

112TH CONGRESS
2D SESSION

H. R. 6220

To prohibit an employer from inquiring whether an applicant for employment has been convicted of a criminal offense, except in certain circumstances.

IN THE HOUSE OF REPRESENTATIVES

JULY 26, 2012

Mr. CLARKE of Michigan introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on House Administration, Oversight and Government Reform, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prohibit an employer from inquiring whether an applicant for employment has been convicted of a criminal offense, except in certain circumstances.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ban the Box Act”.

5 **SEC. 2. UNLAWFUL EMPLOYMENT PRACTICES RELATED TO**

6 **CRIMINAL RECORD OF APPLICANTS.**

7 (a) IN GENERAL.—Except as provided in subsection

8 (b), it shall be an unlawful employment practice for any

1 employer to make inquiries of an applicant for employ-
2 ment or otherwise seek information about such an appli-
3 cant (including through the use of any form or applica-
4 tion) relating to whether such applicant has ever been con-
5 victed of a criminal offense.

6 (b) EXCEPTION.—Notwithstanding subsection (a), an
7 employer may make inquiries of an applicant or otherwise
8 seek information about the applicant relating to whether
9 such applicant has ever been convicted of a criminal of-
10 fense—

11 (1) after a conditional offer for employment has
12 been extended to an applicant; or

13 (2) where the granting of employment may in-
14 volve an unreasonable risk to the safety of specific
15 individuals or to the general public.

16 **SEC. 3. RULEMAKING.**

17 Not later than 1 year after the date of enactment
18 of this Act, the Commission shall issue rules—

19 (1) defining categories of employment where an
20 individual's past criminal history may involve an un-
21 reasonable risk to the safety of specific individuals
22 or to the general public; and

23 (2) factors to be considered by employers in as-
24 sessing whether an individual's past criminal history
25 poses such an unreasonable risk.

1 **SEC. 4. ENFORCEMENT.**

2 (a) EMPLOYEES COVERED BY TITLE VII OF THE
3 CIVIL RIGHTS ACT OF 1964.—

4 (1) IN GENERAL.—The powers, procedures, and
5 remedies provided in sections 705, 706, 707, 709,
6 710, and 711 of the Civil Rights Act of 1964 (42
7 U.S.C. 2000e–4 et seq.) to the Commission, the At-
8 torney General, or any person, alleging a violation of
9 title VII of that Act (42 U.S.C. 2000e et seq.) shall
10 be the powers, procedures, and remedies this title
11 provides to the Commission, the Attorney General,
12 or any person, respectively, alleging an unlawful em-
13 ployment practice in violation of this title against an
14 employee described in section 5(2)(A), except as pro-
15 vided in paragraphs (2) and (3).

16 (2) COSTS AND FEES.—The powers, remedies,
17 and procedures provided in subsections (b) and (c)
18 of section 722 of the Revised Statutes of the United
19 States (42 U.S.C. 1988), shall be the powers, rem-
20 edies, and procedures this title provides to the Com-
21 mission, the Attorney General, or any person, alleg-
22 ing such a practice.

23 (3) DAMAGES.—The powers, remedies, and pro-
24 cedures provided in section 1977A of the Revised
25 Statutes of the United States (42 U.S.C. 1981a), in-
26 cluding the limitations contained in subsection (b)(3)

1 of such section 1977A, shall be the powers, rem-
2 edies, and procedures this title provides to the Com-
3 mission, the Attorney General, or any person, alleg-
4 ing such a practice (not an employment practice spe-
5 cifically excluded from coverage under section
6 1977A(a)(1) of the Revised Statutes of the United
7 States).

8 (b) EMPLOYEES COVERED BY CONGRESSIONAL AC-
9 COUNTABILITY ACT OF 1995.—

10 (1) IN GENERAL.—The powers, remedies, and
11 procedures provided in the Congressional Account-
12 ability Act of 1995 (2 U.S.C. 1301 et seq.) to the
13 Board (as defined in section 101 of that Act (2
14 U.S.C. 1301)), or any person, alleging a violation of
15 section 201(a)(1) of that Act (2 U.S.C. 1311(a)(1))
16 shall be the powers, remedies, and procedures this
17 title provides to that Board, or any person, alleging
18 an unlawful employment practice in violation of this
19 title against an employee described in section
20 5(2)(B), except as provided in paragraphs (2) and
21 (3).

