

CALIFORNIA

NEW REFERENCE CHECKING BILL PASSED AFFECTS ALL CALIFORNIA EMPLOYERS

Effective January 1, 2002

For any persons conducting their own reference or previous employment checks or are using a pre-employment screening firm that has not updated them on this law (an amendment to current California Civil Code 1785 & 1786), please forward this notification to them. There are severe penalties regarding violations. Violations expose the employer to actual damages sustained by the consumer (subject) or ten thousand dollars (\$10,000), whichever is greater, plus punitive damages. As always, you may contact your Account Specialist regarding this or other issues surrounding background checks or drug screening.

AB 655 amends the California Consumer Credit Reporting Act to provide that employers who do their own background checks on applicants must provide the information to the applicant. Currently, employers who use consumer credit reporting agencies to obtain background checks on applicants are required to notify the applicant and give them an opportunity to obtain a copy of the report. This bill provides that employers who do their own checking on an applicant's character, general reputation, personal characteristics, or mode of living must provide that information to the applicant in the interview or within 7 days of receiving the information whichever is earlier.

Listed below are a few key changes:

1. The Amendment limits the reporting of information regarding criminal convictions. Now, California employers may only receive criminal conviction information limited to seven years from the date of disposition, parole, or release from prison. For example, a conviction for theft where the date of conviction occurred eight years ago could only be reported if the individual was in prison and released or paroled within the last seven years. (Section 1786.12 paragraphs 7 and 8)
2. A copy of the report must now be given to the subject whether or not they have requested one AND whether the report is compiled by a third party (consumer reporting agency) or performed internally by the employer. The copy must be given to the subject within seven days of the date the information was obtained or during any interview with the subject (if earlier). (Section 1786.29)
3. The person requesting an Investigative Consumer Report for employment purposes other than suspicion of wrongdoing by the subject of the investigation must within 3 days of the request, notify the subject in writing that an investigative consumer report regarding the subject's "character, general reputation, personal characteristics, and mode of living will be made." The notice must include the name and address of the agency conducting the investigation, the nature, and scope of the investigation requested, and a summary of the persons' right to view any files the agency maintains on them (section 1786.12 Paragraph 2)
4. The amendment requires a new notice to be placed on a cover sheet of any report by a consumer-reporting agency in 16-point type. This notice summarizes SB 655 telling the subject of the report that the employer must give a copy to the subject and that failure to do so will expose the employer to liability (Section 1786.29) Employers must still follow the Federal guidelines and are encouraged to contact their labor law Attorneys regarding the possible conflicts in law.

For further questions, comments or concerns, please contact Zero Investigations Inc. at info@zeroinvestigationsinc.com or 1.918.492.7741