RCW 49.94.010 Inquiries into employee or applicant criminal records—Adverse employment actions—Timing—Advertisements—Exceptions. (1) An employer may not include any question on any application for employment, inquire either orally or in writing, receive information through a criminal history background check, or otherwise obtain information about an applicant's criminal record until after the employer initially determines that the applicant is otherwise qualified for the position and makes an offer of employment conditioned on obtaining the applicant's criminal record.

(2) An employer may not advertise employment openings in a way that excludes people with criminal records from applying. Ads that state "no felons," "no criminal background," or otherwise convey similar messages are prohibited.

(3) An employer may not implement any policy or practice that automatically or categorically excludes individuals with a criminal record from any employment position. An employer may not reject an applicant for failure to disclose a criminal record prior to receiving a conditional offer of employment.

(4)(a) An employer may not carry out a tangible adverse employment action based on an applicant's or employee's arrest record or juvenile conviction record.

(b) This subsection does not apply to an adult arrest in which an individual is out on bail or released on their own personal recognizance pending trial.

(5)(a) An employer may not carry out a tangible adverse employment action solely based on an applicant's or employee's adult conviction record, unless the employer has a legitimate business reason for taking such action.

(b) Before carrying out any tangible adverse employment action under this subsection, the employer shall notify the applicant or employee and identify to the applicant or employee the record on which the employer is relying for purposes of assessing its legitimate business reason. The employer shall hold open the position for a minimum of two business days to provide the applicant or employee a reasonable opportunity to correct or explain the record or provide information on the applicant's or employee's rehabilitation, good conduct, work experience, education, and training.

(c) If an employer makes a tangible adverse employment decision following the reasonable opportunity under (b) of this subsection, the employer shall provide the applicant or employee with a written decision, including specific documentation as to its reasoning and assessment of each of the relevant factors, including the impact of the conviction on the position or business operations, and its consideration of the applicant's or employee's rehabilitation, good conduct, work experience, education, and training.

(6) An employer may not carry out any tangible adverse employment action against any employee because the employee, or a person acting on behalf of the employee, makes a good faith report, orally or in writing, to the employer, the attorney general, a labor organization, or others of a violation or suspected violation of this section or otherwise informs others of the requirements of this section.

(7) This section does not apply to:

(a) Any employer hiring a person who will or may have unsupervised access to children under the age of eighteen, a vulnerable adult as defined in chapter 74.34 RCW, or a vulnerable person as defined in RCW 9.96A.060;

(b) Any employer, including a financial institution, who is expressly permitted or required under any federal or state law to inquire into, consider, or rely on information about an applicant's or employee's criminal record for employment purposes;

(c) Employment by a general or limited authority Washington law enforcement agency as defined in RCW 10.93.020 or by a criminal justice agency as defined in RCW 10.97.030(5)(b);

(d) An employer seeking a nonemployee volunteer;

(e) Any entity required to comply with the rules or regulations of a self-regulatory organization, as defined in section 3(a)(26) of the securities and exchange act of 1934, 15 U.S.C. 78c(a)(26); or

(f) Any employer with respect to a position entailing work under a federal contract that specifically prohibits people with criminal records from working under that contract.

(8)(a) Nothing in this section prohibits:

(i) An employer from accurately disclosing to the applicant that the position is subject to a background check after a conditional offer of employment; or

(ii) An applicant from voluntarily disclosing, without solicitation by the employer, information about the applicant's criminal record during an interview.

(b) If an employer or an applicant makes a disclosure under (a) of this subsection, the employer must immediately:

(i) Inform the applicant in writing of the requirements of subsections (1), (3), (4), and (5) of this section; and

(ii) Provide the applicant the attorney general's Washington fair chance act guide for employers and job applicants. [2025 c 71 s 2; 2018 c 38 s 2.]

Application—2025 c 71: "(1) This act applies to employers with 15 or more employees beginning July 1, 2026.

(2) This act applies to employers with fewer than 15 employees beginning January 1, 2027." [2025 c 71 s 4.]