File No	150902	Committee Item No3	_
		Board Item No.	

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee:	Public Safety and Neighborhood Services Date February 25, 2016
Board of Su Cmte Board Cmte B	Motion Resolution Ordinance Legislative Digest Budget and Legislative Analyst Report Youth Commission Report Introduction Form Department/Agency Cover Letter and/or Report MOU Grant Information Form Grant Budget Subcontract Budget Contract/Agreement Form 126 – Ethics Commission Award Letter Application Public Correspondence
OTHER	(Use back side if additional space is needed)
	Referral FYI - 09/14/2015 Response Women - 09/22/2015 Referral YC - 09/30/2015 Presidential Action Memo - 02/09/2016
Completed k	

[Administrative Commissions]	Code -	Considering	Criminal	History	in Appoin	itments t	o Boards	and

Ordinance amending the Administrative Code to delete the requirement that applicants for membership on boards and commissions disclose all felony convictions; to limit the City from using criminal history information in making decisions about appointment and removal of members of certain boards, commissions, and other bodies; and to require the City to follow certain restrictions when inquiring about or using conviction history information to make decisions about appointment or removal.

NOTE: Unchanged Code text and uncodified text are in plain Arial font.

Additions to Codes are in single-underline italics Times New Roman font.

Deletions to Codes are in strikethrough italics Times New Roman font.

Board amendment additions are in double-underlined Arial font.

Board amendment deletions are in strikethrough Arial font.

Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The Administrative Code is hereby amended by deleting Section 2.6-4 and adding Article XII, Sections 16.500, 16.501, and 16.502, to Chapter 16, to read as follows:

SEC. 2.6-4. DISCLOSURE OF FELONY CONVICTIONS.

Any person applying to the Board of Supervisors for appointment to a board, commission, committee, task force, or other body, shall submit, in addition to any other information required as part of the application process, a written statement under penalty of perjury disclosing any felony convictions.

These requirements shall not apply to mayoral nominations to boards and commissions submitted to the Board of Supervisors pursuant to Charter Section 3.100(15).

CHAPTER 16: OFFICERS AND EMPLOYEES GENERALLY

24

ARTICLE XII:

CONSIDERATION OF CRIMINAL HISTORY OF PEOPLE APPLYING FOR OR SERVING ON CERTAIN CITY BOARDS, COMMISSIONS, AND OTHER BODIES

Sec. 16.500. Findings.

Sec. 16.501. Definitions.

Sec. 16.502. Use Of Criminal History Information Regarding Appointments To Or Removal

From Policy Bodies.

SEC. 16.500. FINDINGS.

The health, safety, and well-being of San Francisco's communities depend on ensuring that people with arrest or conviction records have opportunities to effectively reintegrate into the community. The findings in Police Code Section 4902 provide many of the reasons why it is critical for the City to take steps to facilitate that reintegration. One dimension of this reintegration process is to remove arbitrary roadblocks to participation in City government.

To that end, this Article XII provides that the City and County of San Francisco cannot, except in appropriate circumstances, remove people from certain City boards, commissions, and other bodies or reject applicants seeking appointment to such boards, commissions, and other bodies, based on the members' or applicants' criminal history. In this way, the policies that the City applies to its appointment process for these boards, commissions, and other bodies will substantially mirror the policies that apply to private employers and housing providers under Police Code Article 49.

SEC. 16.501. DEFINITIONS.

