



# **Proposed Citywide Fair Chance Hiring Ordinance**

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# What is a Fair Chance Hiring Ordinance?

- Delays a criminal history check, or consideration of an applicant's criminal history until later in the process
  - Typically, when the applicant has been given a conditional offer of employment
  - Also known as "Ban the Box" ordinance
- Designed to eliminate to the greatest extent possible discriminatory impact.
  - Equal Employment Opportunity Commission (EEOC) recommends it as a best practice
  - EEOC also recommends that an employer conduct an individualized assessment.
  - Rejecting everyone with an arrest or conviction from all employment opportunities could be discriminatory



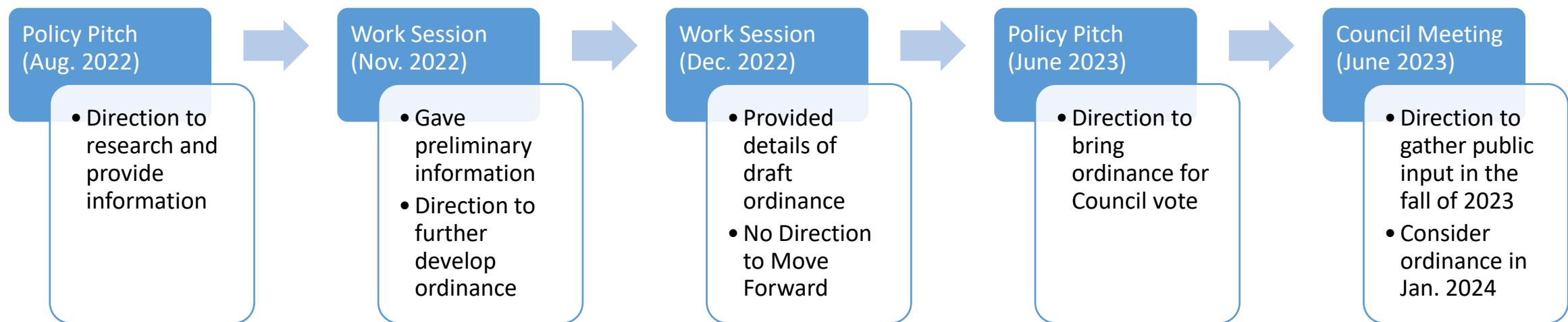
# Local Regulation of Fair Chance Hiring

- As of 2021, 37 states and 150 cities/counties have fair chance laws for themselves\*
  - Of these, 15 states and 22 cities/counties extend these to private employers

	Applies Only to Organization	Applies Across Jurisdiction
Texas Jurisdictions with Fair Chance Laws	Dallas County	City of Austin
	City of San Antonio	City of DeSoto
	Travis County	
	Harris County	



# Denton's Proposed Ordinance: Background



# What does the proposed ordinance prohibit?

- Prohibits consideration of a job applicant's criminal history if that consideration results in discrimination based on a protected class
- Discrimination in employment is prohibited by:
  - Title VII of the Civil Rights Act of 1964
  - Texas Labor Code
  - Other state and federal employment laws

## Protected Classes

- Race\*
- Color
- National Origin
- Age
- Religion
- Disability
- Sex
- Sexual Orientation
- Gender Identity

\*Including Hairstyle (Crown Act)



# Specific Prohibited Actions

- The following are prohibited if they result in discrimination:
  1. Stating or implying that a criminal history is an **automatic disqualifier**
  2. Inquiring about criminal history in the **job application**
  3. Inquiring about criminal history **before a conditional employment** offer
  4. Employer **refusing to consider an applicant** because they did not provide criminal history before a conditional employment offer
  5. Take adverse action based on criminal history **without an individualized assessment**
- Can inform applicants that a criminal history check is part of the process.



