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News and Legislation Relating to Employment and Background Checks

News and Federal Legislation:

Background Checks

- On July 26th, the Equal Employment Opportunity Commission (EEOC) held a forum on the use of criminal history background checks in making employment decisions. The EEOC is considering whether and how to revise its guidance to employers in this area. EEOC Chair Jacqueline Berrien commented on the need, “to balance business concerns with the need to ensure that employment practices are fair and non-discriminatory.” The EEOC will hold the hearing record open for 15 days to accept additional comments from the public.
(<http://www.eeoc.gov/eeoc/newsroom/release/7-26-11.cfm>)
- On July 12th, Rep. Rosa DeLauro (D-CT) introduced a bill (H.R. 2501) that would prohibit employers and recruiters from refusing to consider either previously or currently unemployed individuals for an open position. DeLauro stated, “In a tough job market, where workers are competing against tens and sometimes hundreds of others for every available job opening, it is unjust for employers to discriminate against those who are unemployed.”
(<http://www.gpo.gov/fdsys/pkg/BILLS-112hr2501ih/pdf/BILLS-112hr2501ih.pdf>)

News and State Legislation:

Background Checks

- On July 14th, the New Jersey State Department of Education received federal approval to perform background checks using the FBI criminal history database on state board of education members. The approval was necessary to implement a bill (S. 1593) that requires background checks for all board of education members. Individuals convicted of certain first or second degree crimes or any crime involving minors would be disqualified from serving on the board. The background checks will begin this fall among both public school district members and charter school board members.
(http://www.njleg.state.nj.us/2010/Bills/S2000/1593_I1.PDF)
- During this past month, the San Francisco, CA Human Rights Commission (HRC) held a number of forums to discuss whether individuals with a criminal record should be considered a protected class when seeking housing and employment. The housing forum was held on July 20th and the employment forum was held on July 25th. The forums follow an earlier decision by the HRC, on April 14th, to urge the San Francisco Board of Supervisors to prohibit discrimination on the basis of prior arrests or convictions.
(<http://www.sf-hrc.org/Modules/ShowDocument.aspx?documentid=1149>)

- On July 13th, Delaware Gov. Jack Markell (D) signed into law a bill (H.B. 48), which requires the state to turn over data regarding mentally ill individuals to the FBI for the purposes of background checks performed prior to the purchase of a firearm.
([http://www.legis.delaware.gov/LIS/lis146.nsf/vwLegislation/HB+48/\\$file/legis.html?open](http://www.legis.delaware.gov/LIS/lis146.nsf/vwLegislation/HB+48/$file/legis.html?open))

E-Verify

- On July 20th, Minnesota Gov. Mark Dayton (D) signed into law an appropriations bill, which requires that all state contractors with contracts worth more than \$50,000 must use the federal government's E-Verify program to ensure the employment eligibility of new employees. Gov. Dayton had previously allowed an executive order by former Gov. Tim Pawlenty (R) that had the same effect to lapse.
(<http://www.house.leg.state.mn.us/ss2011/11-3590.pdf>)