

LEGISLATIVE DIGEST

[Police Code - Clarifying Fair Chance Ordinance - Revising Beyond the Box in College Admissions Ordinance]

Ordinance amending the Police Code to clarify the content of the notice that employers must post summarizing applicants' and employees' rights under the Fair Chance Ordinance; revise the Beyond the Box in College Admissions Ordinance by changing the enforcing agency from the Office of Labor Standards Enforcement to the Human Rights Commission; adding notice and posting requirements to inform applicants, as defined, of their rights; making penalties payable to applicants; and revising the private right of action requirements.

Existing Law

The Fair Chance Ordinance ("FCO") requires employers and housing providers to limit the use of criminal history information and follow certain procedures and restrictions when inquiring about and using conviction history information to make decisions about employment and tenancy in San Francisco. The FCO also requires City contractors and subcontractors to adhere to the same limits, procedures, and restrictions.

The FCO requires the Office of Labor Standards Enforcement ("OLSE") to publish a notice "informing applicants and employees of their rights under" the FCO. The FCO specifies the content of that notice. With that content included, the notice is four pages long.

The Beyond the Box in College Admissions Ordinance ("BBCAO") prohibits private colleges from using an application form that contains questions concerning an applicant's criminal history or asking about an applicant's criminal history for purposes of deciding whether to offer admission. OLSE is the City department designated to administer and enforce the BBCAO. The BBCAO does not require colleges to provide notice to applicants or post notices regarding the requirements of the BBCAO. The administrative penalties for violating the BBCAO are not payable to college applicants.

Amendments to Current Law

Concerning the FCO, this legislation would clarify that the notice created by OLSE would still need to "inform applicants and employees of their rights under" the FCO but would give OLSE discretion about how to summarize those rights.

Concerning the BBCAO, this legislation would make the Human Rights Commission ("HRC") the City department responsible for administering and enforcing the BBCAO rather than OLSE. The legislation would add a requirement that a college state in application and recruitment materials that the college will not inquire about criminal history for purposes of deciding whether to offer admission. The legislation would add a requirement that HRC

develop a notice informing applicants of their rights under the BBCAO and would require colleges to post that notice on their website and other locations. The legislation would specify that certain administrative penalties recovered from colleges for violations of the BBCAO be payable to applicants and other penalties would be deposited in the City's general fund. Finally, the legislation adds requirements that a private party must fulfill before filing a civil action asserting violations of the BBCAO, including filing a complaint with HRC and waiting 90 days, notifying the City Attorney of the intent to file suit, and receiving confirmation in writing from the City Attorney that the City does not intend to file a civil suit.

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