

Fair Chance Acts

You've probably heard of Fair Chance Acts, but what are they and what do they mean for your business?



A Summary

Fair Chance Acts are established to help people who have non-violent convictions find jobs and other necessities. They are part of a nationwide Second Chance movement that intends to help former convicts re-enter society and create larger pools of qualified job seekers. These laws vary, but typically focus on decriminalizing certain activities and creating opportunities for people to get non-violent criminal records expunged.

3 Major Fair Chance Acts

There are numerous Fair Chance Acts, but 3 of the most notable are in Michigan, California and New York City. If you hire in any of those locations, we're sharing highlights about each one and details about how we help you navigate your compliance efforts.



1. California's Fair Chance Act of 2023 affects employers with 5 or more employees. It says that covered organizations have no legal obligation to order background checks. If they choose to screen, they must follow these requirements:
 - Job advertisements may not indicate that a person might be ineligible for hire based on a criminal history.
 - Applicants may only be screened after a conditional offer is extended.
 - If convictions are found during the screening process, they must be individually assessed to determine whether they warrant an adverse action.



2. The Michigan law empowers residents to have criminal records expunged after a person has been conviction-free 7 years for misdemeanors and 10 years for felonies.

You should know:

- Court employees are working to keep up with thousands of expungement requests, so many of them are unable to help researchers obtain records that are used in background checks.
- This is causing long delays for everyone who relies on the data these courts maintain.

o To help accelerate the screening process, Backgrounds Online can run state criminal searches that show if an individual has convictions anywhere in Michigan.



3. NYC's Fair Chance Act created a two-part background screening policy which states:

- If a screening includes verifications or position-focused searches, then those must be completed before a conditional offer is extended. If an offer has already been made, these searches cannot be run.
- Criminal searches, which include Motor Vehicle Searches, can only be conducted after a conditional offer is extended.

The NYC background check process:

- If your organization hires people who live or work in New York City, we can split your order into two reports.
- First is a consumer report that includes everything except criminal searches.
- After you review the initial report and extend a conditional offer, then we run a criminal history report.

Keep Up With Compliance

As more Fair Chance Acts go into effect throughout the United States, it becomes increasingly important for employers to be vigilant about compliance. We recommend creating hiring and screening policies and reviewing them at least annually. If possible, have those documents reviewed and approved by legal counsel.

We're Your Partner



When you order background checks from us, we make every effort to get them completed within 1 – 3 business days. If a court delay will extend that time, we proactively reach out to let you know and offer options.

While Backgrounds Online does not provide legal advice or guidance, we do produce educational materials like this newsletter, our blog and the state laws section. Our team also supplies various compliance forms, which you can download for free from our Resource Center.

Have Questions?

If you have any questions or need assistance, please contact us. Our highly experienced team is available to assist you Monday – Friday from 5am to 6pm PT.