22 (2) COSTS AND FEES.—The powers, remedies,
23 and procedures provided in subsections (b) and (c)
24 of section 722 of the Revised Statutes of the United
25 States (42 U.S.C. 1988), shall be the powers, rem-

1 edies, and procedures this title provides to that
2 Board, or any person, alleging such a practice.

3 (3) DAMAGES.—The powers, remedies, and pro-
4 cedures provided in section 1977A of the Revised
5 Statutes of the United States (42 U.S.C. 1981a), in-
6 cluding the limitations contained in subsection (b)(3)
7 of such section 1977A, shall be the powers, rem-
8 edies, and procedures this title provides to that
9 Board, or any person, alleging such a practice (not
10 an employment practice specifically excluded from
11 coverage under section 1977A(a)(1) of the Revised
12 Statutes of the United States).

13 (4) OTHER APPLICABLE PROVISIONS.—With re-
14 spect to a claim alleging a practice described in
15 paragraph (1), title III of the Congressional Ac-
16 countability Act of 1995 (2 U.S.C. 1381 et seq.)
17 shall apply in the same manner as such title applies
18 with respect to a claim alleging a violation of section
19 201(a)(1) of such Act (2 U.S.C. 1311(a)(1)).

20 (c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE
21 3, UNITED STATES CODE.—

22 (1) IN GENERAL.—The powers, remedies, and
23 procedures provided in chapter 5 of title 3, United
24 States Code, to the President, the Commission, the
25 Merit Systems Protection Board, or any person, al-

1 leging a violation of section 411(a)(1) of that title,
2 shall be the powers, remedies, and procedures this
3 title provides to the President, the Commission, such
4 Board, or any person, respectively, alleging an un-
5 lawful employment practice in violation of this title
6 against an employee described in section 5(2)(C), ex-
7 cept as provided in paragraphs (2) and (3).

8 (2) COSTS AND FEES.—The powers, remedies,
9 and procedures provided in subsections (b) and (c)
10 of section 722 of the Revised Statutes of the United
11 States (42 U.S.C. 1988), shall be the powers, rem-
12 edies, and procedures this title provides to the Presi-
13 dent, the Commission, such Board, or any person,
14 alleging such a practice.

15 (3) DAMAGES.—The powers, remedies, and pro-
16 cedures provided in section 1977A of the Revised
17 Statutes of the United States (42 U.S.C. 1981a), in-
18 cluding the limitations contained in subsection (b)(3)
19 of such section 1977A, shall be the powers, rem-
20 edies, and procedures this title provides to the Presi-
21 dent, the Commission, such Board, or any person,
22 alleging such a practice (not an employment practice
23 specifically excluded from coverage under section
24 1977A(a)(1) of the Revised Statutes of the United
25 States).

1 (d) EMPLOYEES COVERED BY GOVERNMENT EM-
2 PLOYEE RIGHTS ACT OF 1991.—

3 (1) IN GENERAL.—The powers, remedies, and
4 procedures provided in sections 302 and 304 of the
5 Government Employee Rights Act of 1991 (42
6 U.S.C. 2000e–16b, 2000e–16c) to the Commission,
7 or any person, alleging a violation of section
8 302(a)(1) of that Act (42 U.S.C. 2000e–16b(a)(1))
9 shall be the powers, remedies, and procedures this
10 title provides to the Commission, or any person, re-
11 spectively, alleging an unlawful employment practice
12 in violation of this title against an employee de-
13 scribed in section 5(2)(D), except as provided in
14 paragraphs (2) and (3).

15 (2) COSTS AND FEES.—The powers, remedies,
16 and procedures provided in subsections (b) and (c)
17 of section 722 of the Revised Statutes of the United
18 States (42 U.S.C. 1988), shall be the powers, rem-
19 edies, and procedures this title provides to the Com-
20 mission, or any person, alleging such a practice.

