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News and Legislation Relating to Employment and Background Checks

News and Federal Legislation:

Background Checks

- On March 13th, President Barack Obama called for “an instant, accurate, comprehensive and consistent system for background checks” for gun sellers under the national instant criminal background check system (NICS). The President did not propose new legislation, but rather pursue enforcement of existing laws and providing incentives for states to provide data to NICS. (http://azstarnet.com/news/opinion/mailbag/article_011e7118-8951-5206-a878-39bfb9dc89d.html)
- On March 2nd, Sen. Charles Schumer (D-NY) introduced a bill (S. 436), which would require states to provide information about all individuals barred from purchasing firearms to provide such information for NICS. Under the bill, states not in compliance would risk losing certain percentages of Byrne JAG formula grants. The bill would also require use of background checks for all firearms sales and transfers, not just sales of handguns. (<http://www.gpo.gov/fdsys/pkg/BILLS-112s436is/pdf/BILLS-112s436is.pdf>)
- On February 28th, the Office of Personnel Management (OPM) published a notice in the Federal Register proposing to extend its information collection practices (76 FR 10923) for pre-employment investigations. OPM will review whether to continue requests for investigative information, employment data or supervisor information, personal information, educational registrar and dean of students record data, and law enforcement data. The deadline to submit public comments is March 30th. (<http://www.gpo.gov/fdsys/pkg/FR-2011-02-28/pdf/2011-4353.pdf>)

E-Verify

- On February 18th, Rep. John Carter (R-TX) introduced a bill (H.R. 800), which would make permanent the federal government’s E-Verify system for checking work eligibility. The bill would also require all U.S. employers to utilize the system when hiring new employees. Carter stated that, “we have allowed a culture of identity theft to take root through the fraudulent use of Social Security and taxpayer ID numbers.” (<http://www.gpo.gov/fdsys/pkg/BILLS-112hr800ih/pdf/BILLS-112hr800ih.pdf>)



News and State Legislation:

Background Checks

- March 3rd, Washington, D.C. Mayor Vincent Gray announced that he had ordered criminal history background checks, including credit history, criminal offense, driving and traffic record, bankruptcy, property ownership, lien and judgment checks for all excepted service appointees in his administration. Gray remarked, “moving forward, I want to make sure that we check and double-check all current and future Excepted Service appointees by also engaging our own Metropolitan Police Department.”
(<http://www.nbcwashington.com/news/politics/Mayor-Gray-Orders-Detailed-Background-Checks-117290213.html>)
- On March 2nd, the West Virginia House passed a bill (H.B. 3031) that would authorize professional licensing boards to obtain criminal history background checks on license applicants and licensees. The bill would also provide the professional licensing boards the rule-making authority to establish procedures.
(http://www.legis.state.wv.us/Bill_Text_HTML/2011_SESSIONS/RS/pdf_bills/HB3031%20INT%20PRINTED.pdf)
- On March 2nd, the Washington State House passed a bill (H.B. 1903) that would require background checks, including fingerprint checks, for all child care licensees and employees.
(<http://apps.leg.wa.gov/documents/billdocs/2011-12/Pdf/Bills/House%20Bills/1903-S2.pdf>)
- On March 1st, the Arkansas House Judiciary Committee held a hearing on a bill (H.B. 1474), which would create a civil cause of action against those who perform criminal history background checks for reporting false information. The bill would allow the subject of such a check to seek compensatory and punitive damages. The bill contains an exception for investigators which show “heightened due diligence” to ensure the accuracy of the information.
(<http://www.arkleg.state.ar.us/assembly/2011/2011R/Bills/HB1494.pdf>)

E-Verify

- On March 3rd, the Georgia House passed a bill (H.B. 87), which would require all employers within the state to use the federal government’s E-Verify program to verify employee work eligibility. According to Rep. Matt Ramsey (R), “We know E-Verify is simple. It is easy. It is accurate.” The bill will now proceed to the state senate where the Georgia Senate Judiciary Committee has already approved a similar bill (S.B. 40).
(<http://www.legis.ga.gov/Legislation/20112012/111320.pdf>)