



## City of Gainesville Agenda Report

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**File #: 2022-617**

**Agenda Date:** October 13, 2022

**Department:** Office of Diversity, Equity and Inclusion

**Title: Proposed Fair Chance Hiring Addition to Chapter 14.5 titled "Miscellaneous Business Regulations" of the City Code of Ordinances, adding Article IX "Fair Chance Hiring" 2022-617 (B)**

**Explanation:**

On Thursday, September 8, 2022 the City of Gainesville's Office of Equity and Inclusion, the Greater Gainesville Chamber and Community Spring held a Business Leaders Roundtable on the Proposed Fair Chance Hiring Ordinance. The business community provided feedback on the proposed ordinance. The feedback they shared with us is attached.

On May 13, 2021, the General Policy Committee heard a presentation by Community Spring nonprofit, advocating the adoption of a "fair chance hiring" ordinance. The proposed ordinance would bar local businesses from performing criminal background screenings on job applicants prior to extending an offer of employment, and would require that employers only consider recent convictions and pending prosecutions in hiring decisions, not arrests or remote convictions. While the City currently implements such practices for its public employees, the proposed ordinance would apply to private employers having 15 or more employees. Following the presentation, the Committee approved a motion to refer the matter to the Office of Equity & Inclusion for further analysis and to the City Attorney for drafting of an ordinance for further discussion. The City Attorney's Office has analyzed the proposed ordinance. Multiple federal and State laws (Title VII; Genetic Information Nondiscrimination Act; the Florida Civil Rights Act; etc.) regulate the use of background information by private employers in hiring decisions. The EEOC has extensive guidance about the misuse of criminal background checks in violation of Title VII's prohibition on disparate impact discrimination. The Fair Credit Reporting Act also regulates an employer's or staffing agency's use of criminal background information on an applicant for employment, imposing detailed disclosure and reporting requirements for the protection of consumers. The proposed ordinance will avoid conflict with these controlling laws by having a limited scope and general application. The proposed ordinance does not operate on "protected class" status of the individual job applicant, but rather applies as a code-enforcement regulation upon all

effected businesses (with some employers, such as daycare centers, exempted). Investigation and enforcement, through civil penalties, would be carried out by the Office of Equity and Inclusion. If adopted, the proposed ordinance would also require a minor amendment to ordinance Sec. 2-339.

On February 24, 2022 the General Policy Commission heard a presentation by the City Attorney and made the following motion: to approve the staff recommendation, to include the ten recommendations from Community Spring, and to work with the group to bring the proposal before the Chamber and return to the City Commission within three months with an ordinance. Maintain definition of employer size at 15 employees; and specify that employers are not allowed to consider past arrests that did not result in conviction at the time of application.

**Strategic Connection:**

**Fiscal Note:**

**Recommendation:**

The General Policy Committee decide whether to move forward with a Fair Chance Hiring Ordinance. Decide what/if any revisions to the draft ordinance need to be made.