- (a) As used in this Article XII, the terms "Arrest," "Background Check Report," "City," "Conviction History," "Evidence of Rehabilitation or Other Mitigating Factors," "Inquire," and "Unresolved Arrest" shall have the meanings set forth in Police Code Section 4903.
 - (b) As used in this Article XII, the following terms have the following meanings:
- "Adverse Action" shall mean a decision to not nominate or appoint a person as a member of a
 Board Policy Body or to remove a person as a member of such a body.
 - "Applicant" shall mean a person seeking nomination or appointment to a Board Policy Body.
- "Conviction" shall mean a record from any jurisdiction that includes information indicating that a person has been convicted of a felony or misdemeanor; provided that the conviction is one for which the person has been placed on probation, fined, imprisoned, or paroled.
- "Directly-Related Conviction" shall mean that the conduct for which an Applicant or Member was convicted or that is the subject of an Unresolved Arrest has a direct and specific negative bearing on that Applicant or Member's ability to perform the duties or responsibilities of the Board Policy Body or is directly related to matters that the Board Policy Body may consider.
 - "Member" shall mean a person serving as a member of a Board Policy Body.
- "Board Policy Body" shall mean a board, commission, committee, task force, or other body, created by a resolution or ordinance adopted by the Board of Supervisors, that is responsible for exercising the sovereign powers of the City or for advising City employees, officers, departments, boards, or commissions. "Board Policy Body" shall include a committee, task force, or other body of a Board Policy Body. "Board Policy Body" shall not include boards, commissions, committees, task forces, or other bodies created by the Charter or created by an initiative ordinance that specifies the qualifications for appointments to the body.

SEC. 16.502. REOUESTS FOR AND USE OF CRIMINAL HISTORY INFORMATION.

Applicant or Member's written consent for a Background Check so long as the application includes a clear and conspicuous statement that the City will not itself conduct or obtain from a third party the Background Check until either after the first live interview with the person, after the first public hearing regarding the person's potential appointment, or after a conditional offer of appointment in accordance with subsection (c) of this Section 16.502.

- (c) No City employee or officer shall require Applicants for membership on a Policy Body to disclose, and shall not inquire into or discuss, their Conviction History or an Unresolved Arrest until either after the first live interview with the person (via telephone, videoconferencing, use of other technology, or in person), after the first public hearing regarding the person's potential appointment, or, at the City's discretion, after a conditional offer of appointment. The City may not itself conduct or obtain from a third party a Background Check until either after the first live interview with the person, after the first public hearing regarding the person's potential appointment, or after a conditional offer of appointment.
- (d) Prior to any Conviction History inquiry, the City shall provide notice to the Applicant or

 Member that substantially conforms to the notice requirement described in Police Code Section

 4905(b).
- (e) Prior to obtaining a copy of a Background Check Report, the City shall comply with all state and federal requirements including but not limited to those in the California Investigative

 Consumer Reporting Agencies Act (ICRAA), California Civil Code sections 1786 et seq., and the Federal Consumer Reporting Act (FCRA), 15 United States Code sections 1681 et seq., to provide notice to the Applicant or Member that such a report is being sought.
- (f) In making a decision based on an Applicant or Member's Conviction History, a City employee or officer shall conduct an individualized assessment, considering only Directly-Related Convictions, the time that has elapsed since the Conviction or Unresolved Arrest, and any evidence of inaccuracy or Evidence of Rehabilitation or Other Mitigating Factors.

(h) City employees and officers shall not engage in any communication that is intended and reasonably likely to reach persons who are reasonably likely to seek appointment to a Board Policy Body, and that expresses, directly or indirectly, that any person with an Arrest or Conviction will not be considered or may not apply for membership on a Board Policy Body.

(i) References in this Section 16.502 to "City officers and employees" shall be understood to include members of Board Policy Bodies when considering appointment of persons to, and removal of members from, a committee, task force, or other body of a Board Policy Body.

Section 2. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By:

JON GIVNER
Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative Code - Considering Criminal History in Appointments to Boards and Commissions]

Ordinance amending the Administrative Code to delete the requirement that applicants for membership on boards and commissions disclose all felony convictions; to limit the City from using criminal history information in making decisions about appointment and removal of members of certain boards, commissions, and other bodies; and to require the City to follow certain restrictions when inquiring about or using conviction history information to make decisions about appointment or removal.

Existing Law

Any person applying to the Board of Supervisors for appointment to a board, commission, or other body must submit a written statement under penalty of perjury disclosing any felony convictions. The Board may decide to appoint or remove any person from such a body because of the person's criminal history.

