

**REVISED MOTION BY SUPERVISORS HOLLY J. MITCHELL
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January 25, 2022

**Economic Opportunity for Justice-Involved Individuals: Implementing Fair
Chance Hiring Countywide**

According to the Center for American Progress, it is estimated that between 70 and 100 million Americans, or one in three adults, have a criminal record.¹ In the digital age, this record, no matter how minor, can be the barrier to re-entry, economic stability, and full participation in society. As a result, overincarceration has risen as one of the main drivers of poverty and racial inequity in the United States. For example, 9 in 10 employers, 4 in 5 landlords, and 3 in 5 colleges and universities now use background checks to screen for applicants with criminal records.² These resulting barriers to employment, housing, education and other opportunities have made economic stability and mobility a non-starter for millions of families, disproportionately impacting communities of color.

In California, the Fair Chance Act, Assembly Bill 1008 (AB 1008), also known as the “Ban the Box” law, went into effect on January 1, 2018. The law’s purpose was to level the playing field for applicants who may be highly qualified but have had a criminal conviction. Under the Fair Chance Act, it is now illegal for most employers in California

¹ <https://www.americanprogress.org/article/one-strike-and-youre-out/>
² Ibid.

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(with five or more employees) to ask about an applicant's criminal record before making a job offer. Employers cannot include questions about an applicant's criminal record in their "help wanted" ads, applications, or during a job interview. In 2018, the Los Angeles County (County) Department of Human Resources (DHR), in consultation with County Counsel and the County's Departmental Human Resources Managers, revised DHR Policies, Procedures, and Guidelines Nos. 514, *Designation of Sensitive Positions and Conviction History Assessments*, and 524, *Live Scan Procedures*, to align with the requirements of AB 1008 and the Fair Chance Act's best practices

Up to 75% of those with a record are still unemployed a year after they exit incarceration. Therefore, in August 2019, the Board of Supervisors adopted a motion to create a Countywide Fair Chance Hiring Campaign (Campaign) to educate employers about Ban the Box, as well as to show them the tangible benefits of hiring from the re-entry population. The Campaign, led by the Department of Workforce Development, Aging and Community Services, in consultation with DHR, the Office of Diversion and Re-entry and the Probation Department, led to over 200 employers taking the County's Fair Chance Hiring Pledge.

However, as the County's economy continues to rebound from COVID-19, and as employers are reporting a shortage of qualified workers returning to the workforce, we must ensure that individuals impacted by the criminal justice system are given every opportunity to succeed and thrive, both in the private sector and in the County's workforce. In October of 2021, the California Department of Fair Employment and Housing (DFEH), the entity responsible for enforcing the Fair Chance Act statewide, announced new efforts to identify and correct violations of the Fair Chance Act by utilizing technology to conduct mass searches of online job advertisements for statements that violate the Fair Chance Act. In a one-day review, for example, DFEH found over 500 job advertisements with unlawful statements that the employer will not consider any job applicant with a criminal record.

The County does not currently have its own ordinance in place to enforce violations of the Fair Chance Act and must refer all alleged violations to either the City of Los

Angeles (City) or the State, depending on jurisdiction. In contrast to the County, the City adopted a Fair Chance Initiative for Hiring Ordinance which requires that private employers and city contractors not include any inquiries into a job applicant's criminal history on job applications or postings.³ Private employers and city contractors cannot inquire about an applicant's criminal history until after a conditional offer of employment has been made, similar to the State's Fair Chance Act.

The County encourages targeted hiring from priority populations, those with a record being one of the targeted categories, notably including the Preparing Los Angeles for County Employment High Road Training Partnership program, which is administered by the Worker Education and Resource Center and has successfully focused on securing County jobs for justice-involved individuals in recent years. However, there is no concerted effort to set aside jobs for those with criminal backgrounds either in County departments or on County contracts. As we seek to forge an equitable recovery for all, we must not leave anyone behind, particularly those who have been disadvantaged by the mere color of their skin or their life circumstances.

WE THEREFORE MOVE THAT THE BOARD OF SUPERVISORS:

1. Instruct the Director of Personnel, in collaboration with the Chief Executive Officer (CEO), to consult with Worker Education and Resource Center (WERC), the Economic and Workforce Development Agency, and other relevant stakeholders, to report back in 90 days in writing with a plan to track and collect data related to employment with County departments and County contractors on a public Fair Chance Hiring Dashboard. The report back shall include, but not be limited to:
 - a. Outcomes of the County's Fair Chance Hiring initiatives, to ensure compliance with Fair Chance Act policies and laws;
 - b. Matrix by department of current Fair Chance Hiring practices in all departments including the decision-making process, timelines for consideration of appeals, and training of relevant staff;

