



Committee on Labor & Housing

~AGENDA~

Tuesday, October 9, 2018

1:01 PM

Committee Chair: Damon Maher

Committee Room, 148 Martine Avenue, 8th Floor, White Plains, NY 10601

www.westchesterlegislators.com

CALL TO ORDER

MINUTES APPROVAL

I. ITEMS FOR DISCUSSION

Meeting jointly with the Committee on Legislation.

Law: County Attorney John Nonna

Human Rights Commission: Jerrice Duckette-Epps, Acting Director and Saad Siddiqui, Esq., Fair Housing Director

Constituent Testimony: Kahlil Gonzalez

Guests: Alexander Roberts, Executive Director of Community Housing Innovations

1. **(ID # 10913) Local Law – LEGISLATORS BORGIA, A. WILLIAMS, JOHNSON, BOYKIN, PARKER, SHIMSKY, L. WILLIAMS, MAHER, COVILL AND PEREZ: Proposed Local Law to Prohibit Discrimination based on one's criminal conviction:**

Forwarding a Memorandum of Legislation proposing a "LOCAL LAW amending Chapter 700 of the Laws of Westchester County in relation to prohibiting discrimination based on one's arrest record or criminal conviction."

2. **(ID # 11257) Resolution – PH- Proposed Local Law to Prohibit Discrimination based on one's criminal conviction:**

A RESOLUTION to set a Public Hearing on a "LOCAL LAW amending Chapter 700 of the Laws of Westchester County in relation to prohibiting discrimination based on one's arrest record or criminal conviction." [Public Hearing set for _____, 2018 at _____.m.].

II. OTHER BUSINESS

Unfinished Business and any other agenda items to come before the Committee.

III. RECEIVE & FILE

ADJOURNMENT

Catherine BorgiaLegislator, 9th District

Chair, Budget & Appropriations Committee



Committee Assignments:
 Appointments
 Environment, Health & Energy
 Intergovernmental Services
 Legislation
 Labor & Housing

DATE: May 2, 2018

TITLE: Fair Chance to Work

SPONSORS: Legislators Borgia, A. Williams, Johnson
 Boykin, Parker, Shimsky, L. Williams, Maher, Covill, Perez

PURPOSE OR GENERAL IDEA OF BILL: To remove all questions regarding criminal history from employment applications by prospective employers in Westchester County.

INTENT: To promote the employment of persons with a conviction record who are otherwise qualified for a job by prohibiting prospective employers from inquiring about criminal convictions in the application process, prior to any interview or consideration for employment beyond the application.

JUSTIFICATION: Individuals with a criminal record face significant barriers to employment. Most often when a job applicant checks the “yes” box next to questions regarding conviction or arrest the applicant is automatically disqualified for the position, despite possibly being fully qualified for the position they are applying for. This results in individuals who have made the effort to rehabilitate themselves being denied the opportunity to become productive members of society and to provide for themselves and their families.

By removing the question from the preliminary application, the applicant is given an equal chance to obtain an interview for the position. The employer may still ask about criminal history during the interview and/or conduct a background check, but applicants will be given the chance to show their qualifications, disclose any criminal history, and explain the circumstances if they so desire.

PRESENT LAW: None

FISCAL IMPACT: Obtaining employment will reduce the recidivism rate, saving taxpayer dollars on the criminal justice system.

TO: HONORABLE BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee has reviewed “A LOCAL LAW amending Chapter 700 of the Laws of Westchester County in relation to prohibiting discrimination based on one’s arrest record or criminal conviction.”

Your Committee is aware that individuals with a criminal record face significant barriers to employment. These individuals may be fully qualified for the job for which they are applying but their disclosure of an arrest or conviction on an initial application may be relied upon by an employer to automatically disqualify them from consideration for the job. This barrier may exist even though the conviction is for a minor offense, occurred many years in the past, has no relationship to the duties and responsibilities of the job, and the individual may otherwise be qualified.

As a result, individuals who have made an effort to rehabilitate themselves are precluded from the opportunity to become productive members of civil society, and to provide for themselves and their families. It is the intention of this proposed Local Law to promote the employment of

persons with a conviction record who are otherwise qualified for a job by prohibiting prospective employers from inquiring about criminal convictions in the application process, prior to any interview or consideration for employment beyond the application stage.