Amendments to Current Law

The proposed ordinance would delete the requirement that applicants for boards, commissions, and other bodies disclose their criminal history. It would restrict the use of criminal history information in decisions by City officers or employees regarding appointment to or removal from boards, commissions, and other City bodies. Specifically, the ordinance would prohibit the Board of Supervisors or any other City employee or officer from requesting information about a person's criminal history until after an interview or hearing. Even after that point, the City could not consider certain criminal history information, including an arrest not leading to a conviction (other than an arrest that is still the subject of a criminal investigation or trial); participation in or completion of a diversion or deferral of judgment program; a conviction that has been expunged or otherwise made inoperative; a conviction or other determination in the juvenile justice system; a conviction that is more than 7 years old (measured from date of sentencing); and criminal offenses other than felonies or misdemeanors, such as infractions. For other convictions and unresolved arrests—those that the City can consider in deciding whether to appoint or remove a person—the City could only base a decision on convictions and unresolved arrests that have a direct and specific negative bearing on the person's ability to perform his or her duties or responsibilities or that are directly related to matters that the person may consider as a member of the board. commission, or other body.

The restrictions in this ordinance would apply to all boards, commissions, and other bodies created by the Board of Supervisors, but would not apply to bodies created by the Charter or created by an initiative ordinance that specifies the qualifications for appointments.

Background Information

In 2014, the Board of Supervisors adopted Ordinance No. 017-14, which restricted the use of criminal history information in decisions regarding employment and housing. This proposed ordinance will bring the City's policies regarding appointment and removal of board and commission members substantially in line with the policies reflected in Ordinance No. 017-14.

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Bus-11, roB, Rules PSNS, Dep City, marger's city,

President, District 5 BOARD of SUPERVISORS



City Hall 1 Dr. Carlton B. Goodlett Place, Room 244 San Francisco 94102-4689 Tel. No. 554-7630

Tel. No. 554-7630 Fax No. 554-7634 TDD/TTY No. 544-5227

London Breed

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London Breed, President Board of Supervisors

BOARD of SUPERVISORS



City Hall 1 Dr. Carlton B. Goodlett Place, Room 244 San Francisco 94102-4689 Tel. No. 554-5184 Fax No. 554-5163 TDD/TTY No. 554-5227

MEMORANDUM

TO:

Youth Commission

FROM:

Angela Calvillo, Clerk of the Board

DATE:

September 30, 2015

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS

The Board of Supervisors has received the following, which at the request of the Youth Commission is being referred as per Charter Section 4.124 for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File, 150902

Ordinance amending the Administrative Code to delete the requirement that applicants for membership on boards and commissions disclose all felony convictions; to limit the City from using criminal history information in making decisions about appointment and removal of members of certain boards, commissions, and other bodies; and to require the City to follow certain restrictions when inquiring about or using conviction history information to make decisions about appointment or removal.

Clerk, Rules Committee.	ssion's response to Alisa Somera,
******************	**************************************
RESPONSE FROM YOUTH COMMISSION	Date:
No Comment	
Recommendation Attached	
	Chairperson, Youth Commission

Major, Erica (BOS)

From:

Major, Erica (BOS)

Sent:

Wednesday, September 30, 2015 1:40 PM

To:

Carpenter, Adele

Cc:

Guzman, Monica (BOS); Lu, Allen; Somera, Alisa (BOS)

Subject:

REFERRAL YC (150902) Administrative Code - Considering Criminal History in Appointments

to Boards and Commissions

Attachments:

150902 YC.pdf

Greetings:

This matter is being referred to the Youth Commission for comment and recommendation. Please forward the Commission's response as soon as it is available.

