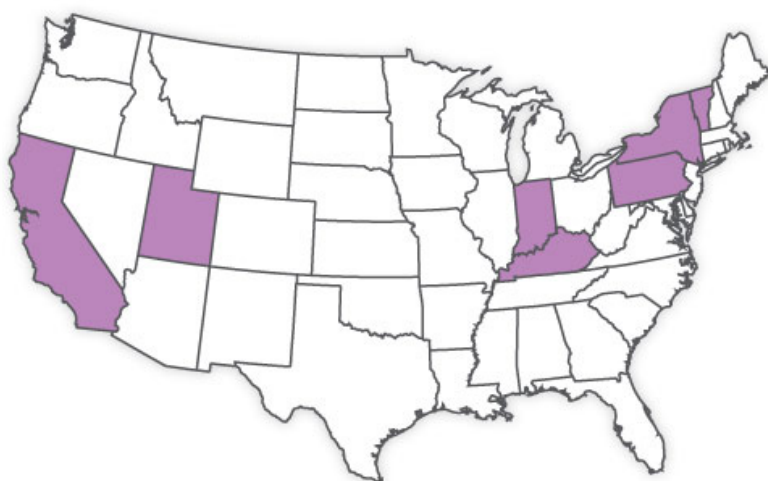




## New State Laws That Could Affect Your Screening Process



In 2017, several states implemented laws that create new regulations about hiring and background screening. If you do business in these states, it is essential to comply. This Newsletter offers basic details about these laws, and we recommend clicking the Learn More buttons for additional information.



### California

Several updates to the Fair Employment And Housing Act (FEHA) went into effect on July 1:

#### **Pre-Adverse Action Letters Must Explain Why Employment Was Denied**

Before denying employment based on the results of a background check, employers must send the applicant a pre-adverse letter. California law now stipulates these letters must include the reason (such as a violent criminal conviction) an adverse action is being considered.



## **Non-Felony Marijuana Possession Convictions More Than 2 Years Old Cannot Be Considered**

### **Job Seekers Can File Complaints With The Department of Fair Employment and Housing (DFEH)**

If an applicant feels an employer's policies could be less discriminatory, they may be able to initiate a lawsuit or have the DFEH investigate.

### **Employers Should Follow Best Practice Suggestions From The Society For Human Resource Management**

They include: document all screening policies to show they are relevant and consistent with business needs; review convictions individually and avoid "blanket policies" that disqualify individuals with any criminal record; teach relevant personnel how to assess convictions.

### **Los Angeles Ban The Box Laws**

Los Angeles updated the Fair Chance Initiative for Hiring (Ordinance 184652) to include a Ban The Box Law. Employers are now prohibited from asking about criminal convictions on job applications.



## **Indiana**

As of July 1, local government agencies cannot create **Ban The Box** policies. Such laws can only be implemented by the state. Per state regulations, Indiana employers may obtain criminal records during the hiring process, but they cannot be used in a civil action based on the conduct of the employee or former employee if:

- The criminal history does not bear a direct relationship to the facts underlying the civil action.
- The records were sealed or expunged.
- The conviction was reversed or vacated or the person was pardoned.



## Kentucky

In February 2017, Kentucky implemented a **Ban The Box** law called the Fair Chance Employment Initiative. It requires:

- Removal of “questions regarding convictions and criminal history” from executive branch and state-level job applications.
  - Agencies to not ask applicants about their criminal histories prior to an interview unless the position requires them to do so.
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## New York

Revisions to the Fair Chance Act (FCA) went into effect on August 5, 2017.  
The updates:

- Specify chargeable violations under the Human Rights Law.
  - Clarify the type of questions employers may not ask regarding an individual's criminal history.
  - Explain how an employer must consider convictions based on job duties and the safety of the workplace, co-workers and public.
  - Establish the circumstances under which an employer may revoke a conditional job offer.
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## Pennsylvania

On July 1, Pennsylvania implemented changes to their Fair Chance Hiring Policy:

- Employers may not consider arrests that did not result in a conviction; were annulled, expunged or pardoned; or do not relate to the applicant's suitability for Commonwealth employment.
  - Employers should consider the "public interest of ensuring access to employment for former offenders."
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## Utah

In April, Utah implemented new Ban The Box laws that state:

- Public employers may not exclude applicants from initial interviews because of criminal convictions. They may consider criminal records when making final hiring decisions.
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## Vermont

Vermont implemented a Ban The Box law in July. It prohibits employers from asking about criminal records on job applications unless:

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- Federal or state law disallows an employer from hiring an individual who was convicted of certain types of criminal offenses.
- Question(s) on the application are specifically about the type of criminal offenses that create disqualifications.

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Every employer must comply with relevant state laws that cover hiring and background screening. Backgrounds Online writes about these laws to keep you informed. Learn more about state laws from 2017.

**If you have questions or comments,  
please contact us for assistance.**

**Backgrounds Online**

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