21 (3) DAMAGES.—The powers, remedies, and pro-
22 cedures provided in section 1977A of the Revised
23 Statutes of the United States (42 U.S.C. 1981a), in-
24 cluding the limitations contained in subsection (b)(3)
25 of such section 1977A, shall be the powers, rem-

1 edies, and procedures this title provides to the Com-
2 mission, or any person, alleging such a practice (not
3 an employment practice specifically excluded from
4 coverage under section 1977A(a)(1) of the Revised
5 Statutes of the United States).

6 (e) EMPLOYEES COVERED BY SECTION 717 OF THE
7 CIVIL RIGHTS ACT OF 1964.—

8 (1) IN GENERAL.—The powers, remedies, and
9 procedures provided in section 717 of the Civil
10 Rights Act of 1964 (42 U.S.C. 2000e–16) to the
11 Commission, the Attorney General, the Librarian of
12 Congress, or any person, alleging a violation of that
13 section shall be the powers, remedies, and proce-
14 dures this title provides to the Commission, the At-
15 torney General, the Librarian of Congress, or any
16 person, respectively, alleging an unlawful employ-
17 ment practice in violation of this title against an em-
18 ployee or applicant described in section 2(2)(E), ex-
19 cept as provided in paragraphs (2) and (3).

20 (2) COSTS AND FEES.—The powers, remedies,
21 and procedures provided in subsections (b) and (c)
22 of section 722 of the Revised Statutes of the United
23 States (42 U.S.C. 1988), shall be the powers, rem-
24 edies, and procedures this title provides to the Com-

1 mission, the Attorney General, the Librarian of Con-
2 gress, or any person, alleging such a practice.

3 (3) DAMAGES.—The powers, remedies, and pro-
4 cedures provided in section 1977A of the Revised
5 Statutes of the United States (42 U.S.C. 1981a), in-
6 cluding the limitations contained in subsection (b)(3)
7 of such section 1977A, shall be the powers, rem-
8 edies, and procedures this title provides to the Com-
9 mission, the Attorney General, the Librarian of Con-
10 gress, or any person, alleging such a practice (not an
11 employment practice specifically excluded from cov-
12 erage under section 1977A(a)(1) of the Revised
13 Statutes of the United States).

14 **SEC. 5. DEFINITIONS.**

15 As used in this Act—

16 (1) the term “Commission” means the Equal
17 Employment Opportunity Commission;

18 (2) the term “employer”—

19 (A) has the meaning given such term in
20 section 701(b) of the Civil Rights Act of 1964
21 (42 U.S.C. 2000e(b)); and

22 (B) includes—

23 (i) an employing office, as defined in
24 section 101 of the Congressional Account-
25 ability Act of 1995 (2 U.S.C. 1301) and

1 section 411(c) of title 3, United States
2 Code;

3 (ii) an entity employing a State em-
4 ployee described in section 304(a) of the
5 Government Employee Rights Act of 1991
6 (12 U.S.C. 1220(a)); and

7 (iii) an entity to which section 717(a)
8 of the Civil Rights Act of 1964 (42 U.S.C.
9 2000e–16(a)) applies;

10 (3) the term “employee” means—

11 (A) an employee (including an applicant),
12 as defined in section 701(f) of the Civil Rights
13 Act of 1964 (42 U.S.C. 2000e(f));

14 (B) a covered employee (including an ap-
15 plicant), as defined in section 101 of the Con-
16 gressional Accountability Act of 1995 (2 U.S.C.
17 1301);

18 (C) a covered employee (including an appli-
19 cant), as defined in section 411(c) of title 3,
20 United States Code;

21 (D) a State employee (including an appli-
22 cant) described in section 304(a) of the Govern-
23 ment Employee Rights Act of 1991 (12 U.S.C.
24 1220(a)); or

1 (E) an employee (including an applicant)
2 to which section 717(a) of the Civil Rights Act
3 of 1964 (42 U.S.C. 2000e-16(a)) applies; and
4 (4) the term “person” has the meaning given
5 such term in section 701(a) of the Civil Rights Act
6 of 1964 (42 U.S.C. 2000e(a)).

7 **SEC. 6. EFFECTIVE DATE.**

8 This Act shall take effect beginning 1 year after the
9 date of the enactment of this Act.

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