Sent on behalf of Alisa.Somera@sfgov.org, Assistant Clerk, Rules Committee

Best,

Erica Major

Assistant Committee Clerk

Board of Supervisors

1 Dr. Carlton B. Goodlett Place, City Hall, Room 244

San Francisco, CA 94102

Phone: (415) 554-4441 | Fax: (415) 554-5163 <u>Erica.Major@sfgov.org</u> | <u>www.sfbos.org</u>



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The Legislative Research Center provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

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City and County of San Francisco **DEPARTMENT ON THE STATUS OF WOMEN**



Date:

September 22, 2015

To:

Alisa Somera, Assistant Clerk, Rules Committee, Board of Supervisors

From:

Dr. Emily Murase, Executive Director

Re:

BOS File No. 150902: Administrative Code - Considering Criminal History in

Appointments to Boards and Commissions

The Department on the Status of Women has examined the proposed amendment to the Administrative Code regarding considering criminal history in appointments to boards and commissions. We support the intent of the ordinance to remove arbitrary roadblocks to participation in City government for persons with arrest or conviction records. However, we have some concerns regarding the impact of the following sections, which taken together would prohibit the City from considering criminal history information if a conviction is more than seven years old, even if it is a Directly-Related Conviction.

- i. Sec. 16.501(b): "Directly-Related Conviction" shall mean that the conduct for which an Applicant or Member was convicted or that is the subject of an Unresolved Arrest has a direct and specific negative bearing on that Applicant or Member's ability to perform the duties or responsibilities of the Board Policy Body or is directly related to matters that the Board Policy Body may consider.
- ii. Sec. 16.502(a): Regarding appointment to or removal from positions on Board Policy Bodies, City employees and officers shall not, at any time or by any means, inquire about, require disclosure of, or if such information is received base an Adverse Action in whole or in part on: (5) A Conviction that is more than seven years old, the date of the Conviction being the date of sentencing;
- iii. Sec. 16.502(f): In making a decision based on an Applicant or Member's Conviction History, a City employee or officer shall conduct an individualized assessment, considering only Directly-Related Convictions, the time that has elapsed since the Conviction or Unresolved Arrest, and any evidence of inaccuracy or Evidence of Rehabilitation or Other Mitigating Factors.

Considering that convictions for domestic abuse, and other forms of gender-based violence, are difficult to obtain and typically follow prior perpetrations of abuse that often go unreported to police or are not prosecuted, a seven year time limit of criminal history is insufficient for Directly-Related Convictions from the perspective of the Commission on the Status of Women. We recommend that Directly-Related Convictions be permitted for consideration by the City **regardless of time passed**.

Please direct any questions to Legislative Analyst Elizabeth Newman at (415) 252-3206 or elizabeth.newman@sfgov.org.

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO:

Chief Karen Fletcher, Adult Probation Department

Erica Maybaum, Child Care Planning and Advisory Council

Naomi Kelly, City Administrator Ben Rosenfield, City Controller

Anne Hinton, Executive Director, Department of Aging and Adult Services

Tom Hui, Director, Department of Building Inspection

Maria Su, Director, Department of Children, Youth and Their Families

John Arntz, Director, Department of Elections

Trent Rhorer, Director, Department of Human Services Barbara Garcia, Director, Department of Public Health

Deborah Raphael, Director, Department of the Environment Emily Murase, Director, Department on the Status of Women

George Gascon, District Attorney

Jesse Mainardi, Acting Director, Ethics Commission

Laurel Kloomok, Executive Director, First 5 San Francisco

Valerie Huggins, Health Authority

Theresa Sparks, Director, Human Rights Commission

Olson Lee, Director, Mayor's Office of Housing Helynna Brooke, Director, Mental Health Board

Ed Reiskin, Director, Municipal Transportation Agency

Adrienne Pon, Director, Office of Civil Engagement and Immigrant Affairs

Barbara Carlson, Director, Office of Early Care and Education

Todd Rufo, Director, Office of Economic and Workforce Development

Ellen Love, Office of Labor Standards Enforcement Regina Dick-Endrizzi, Director, Office of Small Business

John Rahaim, Director, Planning Department

Chief Greg Suhr, Police Department

Monique Moyer, Director, Port

Harlan Kelly, Jr., General Manager, Public Utilities Commission

Mohammed Nuru, Director, Public Works

Phil Ginsburg, General Manager, Recreation and Park Department

Kate Austin, Treasure Island Development Authority

FROM:

Alisa Somera, Assistant Clerk, Rules Committee

Board of Supervisors

DATE:

September 14, 2015

SUBJECT:

LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee has received the following proposed legislation, introduced by Supervisor Kim on September 8, 2015. This matter is being referred to you for informational purposes since it may affect your department.

