**Background Check Overview**

HR professionals need to familiarize themselves with the background check laws of each state and locality in which their company operates.

Background checks are required for:

* Caregivers of children, the elderly and people with mental disabilities.
* Medical workers.
* Private detectives and security officers.
* Taxi and limousine drivers.

**State Requirements**

The lawfulness of background checks for other workers typically depends on the type of background check and state in which it is being conducted.

Driving records may be checked with written consent in seven states: Alaska, Arizona, Indiana, Nebraska, Utah, Washington and Wyoming. These records are usually checked to verify identification information and addresses.

California, Colorado, Connecticut, Illinois, Kansas, Nevada and Vermont prohibit background checks for credit information. An exception typically is made for financial institutions.

In Hawaii, credit checks are allowed to be used to refuse to hire if the credit information relates to a bona fide occupational qualification. In addition, in Hawaii the credit inquiry can be made only after a conditional offer of employment.

In Maryland, background credit checks are allowed after employment for bona fide purposes. Oregon and Rhode Island allow background credit checks as well.

**Nexus** **with Federal Laws**

Some state laws permit genetic testing. But the Genetic Information Nondiscrimination Act generally prohibits the acquisition of genetic information.

Other state laws prohibit genetic testing as well. For example, California, Connecticut, Hawaii, Massachusetts, Michigan, Rhode Island, South Dakota, Washington and Wisconsin all prohibit genetic testing. New York prohibits it, except if an applicant has a higher risk of contracting a disease from working in a particular job.

The Americans with Disabilities Act prohibits medical inquiries before a conditional job offer. But some state laws are stricter. Hawaii prohibits medical inquiries. California, Massachusetts, Texas, Washington and Wisconsin specifically prohibit HIV testing.

These state laws are in addition to state ban-the-box laws and local ordinances that prohibit inquiries about criminal convictions on job applications.

And new laws continue to be enacted. For example, New York City recently has prohibited the use of criminal background checks prior to job offers.