

Legi-Scan Alert™

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News and Legislation Relating to Employment and Background Checks

News and Federal Legislation:

Background Checks

- On September 10th, the Corporation and National Community Service agency published an interim final rule in the Federal Register (74 FR 46495 – 46509) implementing a section of the Serve America Act, which requires that anyone that receives a living allowance, stipend, national service educational award, or salary through a national service program be subject to a criminal history background check regardless of the type of service the individual is performing. The rule also states that individuals that have access to vulnerable populations must submit fingerprints to the Federal Bureau of Investigation.
(<http://www.gpo.gov/fdsys/pkg/FR-2009-09-10/pdf/E9-21671.pdf>)
- On September 2nd, the Department of State (DOS) issued an advanced notice of proposed rulemaking in the Federal Register (74 FR 45385) seeking information on alternative means to screen potential host families for participants in the Secondary School Student category of the Exchange Visitor Program. Current regulations allow flexibility when evaluating potential host families, but the DOS believes the lack of specific industry standards may have contributed to a recent lapse in the quality of selected families. The DOS seeks information and comment on the costs and administrative effort of vetting adult members of potential host families through the FBI's national fingerprint database. Comments must be received on or before October 2, 2009.
(http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?position=all&page=45385&dbname=2009_register)

E-Verify

- Yesterday, Alejandro Mayorkas, the new Director of U. S. Citizenship and Immigration Services in the Department of Homeland Security, said at a news conference that he expects Congress to pass a timely reauthorization of the E-Verify program. Mayorkas also indicated that the Department of Homeland Security is considering changes to the E-Verify program, which may include verifying how long a person has been in the country and/or using biometrics, such as fingerprints, to verify a person's identity.
(http://www.nextgov.com/nextgov/ng_20090914_1765.php?oref=topnews)
- On September 8th, a federal requirement went into effect that obligates federal contractors and subcontractors, including those receiving stimulus funds, to check employees for employment eligibility through the E-Verify database. The American Civil Liberties Union's Legislative Counsel, Chris Calabrese, voiced his criticism when he noted, "Mandating all federal contractors to use E-Verify could encourage contractors to fire workers based on erroneous database discrepancies and to avoid hiring workers who are perceived to be foreign born."
(<http://www.aclu.org/immigrants/gen/40957prs20090908.html>)

State Legislation:

Background Checks

- On September 4th, the California Senate passed a bill (A.B. 1025) that would require the Commission on Teacher Credentialing to submit fingerprint images and related information from applicants to the



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Associate Member
National Association
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Department of Justice for state and federal criminal history background checks.

(http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_1001-1050/ab_1025_bill_20090831_amended_sen_v94.pdf)

- On September 2nd, the California legislature cleared a bill (S.B. 741) for the governor's desk that would require an applicant for proprietary private security officer registration to submit fingerprints to the Department of Justice for a criminal history background check.
(http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0701-0750/sb_741_bill_20090904_enrolled.pdf)
- On September 1st, the California Senate passed a bill (A.B. 428) that would allow the Attorney General to share criminal history background check information with foreign governments in specified circumstances.
(http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0401-0450/ab_428_bill_20090827_amended_sen_v96.pdf)
- On August 28th, North Carolina enacted a bill (H.B. 1166) that requires an applicant for an insurance producer license to provide fingerprints that would be used for a criminal history background check.
(<http://www.ncleg.net/Sessions/2009/Bills/House/PDF/H1166v7.pdf>)
- On August 28th, North Carolina enacted a bill (S.B. 458) that requires an applicant for licensure or an individual renewing a license as a bail bondsman or runner to undergo a criminal history background check.
(<http://www.ncleg.net/Sessions/2009/Bills/Senate/PDF/S458v8.pdf>)
- On August 26th, North Carolina enacted a bill (S.B. 262) that requires a state government agency to forward any notice to expunge an individual's record to any private entity that disseminates criminal history background checks for compensation that is licensed by the agency to access the agency's criminal history database. The bill also requires any privacy entity that disseminates criminal history records to update those histories before further dissemination.
(<http://www.ncleg.net/Sessions/2009/Bills/Senate/PDF/S262v7.pdf>)
- On August 26th, North Carolina enacted a bill (H.B. 1637) that requires criminal history background checks on employees of precious metal dealers.
(<http://www.ncleg.net/Sessions/2009/Bills/House/PDF/H1637v6.pdf>)
- On August 20th, the California Assembly passed a bill (S.B. 237) that would require criminal history background checks of applicants for registration with the Office of Real Estate Appraisers.
(http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0201-0250/sb_237_bill_20090827_enrolled.pdf)



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