

## Recent Legislative Changes - 2013

Country / Jurisdiction	Bill / Statute Reference	Effective / Enacted Date	Impact	Description
United States	Buffalo amendment to Chapter 154	Effective January 1, 2014	Ban the Box	<p>The ordinance will apply to the City of Buffalo, its vendors, including those outside the City of Buffalo, and all private employers with fifteen or more employees. The ordinance:</p> <ul style="list-style-type: none"> <li>Prohibits employers from inquiring in an applicant's criminal history on the initial application;</li> <li>Prohibits employers from inquiring into an individual's criminal history 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; and</li> <li>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.</li> </ul> <p>Additional information may be read in the <a href="#">legislative update</a>.</p>
United States	California AB 1217	Effective January 1, 2015	Health Industry	<p>This bill will enact the Home Care Services Consumer Protection Act, which will provide, on and after January 1, 2015, for the licensure and regulation of home care organizations, as defined, by the State Department of Social Services, and the registration of home care aides. This bill will require the department to establish and continuously update a home care aide registry, which includes specified information relating to home care aide applicants and registered home care aides. This bill also requires background clearances for home care aides, as prescribed, training for new hires, and sets forth specific duties of the home care organization, the department, and the Department of Justice in these regards. Home care aide applicants must submit to the Department of Justice 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.</p> <p>More information can be found at:  <a href="http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB1217">http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB1217</a></p>

**COMPLIANCE UPDATE**



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United States	California Senate Bill 530	January 1, 2014	Criminal Records	Effective January 1, 2014, <a href="#">Senate Bill 530</a> amends Labor Code section 432.7 to prohibit an employer whether a public agency or private individual or corporation, to ask an applicant for employment to disclose, through any written form or verbally, information concerning an arrest or detention that did not result in conviction, or information concerning a referral to, and participation in, any pretrial or post-trial diversion program, or concerning a conviction that has been judicially dismissed or ordered sealed pursuant to law, including, but not limited to, Sections 1203.4, 1203.4a, 1203.45, and 1210.1 of the Penal Code, nor shall any employer seek from any source whatsoever, or utilize, as a factor in determining any condition of employment including hiring, promotion, termination, or any apprenticeship training program or any other training program leading to employment, any record of arrest or detention that did not result in conviction, or any record regarding a referral to, and participation in, any pretrial or post-trial diversion program, or concerning a conviction that has been judicially dismissed or ordered sealed pursuant to law, including, but not limited to, Sections 1203.4, 1203.4a, 1203.45, and 1210.1 of the Penal Code.
United States	Colorado "Employment Opportunity Act," Colo. Rev. St 8-2-126	Effective July 1, 2013	Credit Report	<p><b>The Act</b> specifies the purposes in which consumer credit information can be used by a potential employer or current employer. Specifically the law: Prohibits an employer's use of consumer credit information for employment purposes unless the information is substantially related to the individual's current or potential job which is defined as:</p> <ul style="list-style-type: none"> <li>▪ A position that constitutes executive or management personnel and which involves one or more of the following: <ul style="list-style-type: none"> <li>▪ Sets the direction or control of a business, division, unit or an agency of the business;</li> <li>▪ Owes a fiduciary responsibility to the employer;</li> <li>▪ Has access to customers', employees' or the employer's financial information; or</li> <li>▪ Has the authority to make payments, collect debts or enter into contracts.</li> </ul> </li> <li>▪ A position that involves contracts with intelligence, national security, defense, or space agencies of the federal government.</li> </ul> <p>There are additional requirements employers must follow if they determine a credit check may be requested as well as if and adverse employment decision is taken.</p>

