

Recent Legislative Changes - 2014

Country / Jurisdiction	Bill / Statute Reference	Effective / Enacted Date	Impact	Description
United States	Administrative policy	Starting January 1, 2015	E-Verify	The US Citizenship and Immigration Services (USCIS) will start to purge E-Verify records of employers that are 10 years old or more in compliance with the National Archives and Records Administration (NARA) records retention and disposal requirements that mandate USCIS dispose of E-Verify records after 10 years.
United States	Rule mandated by Section 32402 of the Moving Ahead for Progress in the 21 st Century Act	Projected publication date October 30, 2015	Commercial Transportation Industry	This Federal Motor Carrier Safety Administration (FMCSA) rulemaking will establish the CDL Drug and Alcohol Clearinghouse, a database under the Agency's administration that will contain controlled substances (drug) and alcohol test result, and related, information for the holders of commercial driver's licenses (CDLs) reported by various FMCSA-regulated areas. Additional information can be found on the FMCSA website .
United States / CA	SB 530 amends Labor Code § 432.7	Effective January 1, 2014	Criminal Records	The bill prohibits public or private employers from asking an employment applicant to disclose, or seeking or utilizing from any source whatsoever, as a factor in determining any condition of employment, information concerning an arrest or detention that did not result in conviction, or any pretrial or post-trial diversion program, or concerning a conviction that has been judicially dismissed or ordered sealed pursuant to specified laws. Additional information can be found here .
United States / CA	AB 1217 "Home Care Services Consumer Protection Act"	Effective January 1, 2015	Health Industry	The Act will provide for the licensure and regulation of home care organizations and the registration of home care aides. The Act requires the department to establish and continuously update a home care aide registry, which includes information relating to home care aide applicants and registered home care aides. The Act also requires background clearances for home care aides, training for new hires, and sets forth specific duties for home care organizations, the department, and the DOJ a signed declaration under penalty of perjury regarding any prior criminal convictions, and requires home care aides to demonstrate they are free of active tuberculosis. Additional information can be read in our Compliance Update .

COMPLIANCE UPDATE



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United States / CA San Francisco	“Fair Chance Ordinance” amends Article 49 of the Police Code	Effective August 13, 2014	Ban the Box	<p>The Ordinance applies to both private and public employers in San Francisco employing 20 or more individuals, or any individual acting directly or indirectly in the interest of the employer. The Ordinance:</p> <ul style="list-style-type: none"> ▪ Prohibits employers and housing providers from inquiring if an applicant has ever been convicted of a crime, has any unresolved arrests, or has any pending criminal charges on the application or during the first live interview. ▪ Even at the point when employers can inquire into criminal history they: <ul style="list-style-type: none"> ○ Can ask only about misdemeanor and felony convictions that occurred within 7 years of the inquiry; ○ Should only consider convictions which are related to the job in which the individual is applying; ○ Must provide the individual the right to offer evidence of rehabilitation or other mitigating factors; and ○ Must follow specific adverse action procedures if they would want to take adverse action based on the individual’s criminal history ▪ Employers are required to state in job advertisements that they will consider qualified applicants with a criminal history. <p>Additional information can be read in our Compliance Update.</p>
United States / CO	SB 14-102 amends Rev. Stat. § 8-2-126	Enacted March 27, 2014	Credit Reports / Finance Industry	<p>The bill expands the definition of “substantially related to the employee’s current or potential job” to include positions held with a bank or financial institution, allowing banks or financial institutions to use consumer credit information for employment purposes. The bill can be read here.</p>
United States / CT	SB 221 / PA 14-109 amends General Statutes § 31-51tt(a)	Effective October 1, 2014	Credit Reports / Finance Industry	<p>The Act expands the definition of “financial institution” to include “any mortgage broker, mortgage correspondent lender or mortgage lender licensed pursuant to chapter 668 or any mortgage servicing company, as defined in section 36a-715.” The Act can be read here.</p>

