

WASHINGTON

Washington Expands Criminal History Law

Provided to you by **Employco USA, Inc.**

On April 21, 2025, Washington [amended](#) the Washington Fair Chance Act (WFCA) to expand restrictions and obligations with respect to the use of criminal records by employers and to increase penalties under the law. The amendment takes effect **July 1, 2026**, for employers with 15 or more employees and on **July 1, 2027**, for employers with fewer than 15 employees.

Overview of the Amended Law

The WFCA currently prohibits employers in the state from seeking an applicant's criminal record before making an initial determination that an applicant is qualified for a position. The amended law will also prohibit employers from:

- Inquiring about an applicant's criminal record before extending a conditional job offer;
- Taking an adverse employment action based on an applicant's or employee's arrest record (other than an adult arrest record in which the individual is out on bail or released on their own recognizance pending trial) or juvenile conviction record;
- Taking an adverse employment action based on an applicant's or employee's adult conviction record unless the employer has a legitimate business reason for doing so; and
- Taking an adverse employment action against an individual who makes a good-faith report of a violation or suspected violation of the law.

The amended law also requires employers to do the following in connection with any adverse employment action taken against an employee or applicant:

- **Provide a pre-adverse employment action notice** that identifies the record on which the employer is relying for purposes of assessing its legitimate business reason;
- **Hold the position open for two business days** to provide the individual a reasonable opportunity to correct or explain the record or provide information on their rehabilitation, good conduct, work experience, education and training; and

Highlights

April 21, 2025

Washington amends the WFCA to impose additional requirements with respect to employer use of criminal records.

July 1, 2026

The amended law takes effect for employers with **15 or more employees**.

July 1, 2027

The amended law takes effect for employers with **fewer than 15 employees**.

Effective July 1, 2026, some Washington employers will be subject to expanded criminal history requirements.

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LEGAL UPDATE

- **Provide the individual with a written decision**, including the rationale for the decision, if the employer chooses to take an adverse employment action.

Increased Penalties

The amended law will increase maximum penalties to \$1,500 for a first violation, \$3,000 for a second violation and \$15,000 for each subsequent violation.

Next Steps for Employers

Employers may wish to review and update their existing hiring process (including job applications and postings) to ensure they will be prepared to comply with the new law. Employers may also consider training relevant personnel on how to comply with the new legal requirements.