

**Ryan G. Koopmans**

Direct Dial: (515) 283-4617

Direct Fax: (515) 558-0617

E-mail: rkoopmans@belinmccormick.com

October 14, 2019

**VIA E-MAIL**

Waterloo City Council Members

Sharon Juon (sharon.juon@waterloo-ia.org)

Steven J. Schmitt (steve.schmitt@waterloo-ia.org)

Margaret Klein (margaret.klein@waterloo-ia.org)

Bruce Jacobs (bruce.jacobs@waterloo-ia.org)

Patrick Morrissey (pat.morrissey@waterloo-ia.org)

Jerome Amos Jr. (jerome.amos@waterloo-ia.org)

Ray Feuss (ray.feuss@waterloo-ia.org)

Re: *Criminal History Ordinance*

Dear Council Members:

I represent the Iowa Association of Business and Industry (ABI) in relation to the City's ordinance regulating the use of criminal history in hiring decisions.

ABI is Iowa's largest business organization, representing 1,500 companies across the state that, collectively, employ 333,000 Iowans, including thousands in Waterloo. Many—indeed, most—of these employers are struggling to find workers to fill vacant positions. With an unemployment rate at or near an all-time low for the last two years, and with the changing demand for workforce skills, ABI's interest is to encourage as many Iowans as possible to become fully employed.

To that end, ABI supports the City Council's focus on the underemployment of Iowans with criminal records. These Iowans have made mistakes, some of them serious, but have served their sentence and now want nothing more than to be productive members of society. ABI joins the Waterloo City Council, the Governor, and others who are looking for ways to help these Iowans and to encourage employers to give them a second chance. But the ordinance passed by the City Council on October 7 is not the answer, and we believe it may even harm the City Council's laudable goal.

The ordinance, which expands state and federal discrimination laws by giving protected status to applicants with criminal records, is extremely broad (possibly one of the broadest in the country) and will create serious regulatory and practical hurdles for businesses that have chosen to locate in Waterloo. It goes well beyond the ban-the-box policies of many states and cities (a policy that, by itself, has been shown to actually *increase* discriminatory practices in employment<sup>1</sup>), and will likely lead to fewer businesses locating or expanding in Waterloo.

The ordinance also violates Iowa law. In 2017, in response to a patchwork of county and municipal ordinances regulating employment policies, the legislature passed and the Governor signed a bill that forbids a city from adopting an ordinance that will “exceed or conflict with the requirements of . . . state law relating to . . . hiring practices.” Iowa Code Ann. § 364.3.

Iowa law, most notably the Iowa Civil Rights Act, places limitations on what employers cannot consider in making employment decisions. Waterloo’s new ordinance exceeds State requirements, adding a new protective class (applicants with criminal histories) and places additional limits on employers’ hiring practices. The criminal-history ordinance is therefore unenforceable and will likely lead to litigation costs for the City, its taxpayers, and employers.

We understand that the City Council is considering amendments to the ordinance. We instead ask that you repeal it in full and work with the Governor, the legislature, and stakeholders in finding ways to encourage and foster employment of rehabilitated Iowans. Continuing to implement and enforce this ordinance will only lead to unnecessary litigation costs and will distract (maybe even detract) from the City Council’s well-intentioned purpose.

ABI appreciates the City Council’s efforts to expand employment opportunities for all Iowans and welcomes further efforts in that regard.

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<sup>1</sup> Agan, Amanda, and Sonja Starr. 2018. *Ban the Box, Criminal Records, and Racial Discrimination: A Field Experiment*. Quarterly Journal of Economics, 133., available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2795795](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2795795);

Doleac, Jennifer L., and Benjamin Hansen. 2018. *The unintended consequences of “ban the box”: Statistical discrimination and employment outcomes when criminal histories are hidden*. Working paper, available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2812811](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2812811).

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Sincerely,

A handwritten signature in black ink, appearing to read 'Ryan G. Koopmans', with a long horizontal flourish extending to the right.

Ryan G. Koopmans

RGK/lm

cc: The Honorable Quentin M. Hart  
Martin M. Peterson  
Mike Ralston  
Nicole Crain