New Jersey Clarifies "The Opportunity to Compete Act"

January 30, 2018

New Jersey clarifies statewide "Ban-the-Box" - The Opportunity to Compete Act - prohibiting employers from inquiring into expunged criminal history.

What Employers Need to Know:

The New Jersey Opportunity to Compete Act became effective on March 1, 2015. This law, also known as the New Jersey ban-the-box law, prohibits covered employers from (1) requiring job applicants to complete applications that seek information about the individual's criminal record; and (2) inquiring orally or in writing into a candidate's criminal record.

Recently, former New Jersey Governor, Chris Christie, signed a new amendment to expand on the existing law.

What's New?

The new amendment expands upon the law in two ways. First, it clarifies the prohibition to include online inquires and the use of online applications. Second, the amendment expands the prohibition regarding inquiries into criminal records to include questions concerning an applicant's expunged criminal history.

What Actions do Employers Need to Take?

Practically speaking, most New Jersey employers likely already interpreted the New Jersey Opportunity to Compete Act to already include these two amendments. However, the amendment is another example of New Jersey's continuously evolving employment laws and of the difficulties employers face in ensuring its policies and procedures are in compliance. New Jersey employers should consider reviewing their job application and interview processes. Considerations include determining whether or not job applications and interview questions should be revised, and evaluating current policies and procedures for criminal background checks. Employers should also consider communicating this update to managers, supervisors or anyone who may be in a position to interview a job applicant.