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United States / DC	Bill No. 20-642 "Fair Criminal Record Screening Amendment Act of 2014" amends the "Re-entry Facilitation Amendment Act of 2012"	Effective December 17, 2014	Ban the Box	<p>The Act applies to both private and public employers in the District of Columbia employing more than 10 individuals, or any individual acting directly or indirectly in the interest of the employer. The Act states:</p> <ul style="list-style-type: none"> ▪ An employer may not make an inquiry about, or require an applicant to disclose or reveal, a criminal conviction until after making a conditional offer of employment. ▪ Following a conditional offer of employment, an employer may only withdraw the conditional offer or take an adverse action against an applicant for a "legitimate business reason." ▪ If an applicant believes a conditional offer was terminated or adverse action taken based on a criminal conviction, the applicant may request (within 30 days of the action) the employer provide (within 30 days of request receipt) a copy of any and all records procured by the employer in consideration of the applicant and a notice that advises the applicant of the opportunity to file an administrative complaint with the Office of Human Rights. The employer could face penalties between \$1,000 and \$5,000 if found in violation of the law. <p>Additional information can be read in our Compliance Update.</p>
United States / DC	B20-65 "Equal Access to Employment for All Act of 2013"	Enacted August 22, 2014 Effective following a 30-day Congressional review and publication in the DC Register	Credit Reports / Finance Industry	<p>The Act expands the definition of "financial institution" to include "any mortgage broker, mortgage correspondent lender or mortgage lender licensed pursuant to chapter 668 or any mortgage servicing company, as defined in section 36a-715." The Act can be read here.</p>

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United States / IL	HB 5701	Effective January 1, 2015	Ban the Box	<p>The “Job Opportunities for Qualified Applicants Act” applies to most private employers employing 15 or more employees, including any agent of the employers, and temporary agencies. The Act states:</p> <ul style="list-style-type: none"> ▪ An employer or employment agency may not inquire about or into, consider, or require disclosure of the criminal record or criminal history of an applicant until the applicant has been determined qualified for the position and notified that the applicant has been selected for an interview by the employer or employment agency or, if there is not an interview, until after a conditional offer of employment is made to the applicant by the employer or employment agency. <p>Additional information can be read in our Compliance Update.</p>
United States / IN	HB 1006 amends Code § 24-4-18-6	Effective July 1, 2014	Criminal Records	<p>House Bill No. 1006 was amended to state that a criminal history provider may not knowingly provide a criminal history report that provides criminal history information relating to a record that has been expunged by marking the record as expunged or removing the record from public access; is restricted by a court or the rules of a court and is marked as restricted from public disclosure or removed from public access; etc. Additional information can be found here.</p>
United States / MD Baltimore	“An Ordinance Concerning ‘Ban the Box’ - Fair Criminal Record-Screening Practices”	Effective August 13, 2014	Ban the Box	<p>The Ordinance applies to private employers employing 10 or more full-time equivalent employees in the City of Baltimore, including contract and temporary workers, and temporary agencies. The Ordinance states:</p> <ul style="list-style-type: none"> ▪ The employer may not, at any time before a conditional offer of employment has been extended: <ul style="list-style-type: none"> ○ Inquire into, or require the applicant to disclose or reveal, whether he or she has a criminal record or otherwise has had criminal accusations brought against her or him; or ○ Conduct a criminal-record check on the applicant. <p>Additional information can be read in our Compliance Update.</p>

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United States / MD Montgomery County	Bill 36-14 "Fair Criminal Record Screening Standards" adds Article XII to, and amends § 27-7 and 27-8 of, Chapter 27 of the County Code	Effective January 1, 2015	Ban the Box	<p>The bill applies to private and public employers in Montgomery County employing 15 or more persons full-time in the County. The bill states an employer:</p> <ul style="list-style-type: none"> ▪ Must not require an applicant or potential applicant to disclose the existence or details of their arrest or conviction record on an employment application. ▪ Must not require or inquire with the applicant or others whether the applicant has an arrest or conviction record or otherwise has been accused of a crime at any time before the conclusion of a first interview. ▪ Must not conduct a criminal record check on the applicant at any time before the conclusion of a first interview. ▪ Must follow specified procedures if they intend to rescind a conditional offer based on item(s) in the applicant's criminal history. <p>Additional information can be read in our Compliance Update.</p>
United States / MD Prince George's County	CB-078-2014 "fair Criminal Record Screening Standards" adds Subdivision 10 to Division 12 Human Relations Commission of the County Code	Enacted November 19, 2014 Effective 45 days after it becomes law	Ban the Box	<p>The bill applies to private and public employers in Prince George's County employing 25 or more persons full-time in the County. The bill states an employer:</p> <ul style="list-style-type: none"> ▪ Must not require an applicant or potential applicant to disclose the existence or details of their arrest or conviction record on an employment application. ▪ Must not require or inquire with the applicant or others whether the applicant has an arrest or conviction record or otherwise has been accused of a crime at any time before the conclusion of a first interview. ▪ Must not conduct a criminal record check on the applicant at any time before the conclusion of a first interview. ▪ Must follow specified procedures if they intend to rescind a conditional offer based on item(s) in the applicant's criminal history. <p>Additional information can be read in our Compliance Update.</p>
United States / MN	SF 523 expands current § 364.021	Effective January 1, 2014	Ban the Box	<p>This legislation expands Minnesota's Ban the Box law for public employers to private employers. The law:</p> <ul style="list-style-type: none"> ▪ Requires employers to remove any criminal history questions or criminal history box from applications; and ▪ Prohibits employers from inquiring into an individual's criminal history until after an interview, or if there is no interview, after a conditional offer of employment. <p>Additional information can be read in our Compliance Update.</p>