³ <https://bca.lacity.org/fair-chance>

- c. Overview of and plans to increase the number of individuals from target populations that receive offers of County employment, including utilization of the Preparing Los Angeles County Employment (PLACE) program or other relevant workforce development programs; and
 - d. Plan to collect Dashboard data points including; number of individuals impacted by the criminal justice system and other target populations applying to and being hired by County and County-contracted employers; percentage of applicants and hired positions they comprise by department; and number of individuals with criminal histories disqualified from County employment and aggregate reasons why.
2. Instruct the Director of Personnel, in consultation with WERC and County Counsel, to report back in 90 days in writing with a recommended County Fair Chance Hiring Policy intended to ensure that County departments are aligned with the letter and the spirit of the law. Recommendations should consider the following questions, among any others determined by the Director of Personnel:
 - a. Modifications to the County's Policies, Procedures, and Guidelines 514, including opportunities to reduce the number of Sensitive Positions and provide needed clarification on conviction history "nexus assessments," in order to, among other objectives, ensure the performance individualized nexus assessments and direct feedback to candidates across all departments;
 - b. Convictions that may be removed from consideration during nexus assessments, including specific nonviolent penal code violations, "wobblers" under Proposition 47, penal code violations related to possession of marijuana and other substances, and certain convictions related to an individual's experience of intimate partner violence;
 - c. Convictions that should be removed from consideration during nexus assessments after a certain number of years, as occurs in private sector

- background checks under the California Investigative Consumer Reporting Agencies Act;
- d. Guidelines for trauma-informed communication with candidates whose job offers have been rescinded after nexus assessment, including respectful timelines for responding to evidence of rehabilitation and mitigating factors provided by candidates; and.
 - e. Changes that individual departments should make to recruitment and hiring documents and processes including forms, interviews, job fair protocols, and appeals to ensure compliance with the Fair Chance Act. These recommendations should follow a survey and review of any public-facing documents and internal guidance used in recruitment and hiring by each County department.
3. Instruct the Director of Personnel to report back in writing in 90 days with a plan to provide ongoing, context sensitive training to all County departments and County contractors on the performance of nexus assessments to ensure the appropriate implementation of best practices and compliance with Fair Chance laws and policies. This training should:
 - a. Include learning from individuals with lived experience of incarceration and successful re-entry;
 - b. Foster an understanding among County personnel who carry out nexus assessments of the workings of plea bargains in the court system; and
 - c. Provide an evidence-based understanding of recidivism accounting for age, rehabilitation, and other factors. This plan should also include lessons learned from the WERC PLACE program, including feedback from PLACE alumni and partnering departments that have hired justice system-impacted workers.
 4. Instruct the CEO, in collaboration with the Auditor-Controller, Director of the Internal Services Division, and the Director of Personnel, and in consultation with relevant stakeholders, to report back in writing in 90 days with a plan for

- ensuring Fair Chance Act provisions are included in all County contracts and ensuring compliance with those provisions through education initiatives, audits, reporting mechanisms, enforcement mechanisms, and other strategies. This should include a mechanism for tracking data on the performance of nexus assessments to help ensure that County contractors are not inappropriately rescinding job offers when there is no direct nexus between a criminal conviction and the job for which an individual has applied.
5. Instruct the Executive Director of the Economic and Workforce Development Agency to report back in writing in 45 days with a plan to conduct an education campaign to raise awareness among local business stakeholders of their obligations to comply with the Fair Chance Act and any resources that can be shared to aid and support their efforts to comply; and report back in writing in 180 days with the results of this campaign, including any data on how this campaign may improve the ability and willingness of businesses to recruit and hire individuals impacted by the criminal justice system and other Fair Chance populations.
 6. Further instruct the Executive Director of the Economic and Workforce Development Agency to report back in writing in 45 days with a plan to work with educational and training institutions which provide post-conviction certification and apprenticeship programs in developing a County-wide recognized and verifiable work history for individuals re-entering society.
 7. Instruct the CEO through its Office of Legislative and Intergovernmental Relations and County Counsel, in consultation with the Director of the Office of Diversion and Reentry (ODR), Los Angeles Regional Re-Entry Partnership (LARRP) Employment Committee, WERC, and the Director of Workforce Development, Aging, and Community Services, and other relevant stakeholders, to report back in writing in 90 days with an evaluation of options for strengthening the enforcement of the State of California's Fair Chance Act,

as well as options for increased local enforcement and any local code changes that would be needed.

8. Instruct County Counsel, in consultation with relevant stakeholders, to report back in writing in 90 days with analysis on the creation of classifications that are focused on individuals impacted by the justice system, an analysis on current County employment requirements that may result in artificial barriers for individuals impacted by the justice system, and whether the County can require a percentage of County and County-contracted jobs to be filled by individuals impacted by the criminal justice system.
9. Instruct the Director of Personnel, in collaboration with the Director of ODR, Chief Probation Officer, Public Defender, Alternate Public Defender, Executive Director of the Economic and Workforce Development Agency, Chief Executive Officer, Executive Director of WERC, and other relevant stakeholders, to report back in writing in 90 days with a set of goals for the number of individuals impacted by the criminal justice system to hire by 2025.

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