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Legislative Update

New Massachusetts Law on Criminal Background Checks – “Ban the Box” Provision

Going into effect November 4, 2010, the new legislation prohibits Massachusetts employers to request on an “initial written application form” any information regarding an applicant’s criminal history.

The new law requirement also limits and monitors the dissemination of Massachusetts criminal record information that is received. CORI based information can only be shared with those that “need to know”. A secondary dissemination log must be maintained detailing when and to whom the information was given, and reason it was shared.

Being proactive early can help ensure your workplace is in compliance prior to the date of the legislation:

- Update your existing employment application and remove any information referencing the request for criminal history.
- Starting 2/6/2012 be sure to retain your applicant’s signed acknowledgement forms for a minimum period of one year from the date of any criminal record check and request. Document specific details about the sharing of any criminal records in a dissemination log and maintain it for at least one year following the disclosure of any criminal record. Be sure to include the following:
 - subject’s name and date of birth
 - date of dissemination
 - name of the person to whom the information was disseminated
 - reason for sharing the information.
- Criminal records information should not be maintained for a period of more than seven years after an employee’s last date of employment or after the date of final decision not to hire an applicant.
- Nothing in the new law prohibits an employer from making an adverse decision on the basis of an individual’s criminal history. However, be sure to adhere to your organizations written criminal records policy.