
Criminal Background Screening Overview

PART 1

Criminal background checks have become a vital part of the employment process, both as a means to help screen out undesirable or dangerous employees and job applicants, as well as to assist in hiring the best possible candidates. But the process of obtaining a proper background check is fraught with difficulties that vary from state to state and even county to county.

The ideal background check is accurate, comprehensive, consistent, timely and, of course, legal. Coordinating these factors is expensive and time-consuming, but getting the best background check possible is too important to let budgetary or time constraints compromise the process.

The result has been the emergence of third-party service providers whose business is to conduct background screening for employers. These providers, as a rule, are better equipped to conduct thorough and accurate background screening, assuming they adhere to certain guidelines and practices. Many background screening companies are members of trade associations—for example, the National Association of Professional Background Screeners—that provide information to their members and the public about the legal requirements of the screening process.

The federal Fair Credit Reporting Act (FCRA) defines screening companies as “consumer reporting agencies” (CRAs) and the background screening reports they prepare as “consumer reports.” Employers are the “end users” of consumer

reports, and also are subject to the FCRA’s compliance requirements, including providing notice to individuals that they will be the subject of background screening and obtaining their authorization to perform such screening.

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Many employers perform background checks on prospective employees as part of the hiring process. Increased use of criminal background checks by employers to pre-screen job applicants stems from the growth of claims alleging that an employer was negligent in hiring or retaining an employee who subsequently engaged in workplace violence or some other act that resulted in harm to a person (for example, sexual assault) or property (for example, theft).

Beyond this, many companies also perform criminal background checks on current employees, either as a matter of course or prior to a promotion, transfer or other change in the terms and conditions of employment.

What This Means For Counties

Counties looking to conduct a background screening will want to understand how to proceed and do so legally. For an overview, See Part 2 in Technical Update Vol 17, number 18.

For more information, contact CTSI at 303.861.0507.