

**PROPOSED**

ORDINANCE NO.

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO CRIMINAL HISTORY SCREENING PRACTICES FOR VENDORS SEEKING CONTRACTS WITH BROWARD COUNTY; AMENDING SECTION 26-125 OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE"); CLARIFYING DEFINITIONS AND THE SCOPE OF CRIMINAL HISTORY SCREENING PRACTICES FOR COUNTY VENDORS; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by Senator Steve Geller)

WHEREAS, the Broward County Board of County Commissioners ("Board") seeks to clarify definitions and the scope of criminal history screening practices for vendors awarded a County contract,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA:

Section 1. Section 26-125 of the Broward County Code of Ordinances is hereby amended to read as follows:

**Sec. 26-125. Criminal history screening practices.**

(a) *Definitions.*

*Applicant* means, as applicable, a person who applies for employment with Broward County or with a vendor.

*Broward County* means the government of Broward County, and its departments, divisions, and offices.

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1 *Criminal history* means any information related to (a) an arrest or criminal charges  
2 against the applicant, (b) proceedings related to the applicant's arrest or criminal charges, or  
3 (c) disposition of the applicant's arrest or criminal charges.

4 *Criminal history background check* means requesting, with a goal of obtaining,  
5 information about an applicant's criminal history from third party sources.

6 *Finalist* means an applicant who has been preliminarily determined by Broward County  
7 or a vendor, as applicable, to meet the qualifications for the position and has interviewed for  
8 the position.

9 *Initial application for employment* means any document, whether in paper or electronic  
10 form, that Broward County or a vendor, as applicable, requires an applicant to submit to  
11 express the applicant's interest in County employment.

12 *Position* means the particular job ~~with Broward County~~ sought by the applicant.

13 *Vendor* means an actual supplier or potential supplier of goods or services to Broward  
14 County.

15 . . .

16 (d) *Vendors.*

17 (1) As part of the competitive solicitation process, a vendor seeking a contract in  
18 the amount of \$100,000 or more with Broward County, ~~in the amount of~~  
19 ~~\$100,000 or more,~~ shall certify that it has implemented, or will implement upon  
20 award of the contract, policies, practices, and procedures regarding inquiry into  
21 the criminal history of an applicant for employment, including a criminal history  
22 background check of any such person, that preclude inquiry into an applicant's  
23 criminal history until the applicant is selected as a finalist and interviewed for  
24 the position. The requirement in the preceding sentence shall apply only to

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1 positions located within the United States that will foreseeably perform work  
2 under a contract with Broward County. The certification must be in writing and  
3 signed by an authorized officer of the vendor. Failure to provide such  
4 certification shall result in a vendor being deemed not responsive in  
5 accordance with Section 21.40 of the Broward County Administrative Code.

- 6 (2) Exceptions. The requirements under Section 26-125(d) are not applicable if:
- 7 a. The vendor is required by applicable federal, state, or local law to  
8 conduct a criminal history background check in connection with  
9 potential employment at a time or in a manner that would otherwise be  
10 prohibited by this section;
  - 11 b. The applicable contract is not a competitive solicitation or is exempt  
12 from Chapter 21 of the Broward County Administrative Code;
  - 13 c. The vendor is a governmental agency; or
  - 14 d. The Broward County Board of County Commissioners determines that  
15 it is in the best interests of Broward County to waive the requirements  
16 of Section 26-125(d) for the applicable contract or vendor.

17 . . .

18 Section 2. Severability.

19 If any portion of this Ordinance is determined by any court to be invalid, the invalid  
20 portion will be stricken, and such striking will not affect the validity of the remainder of this  
21 Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be legally  
22 applied to any individual, group, entity, property, or circumstance, such determination will not  
23 affect the applicability of this Ordinance to any other individual, group, entity, property, or  
24 circumstance.

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1 Section 3. Inclusion in the Broward County Code of Ordinances.

2 It is the intention of the Board of County Commissioners that the provisions of this  
3 Ordinance become part of the Broward County Code of Ordinances as of the effective date.  
4 The sections of this Ordinance may be renumbered or relettered and the word "ordinance"  
5 may be changed to "section," "article," or such other appropriate word or phrase to the extent  
6 necessary in order to accomplish such intention.

7 Section 4. Effective Date.

8 This Ordinance is effective as of the date provided by law. The amendments to this  
9 Ordinance shall apply prospectively only and shall not apply to solicitations advertised by  
10 Broward County prior to the effective date of this Ordinance.

11  
12 ENACTED

**PROPOSED**

13 FILED WITH THE DEPARTMENT OF STATE

14 EFFECTIVE

15  
16 Approved as to form and legal sufficiency:  
Andrew J. Meyers, County Attorney

17  
18 By /s/ Adam M. Katzman 05/04/2022  
Adam M. Katzman (date)  
Senior Assistant County Attorney

19  
20 By /s/ René D. Harrod 05/04/2022  
René D. Harrod (date)  
Chief Deputy County Attorney

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23 AMK/jl  
Ban the Box Vendors Ordinance Amendments  
24 05/04/2022  
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