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United States	Federal; Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203, H.R. 4173)	Changes must be implemented by January 1, 2013.	FCRA forms	<p>In July 2010, President Obama signed the Dodd-Frank Wall Street Reform and Consumer Protection Act into law, which granted the Consumer Financial Protection Bureau (CFPB) rule-making authority and enforcement powers over the Fair Credit Reporting Act (FCRA). In response to this shift in responsibility, the CFPB has mandated changes to the forms used in the background screening process which are required by the FCRA. These modifications will reflect that end users, consumers, and furnishers shall contact the CFPB rather than the FTC for these FCRA related items.</p> <p>The three forms that were required to be updated and implemented by January 1, 2013 are:</p> <ul style="list-style-type: none"> <li>▪ "A Summary of Your Rights Under the Fair Credit Reporting Act"</li> <li>▪ "Notice to Users of Consumer Reports: Obligations of Users Under the FCRA"</li> <li>▪ "Summary of Consumer Identity Theft Rights"</li> </ul>
United States	Federal; U.S. Citizenship and Immigration Services; new version of I-9 Form	After May 7, 2013, all employers must use the revised Form I-9 for each employee hired in the United States.	I-9	<p>Effective May 7, 2013 employers were required to begin using the revised I-9 Form (Rev. 03/08/13)N for all new hires and re-verifications.</p> <p>Employers can obtain the newly revised I-9 form immediately in English or Spanish online at the USCIS website.</p> <p>More information can be found at: <a href="http://www.uscis.gov/i-9-central">http://www.uscis.gov/i-9-central</a></p>
Mexico	Federal Law on the Protection of Personal Data Held by Private Parties	Effective April 17, 2013	Data Privacy	<p>Effective April 17, 2013, the guidelines impose requirements for furnishing adequate data privacy notices and obtaining consent before personal data is collected directly from a person or electronically via "cookies," "web beacons" or other automated means.</p> <p>The privacy notice is provided by the responsible party to the data owner, through print, digital, visual or audio formats or any other technology, and informs the data owner that his or her data will be collected, how such data will be processed, and the purpose for such processing. The responsible party may issue the notice in a "full," "simplified," or "short" form, depending on how the personal data will be collected. Further information on these guidelines and full article by Javiera Medina Reza and Eduardo Osornia Garcia can be found <a href="#">here</a>.</p>

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United States	Georgia through E-Verify Bill	Effective July 1, 2013	E-Verify	As of July 1, 2013, all employers in Georgia with 10 employees or more must have enrolled in E-Verify. The Bill provides that public employers cannot enter into contracts for physical performance of services unless the contractor, subcontractor, and sub-subcontractor all register with E-Verify as well as submit an affidavit that has criminal penalties associated for any person who “knowingly and willingly” enters a false statement in an affidavit.
United States	Idaho E-Verify (RIDE) Program	Effective July 14, 2013	E-Verify	<p>Effective July 14, 2013, Idaho is now the 3rd state to join the Records and Information from DMVs for E-Verify (RIDE) Program, which gives employers the ability to validate an employee’s driver’s license, driver’s permit, or state-issued ID card (if presented during the I-9 process) against Motor Vehicle Agency (MVA) data.</p> <p>Employers are affected by the RIDE program only when workers present documents issued from any of the four states who participate in the program, regardless of where the employer’s place of employment is.</p> <p>Currently Florida, Mississippi, and Idaho are the three states that participate in the RIDE program.</p> <p>Further information on the RIDE program can be located <a href="#">here</a>.</p>
United States	Indiana HB 1033	Effective July 1, 2013; additional restrictions went into effect on July 1, 2012.	Criminal Records	<p>Effective July 1, 2013, a criminal history provider may not report information, including, but not limited to:</p> <ul style="list-style-type: none"> <li>▪ An infraction, an arrest, or a charge that did not result in a conviction.</li> <li>▪ A record indicating a conviction of a Class D felony if the Class D felony conviction: <ul style="list-style-type: none"> <li>• Has been entered as a Class A misdemeanor conviction; or</li> <li>• Has been converted to a Class A misdemeanor conviction.</li> </ul> </li> </ul>
United States	Iowa E-Verify (RIDE) Program	Effective September 8, 2013	E-Verify	<p>On September 8, 2013, the Records and Information from DMVs for E-Verify (RIDE) Program added Iowa to the program. This means that data from ID and driver’s licenses issued by the Iowa Department of Transportation’s Motor Vehicle Division (MVD) can now be inputted into the E-Verify system to be checked against the records of the MVD database for accuracy.</p> <p>Further information on the RIDE program can be located <a href="#">here</a>.</p>

