

October 2015

"PROTECT YOURSELF"

LABOR & EMPLOYMENT ALERT

California Law: Asking Potential Employees About Arrests and Convictions

This is a reminder: the following alerts summarize a few different Labor code sections, none of which are brand new, but many of which are not known well or are forgotten.

What a Private Employer May Not Do:

- Ask an applicant to take a polygraph test.
- Ask an applicant to provide information “concerning an arrest or detention that did not result in conviction.”
- Ask an applicant to provide information “concerning a referral to, and participation in, any pretrial or post-trial diversion program.”
- Ask an applicant to provide information “concerning a conviction that has been judicially dismissed or ordered sealed pursuant to law.”
- Ask an applicant to provide information about certain marijuana-related offenses, such as convictions of possession of less than 28.5 grams.
- Obtain a criminal-background investigation report that includes information relating to an arrest that did not result in a conviction.

What a Private Employer May Do

- Request information about felonies that resulted in a conviction – if no more than seven years have passed since “disposition.”
- Inquire about an arrest for which the employee or applicant is on bail or has been released on his or her own recognizance pending trial.

For More Information:

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