



Commonwealth of Virginia
Office of the Governor

Executive Order

NUMBER FORTY ONE (2015)

IMPLEMENTATION OF “BAN THE BOX” HIRING POLICIES IN THE COMMONWEALTH

Importance of the Initiative

Virginia takes great pride in having a diverse and thriving business environment. Every year many new businesses choose to relocate or open in the Commonwealth because of its welcoming business environment and quality workforce. Unfortunately, many people with criminal histories find it difficult to gain employment in Virginia. The National Employment Law Project estimates 70 million American adults have arrests or convictions in their past that can make it difficult for them to obtain employment.

It is vitally important to Virginia’s New Economy that every Virginian has a meaningful opportunity to compete for jobs in the Commonwealth. Expanding employment opportunities not only improves the Commonwealth’s fiscal health, but also enhances the quality of life for all of her citizens by providing improved access to better housing, education, and other societal benefits.

Accordingly, by virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, I hereby issue this Executive Order (Order) directing the Department of Human Resource Management (DHRM) to amend the state employment application and to provide guidance to all agencies, boards and commissions within the executive branch of government consistent with this Order on the appropriate use of criminal background checks.

Scope and Guidance

This Order shall apply to all agencies, boards and commissions within the executive branch of government subject to the authority of the Governor and covered by the Virginia Personnel Act as set forth in §2.2-2900, *et al.*, of the Code of Virginia. This Order also encourages similar

hiring practices among private employers operating within the Commonwealth and state government contractors.

In implementing this Order, DHRM shall take the following actions:

- (1) Amend the state employment application to “ban the box”, removing those questions relating to convictions and criminal history;
- (2) Inform all hiring authorities within the executive branch that state employment decisions will not be based on the criminal history of an individual unless demonstrably job-related and consistent with business necessity, or state or federal law prohibits hiring an individual with certain convictions for a particular position;
- (3) Provide guidance to ensure that any criminal history background check is only conducted after a candidate has (a) signed the appropriate waiver authorizing release, (b) been found otherwise eligible for the position, and (c) is being considered for a specific position;
- (4) Identify agency positions to be classified as sensitive in accordance with §2.2-1201.1 of the Code of Virginia and this Order, where initial disclosure of criminal history information shall still be required;

Any person refusing to complete and sign the appropriate authorization for release of criminal history information prepared in accordance with this Order may have his application for that position removed from further consideration.

Nothing in this Order shall be construed to create or imply any new cause of action against the Commonwealth of Virginia or any component part thereof, or against any person acting in his official capacity.

Effective Date of the Executive Order

This Executive Order shall be effective upon its signing and shall remain in full force and effect until amended or rescinded by further executive order.

Within 90 days of the date of this Order, DHRM shall submit a report to the Governor outlining its compliance with this Order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 3rd Day of April, 2015.



Attest:

Terence R. McAuliffe, Governor

Levar M. Stoney, Secretary of the Commonwealth