions about criminal history from employment applications. Since then several states have agreed with the need for this policy reform and passed similar legislation. Hawaii has not allowed criminal history questions on public or private employment applications since 1998.

[www.mnsecondchancecoalition.org](http://www.mnsecondchancecoalition.org)

*"Building the road to restoration"*

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### **Removal of Credit and Criminal History from Initial Employment Application, Limitation of Employer Liability**

#### **364.021 PUBLIC AND PRIVATE EMPLOYMENT; CONSIDERATION OF CRIMINAL RECORDS.**

- (a) A public or private employer may not inquire into or consider the credit history or score, criminal record, or criminal history of an applicant for public employment until the applicant has been selected for an interview by the employer.
- (b) This section does not apply to the Department of Corrections or to public employers who have a statutory duty to conduct a criminal history background check or otherwise take into consideration a potential employee's criminal history during the hiring process.
- (c) This section does not prohibit an public employer from notifying applicants that law or the employer's policy will disqualify an individual with a particular criminal history background from employment in particular positions.

#### **181.981 EMPLOYMENT OF INDIVIDUAL WITH CRIMINAL HISTORY; LIMITATION ON ADMISSIBILITY OF EVIDENCE.**

##### **Subdivision 1. Limitation on admissibility of criminal history.**

Information regarding a criminal history record of an employee or former employee may not be introduced as evidence in a civil action against a private employer or its employees or agents that is based on the conduct of the employee or former employee, if:

- (1) the duties of the position of employment did not expose others to a greater degree of risk than that created by the employee or former employee interacting with the public outside of the duties of the position or that might be created by being employed in general;
- (2) before the occurrence of the act giving rise to the civil action, a court order sealed any record of the criminal case or the employee or former employee received a pardon.; ~~or~~
- (3) the record is of an arrest or charge that did not result in a criminal conviction; or.
- (4) the action is based solely upon the employer's compliance with Chapter 364.021.

##### **Subd. 2. Relation to other law.**

This section does not supersede a statutory requirement to conduct a criminal history background investigation or consider criminal history records in hiring for particular types of employment.

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