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Washington Fair-Chance Hiring: A Short Guide for Employers

A plain-language overview of the rules that shape when an employer may ask about, and act on, an applicant's criminal history in Washington. It is written for owners and hiring managers who are considering an applicant with an old record. Verify current requirements with your own counsel; the law and local ordinances change.

1. The Washington Fair Chance Act (RCW 49.94, updated July 2026)

- **Who is covered, and when.** Since July 1, 2026, the rules below apply to employers with 15 or more employees. Starting January 1, 2027, they apply to all employers.
- **Conditional offer first.** An employer may not ask about criminal history or run a criminal background check until after it has made a conditional job offer.
- **What may not be used.** No adverse action based on an arrest that did not lead to a conviction (unless the case is still pending) or on a juvenile record.
- **Adult convictions: a legitimate business reason.** Before acting on a conviction, the employer weighs the seriousness of the conduct, the number and type of convictions, the time that has passed, evidence of rehabilitation, good conduct, work history, education, and training, the duties of the job, and where and how the work is done.
- **Before withdrawing an offer.** Tell the applicant, identify the specific record relied on, and hold the job open at least 2 business days so the applicant can respond (at least 5 business days if you combine this with the federal FCRA pre-adverse action notice). Then give a written decision that explains the reasoning.
- **The Attorney General's guide.** If you tell applicants a job is subject to a post-offer background check, or an applicant volunteers a record, give them a written summary of the law and the Attorney General's Fair Chance Act guide (atg.wa.gov/fair-chance-act).
- **No blanket exclusions in ads or applications.** Job postings and application forms may not say or imply that people with criminal records need not apply.
- **Exceptions exist** for certain positions, including some law enforcement and criminal justice jobs, positions with unsupervised access to children or vulnerable adults, and jobs where another law or a licensing rule requires the check. Confirm whether your position falls in an exception before relying on one.
- **Enforcement** is by the Washington Attorney General, with penalties that rise for repeat violations. The federal Fair Credit Reporting Act steps (written consent, pre-adverse action notice with a copy of the report, and the adverse action notice) still apply on top.

2. Local rules can be stricter

Seattle's Fair Chance Employment Ordinance adds requirements for jobs performed at least half the time in Seattle, including an individualized assessment, notice to the applicant before an adverse decision, and a chance to respond. Tacoma and Spokane also have fair-chance rules. If you hire in

those cities, follow the local ordinance as well.

3. Federal background checks are a separate track

A Washington court order vacates a Washington conviction. It does not control federal processes. Hazmat endorsements, TWIC cards, certain DOT and FMCSA rules, and some federal and state licenses apply their own standards, and a vacated conviction may still count there. Tell the applicant early if the position needs one of these, so the attorney can address it before anyone pays.

4. Practical sequence for a Fast Track applicant

1. Interview and decide whether to make a conditional offer, without asking about records.
2. Make the conditional offer. Run the background check only after it, the same way you would for anyone in the role.
3. If an old Washington conviction appears, point the applicant to the free Clean Slate Check (baldwinlegalgroup.com/clean-slate-check) or refer them through baldwinlegalgroup.com/fast-track-employers with their permission.
4. If you want to proceed, use the firm's conditional offer letter template to hold the position while the petition is pending. The applicant's letter from the firm, and later the court order, are evidence of rehabilitation the Act asks you to weigh.
5. Ask the applicant to share the firm's letter confirming the case is underway, and the order once it is entered. Do not ask the firm for anything from the file.
6. After the order is entered, the conviction is set aside and dismissed, so treat it that way in your own records and forms (RCW 9.96.060). Confirm with your insurer in writing if coverage depends on it.

5. What the firm will and will not do

- Will: represent the applicant; pull the State Patrol record and draft the petition within 5 business days of the fee clearing; file as soon as the paperwork is ready; and, if you pay the fee, send you a receipt when work starts and, with the applicant's permission, an email when the order is entered. If the case cannot be filed because the applicant does not follow through, the fee is refunded to whoever paid it, less the $99 review.
- Will not: advise your company on its hiring decision, share the applicant's file, promise a court outcome or timeline, or pay or accept anything of value for referrals (RPC 7.3).

General information, not legal advice, and not a substitute for advice from your own employment counsel. Baldwin Legal Group, PLLC represents the applicant in a Clean Slate matter, not the employer. Attorney advertising. Baldwin Legal Group, PLLC, 123 Fir Street NE, Olympia, WA 98506, 360.858.6025, chester@baldwinlegalgroup.com.