

## Colorado laws govern employee criminal background checks

This Technical Update is the first in a series of three which addresses various issues involved with running criminal background checks on job candidates.

This Technical Update describes the Colorado state statutes which govern criminal background checks for potential employees. The next Technical Update will describe federal laws on the same topic. The final Technical Update in this series will offer tips on when to run criminal background checks and what to do with the information that you receive.

### Colorado laws

The Colorado Consumer Credit Reporting Act (C.R.S. 12-14.3-101 et seq.) regulates the use of background investigations and reports, including criminal convictions, to make hiring and retention decisions adverse to an applicant or employee. It prohibits the use of judicial decisions, including criminal convictions and bankruptcy decisions, more than 7 years old to influence hiring or retention decisions adverse to an applicant or employee. It allows applicants and employees to sue for damages if background information is used incorrectly.

Furthermore, Colorado has a strong public policy to expand employment opportunities to people who have been rehabilitated after being convicted of a felony or other “moral turpitude” offense. Under Colorado’s public policy, Colorado employers may not usually deny employment to an applicant strictly due to a past criminal conviction (C.R.S. 24-5-101 et seq.). The law says that “the fact that a person has been convicted of a felony or other offense involving moral turpitude shall not, in and of itself, prevent that person from applying for and obtaining public employment or from applying for and receiving a

license, certification, permit, or registration required by the laws of this state to follow any business, occupation, or profession.”

There are some exceptions to these laws. An employer may refuse to hire a candidate when:

1. A specific law prohibits hiring or retaining someone with one or more specific convictions in their criminal history. For example, specific state laws govern the hiring of law enforcement and peace officers (C.R.S. 24-31-305), commercial motor vehicle and hazardous materials drivers (Colorado CDOT regulations), educators (C.R.S. 22-605-107), and people working with vulnerable persons (C.R.S. 27-1-110). Furthermore, no one with a criminal background can have access to state security paper used to print birth and death certificates under Security Standards issued by the Colorado Vital Records Office.
2. The employer can demonstrate that the successful performance of the job duties would be significantly impaired by the candidate’s conviction history taken as a whole with their overall qualifications.
3. The person is convicted of embezzlement of public moneys, bribery, perjury, solicitation of bribery, or subornation of perjury. People convicted of these crimes are not eligible to hold any office of trust or profit in the state.

For more information, call CTSI at 303-861-0507.

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