

BOARD BILL NUMBER: 120FS

PRIMARY SPONSOR: Alderman John Collins-Muhammad, 21st Ward

DATE OF INTRODUCTION: October 4th, 2019

BOARD BILL SUMMARY:

The proposed Floor Substitute would prohibit employers in the City of St. Louis from basing job hiring or promotion decisions on applicants' criminal histories unless an employer can demonstrate their decision is based on all available information including the frequency, recentness and severity of a criminal history and that the history is reasonably related to or bears upon the duties and responsibilities of the position; inquire about an applicant's criminal history until after it has been determined the applicant is otherwise qualified for the position, and only after they have been interviewed for the position except such an inquiry may be made of all applicants in the final selection pool from which the position will be filled; and publish job advertisements excluding applicants based on criminal history, include statements excluding applicants based on criminal history in application forms and other forms used in the hiring process, inquire into, or require disclosures of criminal history on initial application forms and other forms used in the initial phase of the hiring process, or seek to obtain publicly available information concerning job applicants' criminal history unless required to exclude applicants with certain criminal histories due to local, state, or federal law or regulation. The Floor Substitute charges the Office of the License Collector responsible for enforcement of the prohibitions including imposition of penalties for violations, and the Civil Rights Enforcement Agency with responsibility for receiving and investigating complaints of alleged violations.;

The proposed Bill's impact on the community is unknown at this time.

Prepared by: Louis Galli

Legal Counsel, Board of Aldermen

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BOARD BILL NUMBER 120FS INTRODUCED BY ALDERMAN JOHN COLLINS-MUHAMMAD/ ALDERWOMAN MARLENE DAVIS/ ALDERWOMAN CHRISTINE INGRASSIA/ ALDERWOMAN SHAMEEM CLARK-HUBBARD

1 An ordinance prohibiting employers in the City of St. Louis from basing job hiring or
2 promotion decisions on applicants' criminal history, and inquiring about applicants' criminal
3 history until after it has been determined an applicant is otherwise qualified for the position
4 unless the employer can demonstrate their decision is based on all available information
5 including consideration of the frequency, recentness and severity of the criminal history and
6 that history is reasonably related to or bears upon the duties and responsibilities of the
7 position, or the applicant is a part of the final pool of candidates from which the job position
8 will be filled and all of the applicants in the pool are asked; publish job advertisements
9 excluding applicants based on criminal history, include statements excluding applicants based
10 on criminal history in application forms and other forms used in the hiring process, inquire
11 into or require disclosures of criminal history on initial application forms and other forms
12 used in the initial phase of the hiring process, or seek to obtain publicly available information
13 concerning applicants' criminal histories unless required to exclude applicants with certain
14 criminal histories due to local, state, or federal law or regulation; and containing a penalty
15 clause, severability clause, and effective date.

16 **WHEREAS**, previous involvement with the criminal justice system often creates a
17 significant barrier to employment in that applicants with criminal histories are less likely to be
18 considered for an available job when that information is included on an initial job application;
19 and

20 **WHEREAS**, revealing a criminal history on an initial job application often results in
21 an applicant's elimination from consideration; and

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1 **WHEREAS**, children and families suffer when people with criminal histories are
2 unable to work or work at jobs that are below their potential given their education and skills;
3 and

4 **WHEREAS**, people with criminal histories who experience unemployment or
5 underemployment struggle to provide for their families and are more likely to depend on
6 public assistance; and

7 **WHEREAS**, children are less likely to receive financial support in the form of child-
8 support when a parent has a criminal history; and

9 **WHEREAS**, removing job barriers for people with criminal histories helps the
10 economy grow. Military veterans who have experienced the criminal justice system often face
11 additional hurdles in rejoining the workforce; and

12 **WHEREAS**, providing employment opportunities for people with criminal histories
13 makes our communities safer because when people with criminal histories are gainfully
14 employed, they are significantly less likely to re-offend; and society expects adults who can
15 work to seek and maintain employment, so it is vital that residents of the City of St. Louis
16 with criminal histories have a chance to rejoin the workforce and become fully contributing
17 members of their communities.

