

Legi-Scan Alert™

A Publication of CARCO Group, Inc.

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August 31, 2009

News and Legislation Relating to Employment and Background Checks

News and Federal Legislation:

Background Checks

- On August 6th, Sen. David Vitter (R-LA) introduced the *Safety for Our Schoolchildren Act of 2009* (S. 1586), a bill that would require all public school employees and those employed in connection with a public school to receive an FBI criminal history background check prior to being hired.
(http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:s1586is.txt.pdf)
- On August 6th, Sen. Charles Schumer (D-NY) introduced the *Child Protection Improvements Act of 2009* (S. 1598), a bill that would amend the *National Child Protection Act of 1993* to establish a permanent criminal history background check system for child serving organizations.
(http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:s1598is.txt.pdf)

E-Verify

- On August 26th, a federal district court in Maryland upheld DHS' E-Verify federal contractor rule and dismissed a Chamber of Commerce lawsuit to halt the implementation of the rule. The court held that contracting with the federal government is voluntary, thus they are not required to participate in the E-Verify system. The court further held that E-Verify is not limited to employment verification of new hires, since the Congress could have explicitly prohibited such an application, but did not. The ruling allows for the implementation of the E-Verify requirement for federal contractors to go into effect as scheduled on September 8, 2009.
(*Chamber of Commerce of the United States, et al. v. Napolitano*, S.D. Md., Civil Action No. AW-08-3444, 8/26/09)

State Legislation:

Background Checks

- On August 24th, the California legislature cleared a bill (A.B. 595) for the governor's desk that would prohibit the State Department of Social Services and/or other approving authorities from issuing a license or certificate of approval to a foster family home that has not obtained clear California and FBI criminal history background checks.
(http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0551-0600/ab_595_bill_20090820_enrolled.html)
- On August 24th, Illinois enacted a bill (S.B. 1677) that requires the Department of Public Health in collaboration with the Department of State Police to create a task force to examine the process used by State and local governmental agencies to conduct employee criminal history background checks. The bill also requires that child care providers receiving funds from the child care assistance program under the *Child Care Act of 1969* shall, as a condition of eligibility for the program, authorize in writing a state and federal fingerprint-based criminal history background check.
(<http://www.ilga.gov/legislation/96/SB/PDF/09600SB1677lv.pdf>)



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- On August 18th, Illinois enacted a bill (H.B. 2474) that creates a task force to review and report on the statutes, administrative rules, policies, and practices that restrict employment of persons with criminal history backgrounds.

(<http://www.ilga.gov/legislation/96/HB/PDF/09600HB2474lv.pdf>)

E-Verify

- On August 24th, Illinois enacted a bill (S.B. 1133) that sets forth certain obligations on employers who choose to participate in the federal E-Verify program. The bill urges employers, when deciding whether to register with the federal program, to consider first that E-Verify databases contain inaccurate information that prevents the verification of work authorization status of many individuals who are eligible to work, and that employers who use E-Verify are legally obligated to expend resources to resolve situations where E-Verify, due to errors, cannot verify work authorization.

(<http://www.ilga.gov/legislation/96/SB/PDF/09600SB1133lv.pdf>)



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