

AVOID THE WORST SURPRISE OF YOUR BUSINESS LIFE

by Alfred A. Firato

In recent years, the fundamental relationship between employees and their employer has gone through tremendous changes. Lawsuits about sexual harassment, wrongful termination and negligent hiring frequently are in the news. Business people across the nation are searching for remedies to limit employee liability.

One key liability area that can be made controllable is by instituting quality hiring techniques such as pre-employment background screening. Employers are not always exposed to liability just because they failed to check an applicant's background. Liability results only when an inadequate screening effort is logically connected to the wrongful conduct. If reasonably conducted research would have revealed facts indicating the applicant was undesirable, the failure to obtain the information is considered negligence. Many negligent hiring cases have been successful where it has been established that the assailant/employee had a prior record of the crime. Based on the trend in negligent hiring case law, the failure to obtain or attempt to obtain criminal history data is the single most common reason for employer liability.

This often overlooked category which is full of federal and state laws quickly becomes a literal minefield of catastrophe when handled incorrectly or given a low priority. However when outsourced and handled by a professional company, employee background screening will provide several long-term cost savings in the areas of:

- Reduced exposure to employee liability and lawsuits
- Lower employee turnover with higher staff moral
- Reduction of costly re-hires for the same position
- Lowered absenteeism from substance abusers
- Increased physical safety for employees and/or clients

Violence, theft, substance abuse and criminal activity have become greater risks in the workplace. By performing background checks on applicants and learning of any hidden past criminal activity, employers can make an informed choice. Do criminal record searches mean that an applicant who had a brush with the law will never find a good job, or those employers are assured that they will never hire a criminal?

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

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 loses for the employer, which are not covered by liability insurance. A search for criminal records discourages applicant's with something to hide, limits uncertainty in the hiring process and fulfills the employer's responsibility to perform due diligence. The courts have consistently ruled across the country that employers have a responsibility to verify the accuracy of the information provided by a job applicant.

Fortunately this procedure has become fast, cost-effective and readily available to keep all employers in complete compliance with state and federal laws. In addition, it just makes good common sense to really know just whom you are hiring.