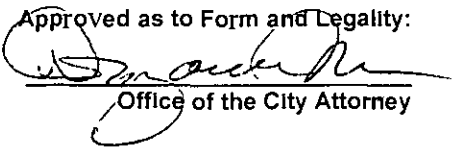


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Office of the City Attorney

## Oakland City Council

RESOLUTION No. \_\_\_\_\_ C.M.S.

Introduced by Councilmember Nancy Nadel

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### RESOLUTION IN SUPPORT OF AB 1831 (DICKINSON/SWANSON), WHICH EXPANDS CALIFORNIA'S "BAN THE BOX" POLICY FOR STATE PUBLIC EMPLOYEES TO CITY AND COUNTY WORKERS ACROSS THE STATE

**WHEREAS**, existing law requires the hiring practices and promotional practices of a local agency, as defined, to conform to the Federal Civil Rights Act of 1964 and prohibits any local agency from, as a part of its hiring practices or promotional practices, employing any educational prerequisites or testing or evaluation methods which are not job-related unless there is no adverse effect; and

**WHEREAS**, this bill would prohibit a local agency from inquiring into or considering the criminal history of an applicant to and including any inquiry about criminal history on any initial employment application; and

**WHEREAS**, the bill would authorize a local agency to consider an applicant's criminal history after the applicant's qualifications have been screened and the agency has determined the applicant meets the minimum employment requirements, as stated in any notice issued for the position; and

**WHEREAS**, the bill would not apply to a position for which a local agency is otherwise required by law to conduct a criminal history background check; and

**WHEREAS**, the bill would also express a legislative finding and declaration that reducing barriers to employment for people who have previously offended, and decreasing unemployment in communities with concentrated numbers of people who have previously offended, is a matter of statewide concern; and

**WHEREAS**, all cities and counties including charter cities and counties, would be subject to the provision of the bill; and

**WHEREAS**, the City of Oakland strongly supports AB 1831, which goes a long way to promote public safety by reducing unnecessary barriers to employment for the nearly seven million adult Californians with a criminal record; and

**WHEREAS**, in California and around the country, qualified job applicants are often plagued by old or minor records and discouraged from applying because a "box" on job applications requires criminal history information that often leads employers to dismiss applicants at the outset; and

**WHEREAS**, people of color are especially hard hit by criminal background checks, which is why the U.S. Equal Employment Opportunity Commission (EEOC) requires employers to establish a strong nexus between an individual's criminal history and the specific responsibilities of a given job; and

**WHEREAS**, AB 1831 follows the lead of five states and over 30 U.S. cities and counties that have removed the conviction history inquiry from initial job applications in public employment and delayed a criminal background check until the later stages of the hiring process; and

**WHEREAS**, in 2010, California became the sixth state to do so when the State Personnel Board removed the question from job applications for state positions; and

**WHEREAS**, the City of Oakland adopted this policy in March, 2010 and removed the question from job applications for city positions; and

**WHEREAS**, "Realignment" (AB 109) of California's criminal justice system seeks to produce budgetary savings by reducing recidivism and promoting rehabilitation; and

**WHEREAS**, employment of eligible people with a conviction history is key to the success of realignment at the local level, as studies have shown that stable employment significantly lowers recidivism and promotes public safety; and

**WHEREAS**, like public employment at the state level, California's cities and counties should pave the way for the private sector to reduce barriers to employment of people with criminal records; now, therefore be it

**RESOLVED:** That the Oakland City Council hereby provides that it supports Assembly Bill 1831 and authorizes the City Administrator to communicate to the California State Legislature the City Council's support of the Bill.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF, AND  
PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST:

\_\_\_\_\_  
LATONDA SIMMONS  
City Clerk and Clerk of the Council of  
the City of Oakland, California



California  
LEGISLATIVE INFORMATION

AB-1831 Local government: hiring practices. (2011-2012)

CALIFORNIA LEGISLATURE— 2011–2012 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1831**

**Introduced by Assembly Member Dickinson  
(Coauthor(s): Assembly Member Swanson)**

**February 22, 2012**

**An act to add Section 50085.3 to the Government Code, relating to local government.**

**LEGISLATIVE COUNSEL'S DIGEST**

AB 1831, as introduced, Dickinson. Local government: hiring practices.

Existing law requires the hiring practices and promotional practices of a local agency, as defined, to conform to the Federal Civil Rights Act of 1964 and prohibits any local agency from, as a part of its hiring practices or promotional practices, employing any educational prerequisites or testing or evaluation methods which are not job-related unless there is no adverse effect.

