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AGENDA 2015 Make Portland a city that works

Editorial

‘Ban the box’ pits opportunity versus business’ right to know

Mandating that employers delay criminal background checks until after a job offer has been made seems an unfair burden — as does allowing applicants to sue a business in court

— The Oregonian/OregonLive editorial board

Second chances are hard to come by for ex-convicts. Those who have served a prison sentence, performed their community service or otherwise fulfilled every obligation imposed by a court can still feel the stigma each time they encounter the question on a job application form: Have you ever been convicted of a criminal offense? To that end, Portland eliminated the question from most of its application forms last year. It also removed a warning in city job postings that candidates might be subject to a criminal history check. The notice, said Portland Human Resources Director Anna Kanwit, discouraged some people from even applying — regardless of whether their convictions were for offenses completely unrelated to the duties of the job being advertised.

Now the city wants to take the effort much farther. Mayor Charlie Hales told The Oregonian/OregonLive editorial board that he is interested in a mandate for private businesses that bars potential employers from conducting a criminal background check until after a conditional offer of employment has been made to the applicant. The employer could rescind the offer after the background check but would have to give a written explanation for why. The proposal would also give the applicant the right to sue.

Hales emphasized that the conversation is just beginning. City commissioners are to hear a presentation Wednesday morning about some of the ideas behind the “Ban the Box” movement — so called for its emphasis on removing the criminal-history question that applicants must check off. Cities across the country have adopted various policies restricting what governmental agencies or private businesses may consider in making their hiring decisions.

The Portland proposal as provisionally outlined has pitfalls. Commissioners should seek out community and business input to ensure that any final proposal avoids the logistical and legal snags in the city’s draft ordinance.

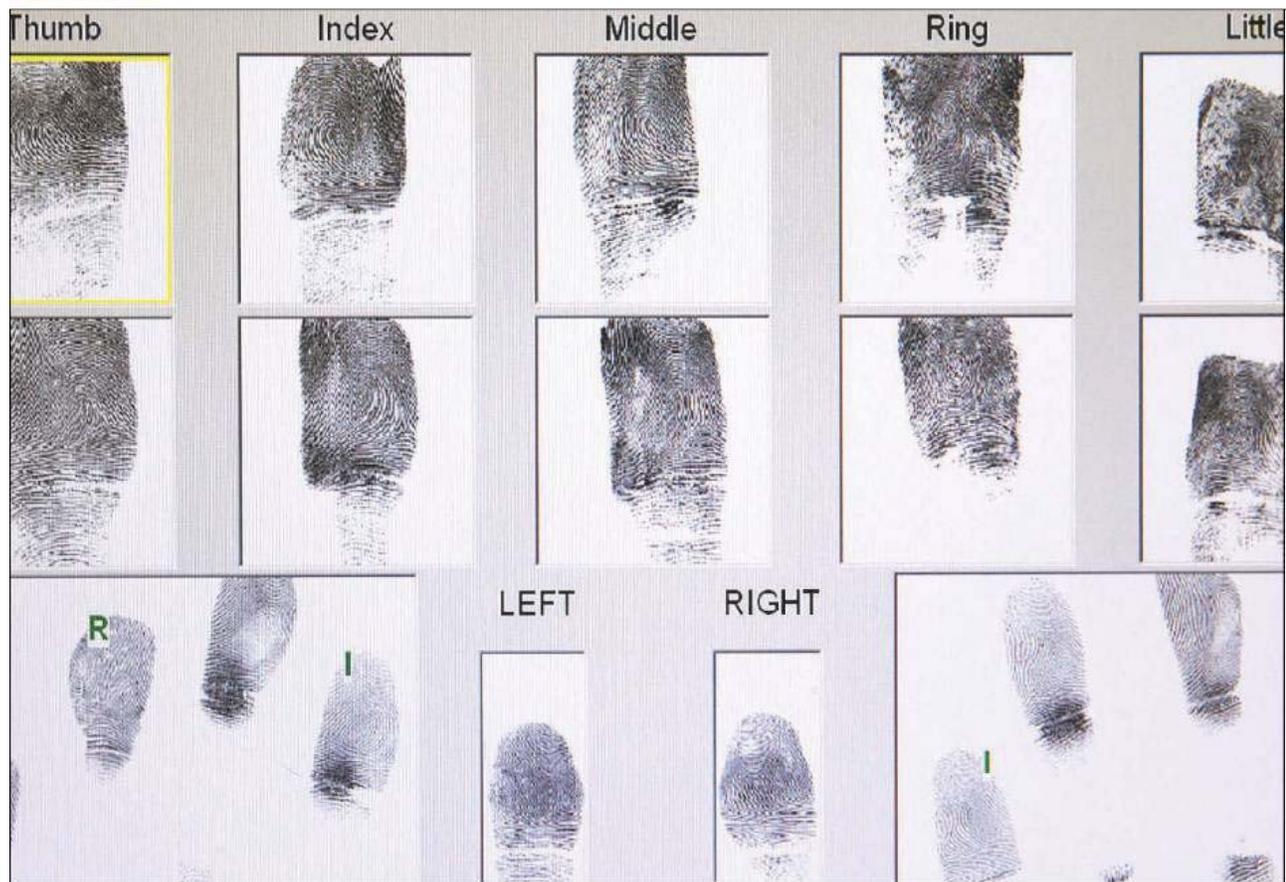
The goal of helping ex-convicts get fair consideration by potential employers is a worthy one that deserves support. Employers hurt not only ex-convicts by refusing to consider them for an open position — they hurt themselves by artificially narrowing the field of candidates who can help their businesses succeed. Shouldn’t employers at the very least find out more about the type of crime, the circumstances and when it occurred before moving a candidate’s application form to the trash heap? And there’s the inherently human question that the proposal puts forth: Do people convicted of a crime deserve a shot at redemption?

But city officials should be careful not to punish employers. Just as employers should not issue a blanket disqualification of ex-convicts, the government should not mandate a blanket approach on when and how businesses can consider an applicant’s criminal background in the hiring process. Just as a police bureau automatically prohibits candidates with felony convictions from joining the police force, so should a private housecleaning business be given leeway to drop those with a burglary conviction.

If the goal is to have a conversation about an applicant’s criminal history, there’s no need to wait until after a job offer has been made. An interview would be a good time to have that discussion. In fact, Seattle and other cities have adopted a ban-the-box-type ordinance that allows an employer to evaluate criminal history before making a job offer to anyone. Unlike Portland’s draft ordinance, the Seattle ordinance sets up an administrative remedy for violations, rather than grant an applicant the right to sue the business.

Again the goal should be for an employer and applicant to have an honest conversation about whether or not they are a good match. It should not be to ensnare an employer into a lawsuit, whether merited or not. The city leadership deserves credit for starting the conversation. But city officials should be careful not to turn a supportable “ban-the-box” sentiment

into a "box-the-employer" trap.



BETH NAKAMURA/STAFF/2014 A 2011 study from the National Employment Law Project estimated that 65 million Americans have a criminal record.