



New Laws For Employers That Operate In California



As of January 1, 2018 California implemented several laws that affect employers who hire and operate in the Golden State.



Assembly Bill 1008: Ban The Box

This Bill updates an existing law, the California Fair Employment and Housing Act (FEHA). It declares that employers with five or more employees may not:

- Include questions about arrests or convictions on job applications.
- Inquire about an applicant's arrests or convictions in any way until after a conditional job offer has been extended.
- Consider, distribute or disseminate information about:
 - Arrests that did not lead to convictions (except when allowed by the Labor Code).
 - Referral to or participation in a pre or post-trial diversion program.
 - Convictions that were expunged, dismissed, statutorily eradicated or sealed.

Employers are permitted to run criminal background checks after making a conditional job offer.



The Adverse Action Process

If an employer is considering an adverse action (such as denial of employment) after finding a criminal conviction during the screening process, they must first perform an individualized assessment. This involves considering:

- The nature and gravity of each offense.
- How much time has passed since the applicant committed the offense or completed a sentence.
- Whether or not the conviction is relevant to the position and job duties.

After performing this assessment, employers must take the following steps if they are still considering an adverse action:

- Inform the applicant that they are considering the adverse action.
- Send the person a copy of their background check and a summary of their rights under the FCRA.
- Specify the conviction(s) that might lead to rescinding the offer.
- Supply a copy of the conviction history report (if one exists).
- Notify the person that they have five business days to send written notification that they wish to dispute the results of their report. The dispute can contain evidence that challenges the conviction, rehabilitation / mitigating circumstances or both.

If an applicant provides written notification of their intent to dispute within five business days, the employer must grant them five additional days. Once a dispute is submitted, the employer must consider it before making a final decision.

Taking An Adverse Action

If an employer decides to deny employment, solely or in part because of a conviction, they must inform the applicant in writing and provide:

- Written notification about the decision to deny employment.
- A second copy of the applicant's rights under the FCRA.
- Notification, in writing, that they have the right to file a complaint.
- A written document that explains the employer's policies for allowing an applicant to challenge a hiring decision or request reconsideration.

Employers must also follow all other existing adverse action procedures. AB 1008 does not apply to state or local agencies that are required to run criminal background checks on all applicants. See the full text here: https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB1008



Assembly Bill 168: Employers May Not Ask About Salary History

This bill prohibits employers from considering salary history during the hiring process. It states:

- Employers may not use or rely on a person's salary history to determine whether or not to extend an offer or what level of salary to provide.
- Employers shall not request an applicant's salary history orally or in writing, personally or through any type of agent.
- Upon "reasonable request" employers shall inform an applicant about the pay scale for the position to which they are applying.
- If an applicant voluntarily discloses their salary history, then the employer may use it when determining compensation for that person.

This bill applies to all employers, including state, local government and the Legislature. See the full text here: https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB168



Senate Bill 312: Sealing Juvenile Records

This bill allows an individual to file a request to have criminal records sealed if the offense occurred after the person was at least 14-years old (but still a minor). It:

- Specifies requirements to have juvenile records sealed.
- Explains that the court must send copies of orders to seal juvenile records to all applicable agencies, entities and officials.



- Declares that a ward of the juvenile court shall be relieved of registration requirements once the records are sealed.

The bill covers various scenarios and how they must be handled. See the full text here: https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB312 This bill applies to all employers, including state, local government and the Legislature. See the full text here: https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB168

Additional Laws

Several other laws affect employers that operate in California, including:

- [The New Parent Leave Act](#)
- [Harassment Prevention Training Based On Gender Identity, Gender Expression And Sexual Orientation](#)
- More businesses must post a [Human Trafficking Poster](#)
- [The Immigration Worker Protection Act](#)
- New employees (or current employees who submit a request) must be given a copy of the [Rights Of Victims Of Domestic Violence, Sexual Assault And Stalking](#)
- [Minimum Wage Increase](#) (annual increases are planned until 2023)

For more information about new laws that affect hiring and background screening, visit our 2018 State Laws page and follow our Blog. If you have questions about these laws or other relevant topics, please contact us.

**Our knowledgeable team is available
Monday - Friday from 5am to 5pm PT.**