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Employer Background Screening & Compliance Responsibilities

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Pre-employment background screening plays an important role in the initial hiring process. Statistically, eight out of ten employers complete criminal background checks on applicants before hiring, according to the Society for Human Resource Management (SHRM). As an employer you have the responsibility in understanding what individuals you are hiring into your workplace. Background checks play a vital role in providing a safe and secure work environment to your employees and customers.

Every organization utilizes some form of background screening. It is necessary to establish such a process to forgo all the risks that may be involved in bringing someone from the outside with no knowledge of the individual. Background screening will incorporate key information in validating the screening process present within the organization and to reduce the pertinent risk factor.

Historically, the Federal Credit Reporting Act (FCRA) came into existence on April 25, 1971 under the Consumer Credit Protection Act. FCRA was created to guarantee certain rights for individuals under background screening and consumer report processes. It was manifested to protect privacy rights and maintain accurate fairness of credit reporting as noted under Section 602 of FCRA. Through various legal interpretations and governmental regulators, background screening agencies have been considered credit reporting agencies and their reports are deemed Consumer Reports. The Federal Trade Commission enforces FCRA codes to prevent non-compliance. The use of a background screening provider will assist the employer in reducing liability and aid in ensuring their own compliance under FCRA.

There should be a process in place to ensure strict compliance. You, the employer, can implement steps in obtaining the background report on any applicant. An applicant refers to employees, independent contractors, vendors, volunteers, and members. It is important that you inform the applicant in writing that a background report is required as part of the employment application process. The applicants' written authorization will be obtained prior to any preparation of the background check report. You will then submit the obtained applicant information to I.S.S. through MyDTT.com, posting a request for a

background screening. I.S.S. will begin the background check process and prepare said report. I.S.S. will submit to you, the employer a background check report. You will then begin to review the background report and then make the determination if any noted info will adversely impact the employment decision. You will proceed with your business employment process if no potentially adverse impact has been noted.

If any decision is made not to hire the applicant based upon I.S.S.'s background screening report, this will be considered an adverse action. If you consider making an adverse (unfavorable) decision based in whole or part on an applicant's background report results, FCRA requires you to notify your applicants. It is recommended under FTC Commentary to provide adverse notification in writing as evidence when complying with FCRA guidelines. You will be required to provide copies of the applicant's background screening results and "A Summary of Your Rights under the Fair Credit Reporting Act." The applicant will contact I.S.S. (employer will provide I.S.S. contact information to applicant) if disputing any information noted in the background report. I.S.S. will then conduct a follow-up investigation on any disputed items then issue an updated background report to you and the applicant. You will be able to review the updated report and make your final employment decision (based on your employment hiring processes). If you decide again to make an adverse decision, a notice of final adverse action is sent to the applicant.

If you require any additional information on how I.S.S. conducts the background screening process, contact DTT's Loss Prevention Department at 323.337.1952.