This proposed Local Law also requires employers in Westchester County to provide to an applicant with a criminal record who is denied employment the analysis required by section 753 of Article 23-A of the New York State Correction Law and offer the applicant an opportunity to respond to the analysis. Employers would be required to consider the relationship of a job to a conviction, the time passed since the conviction, mitigating circumstances and rehabilitation evidence. By not asking about a criminal record in the initial application, the employer can consider a more complete picture of the applicant's qualifications and ability to perform the job. An employer is more likely to assess the relevance of a conviction to a particular job when the employer has information about the applicant's qualifications for the job, prior experience and history of rehabilitation. More than 24 states and 150 cities and counties have passed laws similar to this proposed Local Law.

The employers of police officers, peace officers and other employers who may be legally barred by statute or regulation from hiring applicants with convictions of specific crimes would be exempt from this Local Law.

As you know, this Honorable Board must comply with the requirements of the State Environmental Quality Review Act (“SEQRA”). Your Committee is advised that the Department of Planning has reviewed the applicable SEQRA regulations, and has concluded that this proposed Local Law is not an action under SEQRA and therefore does not require an environmental review. Your Committee concurs with that conclusion.

Your Committee, after careful consideration, recommends the adoption of this Local Law.

Dated: _____, 2018
White Plains, New York

COMMITTEE ON

RESOLUTION NO. ____ – 2018

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. ____ - 2018, entitled “A LOCAL LAW amending Chapter 700 of the Laws of Westchester County in relation to prohibiting discrimination based on one’s arrest record or criminal conviction.” The public hearing will be held at __.m. on the ____ day of _____, 2018 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, and White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.

LOCAL LAW INTRO. NO. -2018

A LOCAL LAW amending Chapter 700 of the Laws of Westchester County in relation to prohibiting discrimination based on one's arrest record or criminal conviction.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. Subdivision "a" of Section 700.03 of the Laws of Westchester County is hereby amended by the addition of a new paragraph "9" to read as follows:

9 (a) Unless specifically required or permitted by any other law, an employer shall not:

(1) Declare, print or circulate or cause to be declared, printed or circulated any solicitation, advertisement or publication, which expresses, directly or indirectly, any limitation, or specification in employment based on a person's arrest or criminal conviction; or

(2) Make any initial inquiry or statement related to an arrest or criminal conviction record of any person in an application for employment. For purposes of this paragraph, "any inquiry" means any question communicated to an applicant in writing or otherwise. For purposes of this paragraph, "any statement" means a statement communicated in writing or otherwise to the

applicant for purposes of obtaining an applicant's criminal background information regarding: (i) an arrest record; or (ii) a conviction record;

(b) After submission of an application for employment, an employer, may inquire about the applicant's arrest or conviction record.

(c) Before taking any adverse employment action based on such inquiry, the employer shall:

(i) perform an analysis of the applicant's criminal record and other factors under Article 23-A of the New York State Correction Law and provide a written copy of such analysis to the applicant, which shall include but not be limited to, supporting documents that formed the basis for an adverse action based on such analysis and the employer's reasons for taking any adverse action against such applicant; and

(ii) After providing the applicant an analysis in writing pursuant to (i) above, the employer shall allow the applicant a reasonable time to respond, which shall be no less than three business days from the date of the written analysis to the applicant and during this time, the employer must hold the position open.

(d) Nothing in this paragraph shall prevent an employer from taking adverse action against any employee or denying employment to any applicant

for reasons other than such employee's or applicant's arrest or criminal conviction record.

(e) An applicant shall not be required to respond to any inquiry or statement that violates subparagraph (a) of this paragraph and any refusal to respond to such inquiry or statement shall not disqualify an applicant from the prospective employment.

(f) This paragraph shall not apply to any actions taken by an employer pursuant to any state, federal or local law that requires criminal background checks for employment purposes or bars employment based on criminal history.

(g) This paragraph shall not apply to any actions taken by an employer with regard to an applicant for employment as a police officer or peace officer, as those terms are defined in subdivisions "33" and "34" of section 1.20 of the Criminal Procedure Law, respectively, or at a law enforcement agency as that term is used in Article 23-A of the Correction Law.

(h) This paragraph shall be enforced pursuant to Section 700.11 of this Chapter and through the Commission's rules and procedures.

§2. This Local Law shall take effect ninety (90) days after it shall have become law.

RESOLUTION NO. ____ – 2018

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. ____ - 2018, entitled “A LOCAL LAW amending Chapter 700 of the Laws of Westchester County in relation to prohibiting discrimination based on one’s arrest record or criminal conviction.” The public hearing will be held at __.m. on the ____ day of _____, 2018 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, and White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.