



Indiana Restricts Criminal History Information Reported in Background Checks

The state of Indiana has passed legislation (HB 1033) that places restrictions on: (1) pre-employment criminal history inquiries; (2) information that Indiana courts may provide to an employer or consumer reporting agency (CRA); and (3) the information that the CRA may provide on a background check to employers.

When does this law go into effect?

The law includes several restrictions which will go into effect **July 1, 2013**. Additional restrictions went into effect July 1, 2012 which Accurate Background was already adhering to. Please see below for more information.

What goes into effect July 1, 2013?

- A criminal history provider, such as Accurate Background, may not report the following information:
 - An infraction, an arrest, or a charge that did not result in a conviction.
 - A record that has been expunged.
 - A record that is restricted by a court or the rules of a court.
 - A record indicating a conviction of a Class D felony if the Class D felony conviction:
 - has been entered as a Class A misdemeanor conviction; or
 - has been converted to a Class A misdemeanor conviction.
 - A record that the criminal history provider knows is inaccurate.
- A criminal history provider may not include criminal history data in a criminal history report if the criminal history data has not been updated to reflect changes to the official record occurring sixty (60) days or more before the date the criminal history report is delivered.

What went into effect July 1, 2012?

- Indiana courts may not disclose information to any individuals or noncriminal justice organizations, including employers and consumer reporting agencies / background screeners, if an individual alleged to have violated an infraction and:
 - is not prosecuted or if the action against the person is dismissed;
 - is adjudged not to have committed the infraction; or
 - is adjudged to have committed the infraction and the adjudication is subsequently vacated.
- In addition, the courts may not disclose the information if the individual was found to have committed the infraction but it has been five (5) years after the date the individual satisfied the judgment.
- Any individual who has records that have been restricted or sealed under this legislation may legally state on an employment application or "other document" that they have not been convicted or adjudicated of the infraction recorded in the restricted records.

Recommendations

If your organization asks about previous criminal history on your application, or otherwise, you should review and confer with your legal counsel for guidance.

Contact Accurate Background

Click [here](#) for more in-depth information from Littler Mendelson publications regarding this new legislation. For additional questions, please contact Accurate Background at 800.216.8024.