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United States / MO Columbia	Ordinance No. 022286 adds Article V to Chapter 12 of Columbia's Code of Ordinances	Effective December 1, 2014	Ban the Box	<p>The Ordinance applies to private and public employers in Columbia, which is defined as the City or any department, board, commission, or agency thereof, or any person who employs 1 or more individuals within the jurisdiction of the City, exclusive of parents, spouse or children of such person, and any person acting directly in the interest of an employer. The Ordinance states:</p> <ul style="list-style-type: none"> ▪ It shall be unlawful for an employer to inquire, question or otherwise seek information as to whether an individual has ever been arrested for, charged with, or convicted of any crime on an employment application or before the applicant has received a conditional offer of employment. <p>Additional information can be found here.</p>
United States / NH	HB 1405 / SB 295 "Employee Credit Privacy Protection Act"	Effective January 1, 2015	Credit Reports / Finance Industry	<p>The Act prohibits employers from using credit history in employment decisions, with the exception of specified financial and/or government agencies, including those required by law, and positions where credit history is substantially related to the employee's current or potential job. The Act can be read here.</p>
United States / NJ	B328-14 "Opportunity to Compete Act"	Effective March 1, 2015	Ban the Box	<p>The Act applies to private employers employing 15 or more employees, including employment agencies. The Act states:</p> <ul style="list-style-type: none"> ▪ Employers shall not inquire, whether oral or written, into an applicant's criminal record during the initial employment application process; the initial employment application process is the period of time from when there is an inquiry about a prospective employment position or job vacancy until the employer has conducted a first interview. ▪ The employer may inquire into the applicant's criminal history: <ul style="list-style-type: none"> ○ If an applicant discloses any information regarding their criminal record, by voluntary oral or written disclosure, during the initial employment application process, the employer may then make inquiries regarding the applicant's criminal record during the initial employment application process; or ○ After the initial employment application process. ▪ Unless otherwise permitted by law, an employer may not publish any advertisement that explicitly states that the employer will not consider any applicant who has been arrested or convicted of one or more crimes or offenses. <p>Additional information can be read in our Compliance Update.</p>

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United States / NY Buffalo	"Fair Employment Screening Ordinance" amends Chapter 154	Effective January 1, 2014	Ban the Box	The Ordinance applies to public and private employers employing 15 or more employees, including City vendors outside of the City. The Ordinance: <ul style="list-style-type: none"> Prohibits employers from inquiring into an applicant's criminal history on the initial application and prior to the individual's first interview. If the employer does not conduct interviews, the employer must inform the applicant if a criminal background check will be conducted prior to employment. Requires an employer to continue to comply with Article 23-A of the New York State Correction Law when considering an applicant's prior criminal conviction. Additional information can be read in our Compliance Update .
United States / NY Rochester	Ordinance No. 2014-155	Effective November 18, 2014	Ban the Box	The Ordinance will apply to private employers where the work is primarily conducted who employ 4 or more employees, including contract and temporary workers, and temporary agencies. The Ordinance states: <ul style="list-style-type: none"> Employers located within City limits may not inquire into, or require any person to disclose or reveal, any criminal conviction during the application process. The "application process" shall be deemed to begin when the applicant inquires about the employment sought and shall end when an employer has conducted an initial employment interview or made a conditional offer of employment. If an employer does not conduct an interview, that employer must inform the applicant whether a criminal background check will be conducted before employment is to begin. Additional information can be read in our Compliance Update .
United States / RI	SB 357 "Fair Employment Practices" amends General Laws Chapter 28-5	Effective January 1, 2014	Ban the Box	The bill applies to private and public employers employing 4 or more individuals or any individual acting directly or indirectly in the interest of the employer. The bill: <ul style="list-style-type: none"> Prohibits employers from inquiring if an applicant has ever been convicted of a crime before the first interview. Additional information can be read in our Compliance Update .
United States / WV	HB 3108 adds WV Code § 16-5C-21	Enacted March 8, 2014 Effective 90 days from passage	Health Industry	The bill states a person cannot be employed by a nursing home if convicted of any crimes listed in this statute, including violence, theft, and narcotics related crimes as specified. The secretary shall propose rules for legislative approval to allow persons to appeal decisions, demonstrate rehabilitation, request a review of their initial negative determinations and to implement any variance procedure as may be required by state or federal law. Additional information can be found here .