# What does it not prohibit?

- Any action that does not result in discrimination.
- Inquiries about an applicant's criminal history if there are federal or state laws that require a criminal history check.
  - There are laws that disqualify a person from holding a particular position due to a conviction for a certain offense
  - e.g., child day care facilities, public safety positions, certain financial or insurance positions



# Who is covered under the proposed ordinance?

## Covered

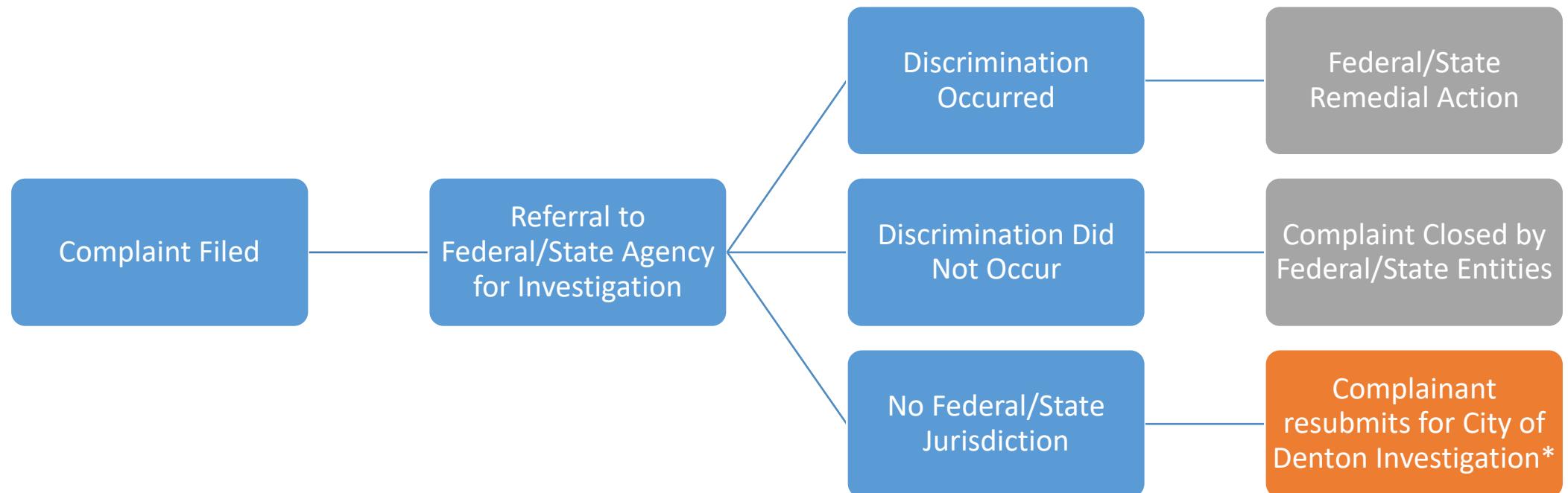
- All private employers with 15+ employees

## Not Covered

- Religious organizations
- US Government
- State of Texas (including political subdivisions)



# How are complaints handled?



\*Since the NDO's discrimination regulations are the same as the EEOC, if the EEOC determines it has no jurisdiction, the City will almost certainly defer to the EEOC jurisdiction determination.

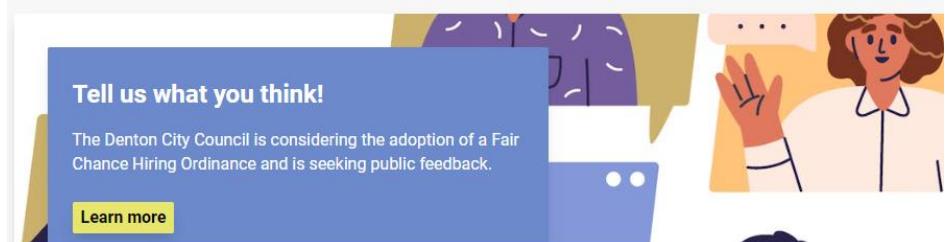


# Engagement

- 3 In-Person Listening Sessions
- 2 Virtual Listening Sessions
- Discuss Denton Project Page
  - Review information and FAQs
  - Leave a comment
  - Ask a question
  - Voice support/opposition



## Public Input for Fair Chance Hiring



# Feedback Summary

- Outlined in ISR 2023-071

Discuss Denton	<ul style="list-style-type: none"><li>• 512 visitors</li><li>• 22 comments</li><li>• 29 survey responses (51.7% opposed, 34. 5%) supported, 13. 7% unsure</li></ul>
Business Community	<ul style="list-style-type: none"><li>• General opposition. Frequent concerns were impacts on competitiveness and lack of a clearly defined need for the ordinance.</li><li>• Denton Chamber of Commerce Board issued a letter of opposition. Expressed support for a voluntary program</li></ul>
Research/Studies	<ul style="list-style-type: none"><li>• No research consensus on the effectiveness of fair chance hiring initiatives</li></ul>