This bill would prohibit a local agency from inquiring into or considering the criminal history of an applicant or including any inquiry about criminal history on any initial employment application. The bill would authorize a local agency to consider an applicant's criminal history after the applicant's qualifications have been screened and the agency has determined the applicant meets the minimum employment requirements, as stated in any notice issued for the position. The bill would not apply to a position for which a local agency is otherwise required by law to conduct a criminal history background check.

The bill would also express a legislative finding and declaration that reducing barriers to employment for people who have previously offended, and decreasing unemployment in communities with concentrated numbers of people who have previously offended, is a matter of statewide concern, and that therefore, all cities and counties, including charter cities and counties, would be subject to the provisions of the bill.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no Urgency: no Tax Levy: no

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** The Legislature finds and declares that reducing barriers to employment for people who have previously offended, and decreasing unemployment in communities with concentrated numbers of people who have previously offended, is a matter of statewide concern. Therefore, this act shall apply to all cities and counties, including charter cities and charter counties. The Legislature further finds and declares that, consistent with the Criminal Justice Realignment Act of 2011 (Chapter 39 of the Statutes of 2011), increasing

employment opportunities for people who have previously offended will reduce recidivism and improve economic stability in our communities.

**SEC. 2.** Section 50085.3 is added to the Government Code, to read:

**50085.3.** (a) A local agency shall not inquire into or consider the criminal history of an applicant or include any inquiry about criminal history on any initial employment application. A local agency may consider an applicant's criminal history after the applicant's qualifications have been screened and the agency has determined the applicant meets the minimum employment requirements, as stated in any notice issued for the position.

(b) This section shall not apply to a position for which a local agency is otherwise required by law to conduct a criminal history background check.

(c) Nothing in this section shall be construed as requiring that a local agency conduct a criminal history background check.

# AB 1831 (Dickinson)

## Fairness in Local Government Hiring Practices

### SUMMARY

This bill would provide that a city, county, or city and county agency may not inquire into an applicant's criminal history or include such an inquiry in their initial application for employment. The bill also provides that the agency may consider an applicant's criminal history after the applicant's job qualifications have been screened and the agency has determined the applicant's qualifications meet the requirements for the position.

### PROBLEM

An estimated one in four adult Californians has an arrest or conviction record on file with the state, creating major, unnecessary employment barriers. The Department of Justice generates over 1.7 million criminal background checks every year for employment and licensing purposes.

Because criminal background checks disproportionately deny employment to large numbers of people of color, the U.S. Equal Employment Opportunity Commission (EEOC) requires employers to establish a strong nexus between an individual's criminal history and the specific responsibilities of the job.

"Realignment" (AB 109) of California's criminal justice system seeks to produce budgetary savings by reducing recidivism and promoting rehabilitation. Employment of eligible people with a conviction history is key to the success of realignment at the local level, as studies have shown that stable employment significantly lowers recidivism and promotes public safety.

Otherwise qualified individuals are often discouraged from applying for work in the public and private sectors because of a conviction history inquiry on the application.

### THIS BILL

AB 1831 will align city and county hiring practices with the policy of the State Personnel Board by removing any inquiry into a conviction history on an initial job application and delaying any background check until the employer has determined that the applicant's qualifications meet the job requirements.

Consistent with "realignment" of the state's criminal justice system, AB 1831 strives to reduce unnecessary barriers to employment for the nearly seven million adult Californians with a conviction history struggling to

find work. Not only will this increase public safety, but also help fuel a strong economic recovery.

AB 1831 will also make city and county hiring practices more consistent with the EEOC's guidelines on hiring people with arrest and conviction records.

The provision does not apply to positions for which the agency is required by law to conduct a criminal background check, such as positions in law enforcement, positions working with children, the elderly or disabled, and other sensitive positions.

Five states and over 30 U.S. cities and counties responded to this growing societal challenge by removing the conviction history inquiry from initial job applications in public employment. Recently, Mayor Michael Bloomberg adopted this policy in New York City. Under Governor Schwarzenegger, California became the sixth state to do so when the State Personnel Board removed the question from job applications for state positions.

With this bill, California's cities and counties will take an important step toward becoming model employers, leading the way for the private sector to allow people with a conviction history to compete fairly for employment without compromising safety and security on the job.

### SUPPORT

National Employment Law Project  
California National Association for the Advancement of Colored People (NAACP)  
American Civil Liberties Union (ACLU) of California  
Lawyers' Committee for Civil Rights of the San Francisco Bay Area  
"All Of Us Or None" (AOUON)  
Legal Services for Prisoners With Children (San Francisco)  
A New Way of Life Reentry Project (South Central Los Angeles)  
The Legal Aid Society—Employment Law Center (San Francisco)  
Rubicon Programs (East Bay)

### FOR MORE INFORMATION

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(916) 319-2009 or [Taryn.Kinney@asm.ca.gov](mailto:Taryn.Kinney@asm.ca.gov)