

## CHECKING FOR CRIMINAL HISTORY

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Violence, theft and criminal activity have become greater risks in the workplace, so many employers are performing criminal background checks to support asking applicants about their criminal history. In fact, employers who fail to take reasonable precautions about whom they hire and who do not verify the information provided by applicants could be sued for negligent hiring if an employee with a criminal background harms someone.

Do criminal record searches mean that an applicant who had a brush with the law will never find a good job, or that employers are assured that they will never hire a criminal?

The answer to both of those questions is a resounding NO!

If private employers check criminal records, they normally do not have access to government criminal databases and reporting agencies, unless the position qualifies for a fingerprint check such as for teachers or child-care workers in California. To be in compliance with the Fair Credit Reporting Act, only local county court records can be utilized for employment evaluation purposes. Since there are more than 10,000 courthouses in America, locating the proper records is a daunting and costly adventure. Most employers do not have the time, expertise or inclination to perform these tasks.

When an employer hires a company such as HIRE~SAFE to perform the search, all the work is regulated by the *Fair Credit Reporting Act*. This will protect the rights of the applicant while keeping the employer in complete compliance with the law. These searches can only be conducted if the applicant provides their written consent. If a criminal record is found, applicants must be given an opportunity to question its accuracy and must receive a copy of their legal rights before the decision to deny the job is made final.

To determine where to search, the researcher will examine the resume or job application for the address history of the applicant. However this is inconclusive information, as the applicant provides it. The Social Security Trace Report will provide the verification needed of the applicants' name, Social Security Number and address history.

Because of the way public records are maintained, errors are always possible and cases of mistaken identification have occurred. There are also legal limits on how far back court researches can go in reporting conviction records. Each courthouse operates under their own set of rules and reporting techniques. Every precaution is maintained to provide accurate and detailed information, but even with these efforts records can be missed.

Despite these limitations, employer's still find criminal record searches to be of enormous value. While such records would not necessarily disqualify an applicant from a job offer, it is in the best interest of the employer to have an accurate knowledge of the facts. Failure to do so could result in catastrophic losses not covered by liability insurance. A search for criminal records discourages applicants with something to hide, limits uncertainty in the hiring process and fulfills the employers' responsibility to perform due diligence.

On top of all that, it just makes good common sense.