

EMPLOYMENT SCREENING LEGISLATION REFERENCE GUIDE FOR EMPLOYERS

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Employment Screening Legislation Reference Guide for Employers

Employers who conduct background checks on job candidates and employees should be in compliance with federal and state laws that govern obtaining and using such information.

Fair Credit Reporting Act (FCRA)

The FCRA regulates background screening for “employment purposes” such as hiring, promotion, reassignment and firing. It is mandatory for employers using a 3rd party to conduct background checks on job applicants or existing employees to comply with the rules and regulations outlined in the FCRA. The requirements include procedures that employers must follow before ordering a consumer report, and steps employers must follow if they intend on using any of the information, in whole or in part, from the consumer report to take adverse action. Some states have enacted laws that require additional disclosure language in addition to what is mandated in the FCRA.

Equal Employment Opportunity Commission (EEOC)

An agency of the federal government, the EEOC enforces federal laws prohibiting job and workplace discrimination. Created by the Civil Rights Act of 1964, employers must not deny employment or promotions based on an individual’s race, color, national origin, religion,



sex, gender, age, disability, genetic information, and/or retaliation for reporting, participating in, and/or opposing a discriminatory practice. The EEOC also publishes guidance on the use of criminal records.

Americans with Disabilities ACT (ADA)

The ADA prohibits discrimination against people with disabilities. It enforces a comprehensive national mandate and provides clear standards pertaining to compliance. The law applies to employers with 15 or more employees.

Ban the Box

Many states, U.S. cities, counties and local municipalities have enacted some variation of “ban the box” legislation, which involves removing the checkbox on the job application and delaying the inquiry on an applicant’s criminal history until later in the hiring process, such as after the initial interview or a conditional job offer is made.

Credit Reports

Some states have enacted some form of legislation limiting the use of an applicant's credit history information during the hiring process.

E-Verify

An Internet based system run by the government that determines whether new hires have a legal right to work in the United States. Varying



degrees of E-Verify laws have been passed in some states, counties and local municipalities.

Social Media

Laws have been enacted that restrict the inquiry into job applicant, employee or student personal login and password information for social network accounts have been passed in some states.

Other Important Information

In addition to federal laws and legislation listed above, various individual states have enacted separate and/or additional laws and regulations that govern employment screening and background checks. Check appropriate state agencies and other resources to obtain specific information.

We monitor legislation and make every effort to provide information that could affect how you access and use consumer reports in your hiring and recruiting processes.

Learn More: IntelliCorp Records
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This information is not meant to provide legal advice of any kind. Legal advice should be sought from your attorney or corporate counsel.