18 **BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

19 **SECTION ONE.** Prohibited Practices.

20 A. It shall be prohibited for employers located in the City of St. Louis with ten or more
21 employees to:

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- 1 1. Base a hiring or promotional decision on a job applicant’s criminal history or sentence
2 related thereto, unless the employer can demonstrate that the employment-related
3 decision is based on all information available including the frequency, recentness and
4 severity of the criminal history and the history is reasonably related to or bears upon
5 the duties and responsibilities of the job position; and
- 6 2. Inquire about a job applicant’s criminal history until after it has been determined that
7 the applicant is otherwise qualified for the job position, and only after the applicant
8 has been interviewed for position except that such an inquiry may be made of all job
9 applicants who are in the final selection pool from which the position will be filled.
- 10 3. Publish job advertisements excluding applicants on the basis of criminal history,
11 regardless of whether such advertisements are in hardcopy or electronic format; and
- 12 4. Include statements excluding applicants on the basis of criminal history in job
13 application forms and other employer generated forms used in the hiring process,
14 regardless of the whether such forms are hardcopy or electronic format.
- 15 5. Inquire into, or require applicants to make disclosures regarding their criminal history
16 on initial job application forms and other employer generated forms used in the initial
17 phase of the hiring process, whether such forms are in hardcopy or electronic format.
- 18 6. Seek to obtain publicly available information concerning job applicants’ criminal
19 history.

20 B. The prohibitions contained in Subsection A, paragraphs 3, 4, 5 and 6 of this Section
21 One shall not apply to job positions where federal or state laws and regulations, City
22 ordinance prohibits employers from employing individuals with certain criminal histories.

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1 **SECTION TWO.** Implementation & Enforcement.

2 **A.** Individuals aggrieved by a violation of this Ordinance may submit complaints to the
3 Civil Rights Enforcement Agency, who shall investigate such complaints and recommend
4 those complaints to have been determined with merit to the Office of the License Collector for
5 employer compliance.

6 **SECTION THREE.** Penalties.

7 **A.** Employers violating this Ordinance shall be subject to the following penalties:

- 8 1. For the first violation an employer shall receive a warning issued by the Office of the
9 License Collector, or order requiring that they come into compliance with the
10 provisions of this Ordinance within thirty days.
- 11 2. For the second violation an employer shall receive an order issued by the Office of the
12 License Collector requiring that they come into compliance with the provisions of this
13 Ordinance within thirty days and a civil penalty as determined by the License
14 Collector, that should not exceed the maximum amount permitted under the revised
15 code and ordinances of the City of St. Louis.
- 16 3. For the third violation an employer shall be subject to potential revocation of their
17 business operating license as deemed appropriate by the Office of the License
18 Collector.

19 **B.** The Office of the License Collector in coordination with the Director of the Civil
20 Rights Enforcement Agency, and the Chair of the Committee on Legislation shall adopt rules

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1 and policy procedures for imposing the penalties and shall present said rules and policy
2 procedures to the Legislation Committee of the Board of Aldermen.

3 **SECTION FOUR.** Severability Clause.

4 The provisions of this Ordinance shall be severable. In the event that any provision of
5 this ordinance is found by a court of competent jurisdiction to be unconstitutional, the remaining
6 provisions of this Ordinance are valid unless the court finds the valid provisions of this
7 ordinance are so essentially and inseparably connected with, and so dependent upon, the void
8 provision that it cannot be presumed that the Board of Aldermen would have enacted the valid
9 provisions without the void ones or unless the Court finds that the valid provisions, standing
10 alone, are incomplete and incapable of being executed in accordance with the legislative intent.

11 **SECTION FIVE.** Effective Date.

12 The Effective Date of this Ordinance shall be January 1, 2021, and on said date all provisions
13 of this Ordinance shall come into full force and effect.

14 The Office of the License Collector is directed to publicize compliance with this ordinance and
15 its provisions as a requirement and as a procedure for obtaining a business license within the
16 City of St. Louis on and after January 1, 2020