“Those individuals who feel they have been discriminated against should document everything and go through the EEOC, or the Ohio Civil Rights Commission, to file a claim or they should seek an attorney,” said Ford.

Employers may be liable for disqualifying an applicant based on a criminal conviction

BY KUSH AZRAEL
Staff Reporter

More than 65 million people have criminal records, here in theU.S., according to theNationalEmploymentLawCenter. And according to a 2010 survey by the Society for Human resources, 90 percent of the employers surveyed said they conduct criminal background checks thus making it hard for those with a criminal past to find jobs and become productive citizens.

With the scarcity of jobs, the abundance of applicants and the rapid expansion of online record searches, which has made it easier for employers to conduct background checks on potential

employees, it has become easier for employers to find employees and more difficult for ex-offenders to get jobs.

“I believe the box needs to be taken off to give people a fair opportunity at employment,” said Michael Jones of Braking the Cycle, a community based re-entry program.

However, more than 40 counties and cities, includingCleveland, have eliminated the request for information about felony convictions on job applications, joining an ever-expanding “ban the box” movement.

The “box” referred to by “ban the box” advocates is the standard question in almost every job application asking if a person has a criminal record, and a box to indicate “yes” or “no.” Proponents of the “ban the box” movement note that ex-offenders have a hard time finding a job, even if their conviction is old or unrelated to the job applied for, and that the question can result in an applicant being eliminated based upon their status as ex-offenders without any consideration of their skills or qualifications. Under the “ban the box” approach, appropriate background checks can still be done prior to employment, but ex-offenders would not be deterred from applying in the first place due to a fear of automatic rejection.

The argument has also been made that giving ex-offenders a “second chance” would be a huge benefit, since less money will be spent on prisons and law enforcement when ex-offenders are able to get back into the workforce.

“Employment is the number one indicator of someone not recidivating (not returning to a previous pattern of behavior, especially criminal habits),” said Erica Ford Director of Business Development at Oriana House.

“You’re just trying to give someone with a criminal background a fair shot.”

Under Title VII of the Civil Rights Act of 1964, employers can’t deny employment based on a history as a convict except when the offense is job related. With this standard, employers can protect their business interests while qualified workers can still have a fair chance at the job.

Title VII prohibits private employers and state and local governments from discriminating in employment based upon race, color, gender, national origin or religion.

“The EEOC put out legislation that says a company can’t deny an applicant based solely on a conviction,” said Jones.

The Equal Employment Opportunity Commission (EEOC) has ruled that employment policies that exclude people based on their criminal history may violate the Civil Rights Act because such policies disproportionately impact minorities, who are arrested and convicted at a significantly higher rate than their White counterparts.

Also, last year, the EEOC signaled that it would begin to crackdown on employers who use criminal histories of job applicants to discriminate against them, illegally.

Although it is illegal for employers to ban all applicants with criminal records, these blanket, no-hire policies continue to persist. Recently, Pepsi had to pay a $3.13 million settlement for having blanket no-hire polices for ex-offenders.

Situations such as this are bad for Blacks, since they are overrepresented in the criminal justice system and face high rates of unemployment.

The Pepsi lawsuit proves that something can be done in instances where there are blanket bans.

Even if there are no blanket bans, an employer may still be liable for disqualifying an applicant based solely on a criminal conviction.

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