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United States	Minnesota expansion to current Ban the Box legislation 364.021.	Effective January 1, 2014	Ban the Box	<p>Legislation has been in place to restrict a public employer from inquiring about an individual's criminal history on the employment application and with the passing of this legislation private employers will now have to abide by these guidelines as well.</p> <p><b>This legislation</b> 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>
United States	Nevada SB 127	Effective October 1, 2013	Credit Reports	<p><b>This legislation</b> applies to private employers as well as "any person acting directly or indirectly in the interest of an employer in relation to an employee or potential employee" (Collectively "employers").</p> <p>Employers are now prohibited to:</p> <ul style="list-style-type: none"> <li>• Directly or indirectly, require, request, suggest or cause any employee or prospective employee to submit a consumer credit report or other credit information as a condition of employment;</li> <li>• Use, accept, refer to or inquire concerning a consumer credit report or other credit information;</li> <li>• Discharge, discipline, discriminate against in any manner or deny employment or promotion to, or threaten to take any such action against any employee or prospective employee: <ul style="list-style-type: none"> <li>(a) Who refuses, declines or fails to submit a consumer credit report or other credit information; or</li> <li>(b) On the basis of the results of a consumer credit report or other credit information</li> </ul> </li> </ul>
United States	North Carolina through S.L.2011-263	Effective July 1, 2013	E-Verify	<p>As of July 1, 2013, all employers in North Carolina with 25 employees or more must have enrolled in E-Verify.</p> <p><b>The Bill</b> grants the North Carolina Department of Labor the duty to enforce the E-Verify law by investigating complaints for violations.</p>

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United States	North Carolina (HB36)	Effective January 1, 2013	E-Verify	Effective January 1, 2013, Companies employing 100-499 individuals must be registered and using the E-Verify system. This House Bill has several phases and previously required North Carolina employers to implement E-verify if they employed more than 500 employees and will require those with 25-100 employees to use E-Verify by July 1, 2013.
United States	Pennsylvania Act No.127	Effective January 1, 2013	E-Verify	Pennsylvania Senate Bill 637, Act No.127 requires all public works contractors and subcontractors with contracts of \$25,000 or greater to be registered and using E-Verify as of January 1, 2013.
United States	Rhode Island SB 357	Effective January 1, 2014	Ban the Box	This law applies to both private and public employers in Rhode Island employing four or more individuals acting directly or indirectly in the interest of the employer. This law prohibits employers from inquiring if an applicant has ever been convicted of a crime before the first interview.  Additional information may be read in the <a href="#">legislative update</a> .
United States	Seattle Council Bill 117796	Effective November 1, 2013	EEOC	As of November 1, 2013, employers may not request criminal history information on the initial application (Ban the Box) unless the application is completed after the initial screening. No employer shall advertise, publicize, or implement any policy or practice that automatically or categorically excludes all individuals with any arrest or conviction record from any employment position that will be performed in whole or in substantial part (at least 50% of the time) within the City. Employers may not carry out a tangible adverse employment action "solely based on" an employee's or applicant's criminal conviction record or pending criminal charge unless the employer has a legitimate business reason for taking such action and if an adverse employment decision is warranted, additional steps must be taken by the employer.  Additional information may be found on the <a href="#">legislative update</a> .
United States	Tennessee Public Chapter No.436	Effective January 1, 2013	E-Verify	Companies who employ between 6 and 199 individuals must be registered and using E-Verify by January 1, 2013. There were additional E-Verify requirements in Tennessee that went into effect in January 2012 and July 2012 so this is the last phase to be implemented.