File No. 150902

September 14, 2015

Ordinance amending the Administrative Code to delete the requirement that applicants for membership on boards and commissions disclose all felony convictions; to limit the City from using criminal history information in making decisions about appointment and removal of members of certain boards, commissions, and other bodies; and to require the City to follow certain restrictions when inquiring about or using conviction history information to make decisions about appointment or removal.

If you wish to submit any reports or documentation to be considered with the legislation, please send those to me at the Board of Supervisors, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102 or by email at alisa.somera@sfgov.org.

Danielle Harris, Municipal Transportation Agency C: Louis Liss. Municipal Transportation Agency Roberta Boomer, Municipal Transportation Agency Emily Lesk, Office of Economic and Workforce Development Greg Asay, Office of Economic and Workforce Development Barbara Carr, Department of Elections John Gavin, Office of the City Administrator Sonva Harris, Department of Building Inspection Bernadette Perez, Department of Building Inspection Mavis Asiedu-Frimpong, Department of Public Health Jeff Simbe, Department of Public Health Paul Jones, Department of Public Health Kahala Drain, First 5 San Francisco Emily Davis, Department of Children, Youth and Their Families Brian Cheu, Mayor's Office of Housing Maura Lane, Office of the City Controller Bridget Badasow, Department of Aging and Adult Services Mathew Snyder, Planning Department Alexis Smith, Planning Department Tachina Alexander, Department of Elections Rodney Nash, Public Utilities Commission Patrick Caceres, Public Utilities Commission Charles Perl, Public Utilities Commission Jocelyn Kane, Administrative Services Crystal Stewart, Administrative Services Mullane Ahern, Human Rights Commission Minouche Kandel, Department on the Status of Women Jimmer Cassiol, Public Works Megan Owens, Department of Human Services Olive Gong, Recreation and Park Department Inspector John Monroe, Police Department Karen Shain, Adult Probation Department Tara Anderson, Office of the District Attorney

Mei Ling Hui, Department of the Environment

Print Form

Introduction Form BOARD OF SUPER By a Member of the Board of Supervisors or the Mayor SAN FRANCE

I hereby submit the following item for introduction (select only one):	2015 SEP - 9 Fit Time Stamp or meeting date					
I. For reference to Committee. (An Ordinance, Resolution, Motion,	or Charter Amendment)					
	. ′					
2. Request for next printed agenda Without Reference to Committee.						
3. Request for hearing on a subject matter at Committee.	· .					
4. Request for letter beginning "Supervisor	inquires"					
5. City Attorney request.						
☐ 6. Call File No. from Committee.	☐ 6. Call File No. from Committee.					
☐ 7. Budget Analyst request (attach written motion).	7. Budget Analyst request (attach written motion).					
8. Substitute Legislation File No.						
9. Reactivate File No.						
☐ 10. Question(s) submitted for Mayoral Appearance before the BOS or	n					
Please check the appropriate boxes. The proposed legislation should be for	warded to the following:					
☐ Small Business Commission ☐ Youth Commission	☐ Ethics Commission					
	nspection Commission					
Note: For the Imperative Agenda (a resolution not on the printed agenda	a), use a Imperative Form.					
Sponsor(s):						
Supervisor Kim						
Subject:						
Fair Chance amendments						
The text is listed below or attached:						
Please see attached.						
Signature of Sponsoring Supervisor:						
For Clerk's Use Only:						