|  |  |
| --- | --- |
|  | **The Council of the City of New York****Finance Division**Latonia McKinney, Director**Fiscal Impact Statement****Proposed Intro.** No. 318-A**Committee:** Civil Rights  |
| **Title:** A Local Law to amend the administrative code of the city of New York, in relation to prohibiting discrimination based on one’s arrest record or criminal conviction. | **Sponsors:** Council Members Williams, Johnson, Torres, Miller, Gibson, Chin, Palma, the Public Advocate (Ms. James), Arroyo, Cornegy, Dromm, Koo, Levine, Reynoso, Richards, Espinal, Levin, Menchaca, Dickens, Barron, Rosenthal, Cumbo, Rose, Rodriguez, King, Koslowitz, Wills, Mendez, Kallos, Lander, Eugene, Cabrera, Constantinides, Ferreras **–** Copeland, and Maisel (by the request of the Manhattan Borough President) |

**Summary of Legislation**: Proposed Int. No. 318-A would make it a violation of the New York City Human Rights Law for any employer to make any inquiry or statement about an applicant’s pending arrest record or criminal background prior to an applicant receiving a conditional offer of employment. Following a conditional offer, an employer would be permitted to make inquiries related to the applicant’s criminal history and make considerations based on criminal history in accordance with article 23-a of the New York State Correction Law. If an employer decides to take adverse action against an applicant based on the applicant’s criminal record in accordance with article 23-a, Proposed Int. 318-a would require the employer to: (i) provide the applicant, in writing, in a manner to be determined by the Commission on Human Rights, with the reason for the adverse action , along with a copy of the source of criminal history information; and (ii) hold the position open for three days before offering the position to another applicant. During this three day period, the applicant would have an opportunity to respond by possibly addressing any incorrect or negative reporting, or providing the employer with proof of rehabilitation.

Nothing in the bill would prohibit an employer from denying employment based on any factor other than criminal history.

Proposed Int. 318-A would not apply to employers hiring for positions for which any federal, State or local law requires criminal background checks or for which criminal history serves as a bar to employment. Proposed Int. 318-A would also exempt law enforcement positions, including police and peace officers, members of the Police and Fire Departments, the Departments of Investigation, Correction, Youth and Family Services and Probation, and the Business Integrity Commission. Finally, the bill would not apply to a limited number of positions appointed by the Department of Citywide Administrative Services through a hiring process done pursuant to the New York State Civil Service Law where the Department determines that such positions involve a matter of public safety and trust.

Proposed Int. 318-A would require the Commission on Human Rights to engage in outreach and education efforts regarding the rights of current and prospective employees, and the responsibilities of employers, established by this local law. Such outreach and education would be directed at public and private employers, and the general public.

**Effective Date:** This local law would take effect 120 days after its enactment, provided, however, that the commissioner of the Commission on Human Rights would take any actions necessary prior to such effective date for the implementation of the local law including, but not limited to, the adoption of any necessary rules.

**Fiscal Year In Which Full Fiscal Impact Anticipated:** 2017

**Fiscal Impact Statement:**

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Effective FY16** | **FY Succeeding****Effective FY17** | **Full Fiscal Impact FY17** |
| **Revenues (+)** | $0 | $0 | $0 |
| **Expenditures (-)** | $0 | $0 | $0 |
| **Net** | $0 | $0 | $0 |

**Impact on Revenues:** There would be no impact on revenues resulting from this legislation.

**Impact on Expenditures:** The Administration has indicated that the Commission on Human Rights would need additional budgetary resources to implement Proposed Intro. 318, however, considering the limited information provided by the Administration, the Finance Division estimates that there would be no fiscal impact, and that the Commission on Human Rights can use existing resources to implement the bill.

**Source of Funds to Cover Estimated Costs:** N/A

**Sources of Information:** Mayor’s Office of City Legislative Affairs

**Estimate Prepared by:** Eisha Wright, Unit Head, Finance Division

**Estimate Reviewed by:** Regina Poreda Ryan, Deputy Director, Finance Division

Rebecca Chasan, Assistant Counsel, Finance Division

 Tanisha Edwards, Chief Counsel, Finance Division

**Legislative History:**  Intro. No. 318 was introduced by the Council on April 29, 2014 and referred to the Committee on Civil Rights. The Committee considered the legislation at a hearing on December 3, 2014 and the legislation was laid over. The legislation was subsequently amended and the amended version, Proposed Intro. No. 318-A, will be voted on by the Committee at a hearing on June 9, 2015. Upon successful vote of the Committee, Proposed Intro. No. 318-A will be submitted to the full Council for a vote on June 10, 2015.

**Date Prepared:** June 9, 2015