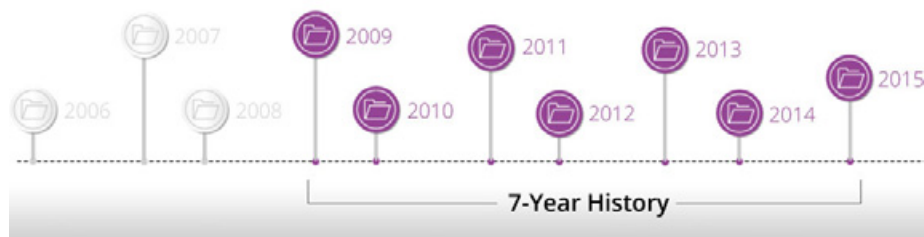




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Why 7 Years is the Industry Standard for Criminal Records



Of all the questions we get asked about background screening, one of the most common (and important) questions is: how far back into a subject's history should you consider criminal records?

In short, the industry standard is 7 years; though there are many factors to consider when deciding what your specific requirements should be.

Purpose and Position

Why are you performing a background check? Are you hiring a new employee, promoting an existing employee, or vetting a contractor? Is this an initial screening or an annual re-check?

The reasoning behind the screening can greatly impact the need for a broader, or narrower, scope of search. New hire or promotional background checks, for instance, tend to be more in-depth than recurring ones.



You may also consider the position you're hiring for, and what capabilities the employee will have that may impact your business. Is this an entry-level or management position? Will the employee have access to company funds or be working with children?

Generally, more important or high-risk positions warrant more comprehensive searches.

Severity and Availability

Not all records are housed the same way and therefore, some types may be accessible after a certain amount of years, whereas others may not.

For instance, motor vehicle records are maintained by the State, county criminal records by county courthouses, and federal criminal records by the Administrative Office of the United States Courts. Each entity may have their own rules and regulations regarding the preservation and dissemination of records.

In addition, certain levels of convictions may be reportable for a longer period of time than others, such as felonies versus misdemeanors.

Legal Restrictions

Some states do not allow criminal records of a certain age to be considered when making an employment decision; most notably are the "7 Year States": California, Colorado, Kansas, Maryland, Massachusetts, Montana, Nevada, New Hampshire, New Mexico, New York, and Washington (restrictions may apply in regions not listed here).

Consider all applicable employment and screening laws in your area, which may vary greatly if you have multiple locations across the country.

The EEOC

The Equal Employment Opportunity Commission enforces federal laws pertaining to employment discrimination, including the use of criminal records in making hiring decisions. They even released an Enforcement Guidance on the subject, entitled Consideration of Arrest and Conviction Records in Employment Decisions under Title VII of the Civil Rights Act of 1964.



This guidance emphasizes the need to consider several factors when looking at someone's criminal records, including: how much time has lapsed since the conviction, relatedness of the conviction to the position applied for, and any rehabilitation efforts taken since the conviction. Not taking these and other such factors into account when reviewing one's criminal history could be construed as discrimination.

In Review

So how far back should you look into an individual's history when performing an employment background check?

After discussing your business's needs with your HR team, principals, and/or legal counsel, define your requirements. Consider the risks and consequences of performing a background check that is either too strict or not thorough enough and don't forget - the screening industry standard is no more than 7 years to ensure compliance with all state and federal laws.

Backgrounds Online encourages all employers to stay up to date on all applicable employment and screening laws as they may frequently change