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Liability. Liability. Liability.

**Three words in pre-employment
screening that can keep your
company out of trouble**

By Kim Palmer

In today's tight job market, some business owners are content to simply find a warm body to fill an open position.

However, in this highly litigious environment, some are realizing that **hasty hiring decisions can be costly** -- not just in terms of money, but also in time and reputation.

A business can be held liable for negligent hiring, which occurs when an employee with a history of violence harms a customer or another employee, either physically or emotionally.

If the employer is aware of an employee's violent or criminal history -- or should have been after conducting a reasonable search -- the company may be liable. For that reason, more and more businesses are opting to do preliminary background checks on prospective employees.

"About 30 percent of businesses now do pre-employment screening," says Jason Morris, president of background information services inc., a pre-employment screening company. Those searches -- which can cost from \$35 to \$275 -- include Social Security number verification, a driver's license search, employment and education verification, local and federal criminal record searches and a consumer credit check.

When considering background reports, Morris says to keep in mind they are contingent on the candidate's written

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approval and subject to ADA, EEOC and the Fair Credit Reporting Act (FCRA) rules and regulations. No search can be conducted without the written consent of the applicant.

Even so, background checks are becoming more popular.

The resume game

According to a recent study, more than 30 percent of resumes contain false or misleading information, Morris says. Some industries report that two out of every 10 searches reveal job candidates who have a criminal record they neglected to mention on the application.

A simple verification of an applicant's Social Security number, education history and references absolves prospective employers of liability.

Internal losses

Studies show a 15 percent increase in internal losses that costs U.S. businesses \$4 billion annually. Employee theft is estimated to be responsible for 30 percent of business failures.

Morris suggests checking credit reports and searching for public filings, including notices of bankruptcy, liens and other judgments. A federal criminal check will uncover any felony or misdemeanor filings in the last seven years and allow your firm to protect itself against employee fraud.

A federal search will also reveal charges of tax evasion, embezzlement, counterfeiting, bank robbery and other white collar crimes.

Workplace violence

"According to the U.S. Department of Justice, 54 percent of violent workplace crimes reported were committed by acquaintances or individuals well known to the victims," Morris says.

It's possible for a new employee to put a company at risk by exposing other employees, clients and customers to someone who has **a history of violence**. Conduct a county criminal search to screen out high-risk candidates with convictions for violence, drug abuse or theft.

Training costs

Pre-employment screening can prevent redundant and unnecessary training. As the cost of training employees rises, it's not cost-effective to spend time and money to train an employee who will have to be let go due to a criminal record or lack of experience.

Searches only take one to three days to complete, compared to FBI fingerprint tests -- required for some employment -- which can take up to eight weeks to

receive results.

Employer responsibilities

Disclosure is the key word when discussing an employer's responsibility in requesting a search and subsequently acting on any information uncovered, Morris says. **Employers must receive a signed waiver** before they can request any search.

And, an applicant must be told in writing that the information requested may result in adverse action, such as denial of employment or promotion, reassignment or termination.

Morris says that if that happens, an employer is required to give the applicant an adverse action notice, a copy of his or her consumer report and a copy of "A Summary of Your Rights Under the Fair Credit Reporting Act."

If employers neglect these responsibilities, the FCRA has ruled they can be sued for damages in federal court, he says. And an employee, if successful, may be entitled to recover court costs and reasonable legal fees, and may even seek punitive damages.

Morris predicts that pre-screening and background checks will become more the rule than the exception. He cites examples of insurance companies awarding discounts to companies that perform background checks, recent awards in liability lawsuits and the rising cost of training as just a few of the reasons these services are becoming more popular.

And for some businesses, it is more than just a cost issue. It's a public relations issue. Explains Morris, "If someone steals, you can recover. But you cannot recover your reputation." **How to reach:** background information services inc., (800) 235-3954 or www.employeescreen.com

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