



# What Could Go Wrong with Employment Screening?

3 Things HR Pros Should Do to Avoid Worst-Case Compliance Scenarios in 2020



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**A**s the HR function evolves to meet the complex needs of today's businesses, traditional tasks, such as employment screening, can sometimes take a back seat to exciting new initiatives in company culture and employee engagement.

But as companies realize the true business benefits of building a purposeful company culture<sup>1</sup> and designing employee life cycles that build engagement,<sup>2</sup> it also becomes clear that each of these initiatives support a company's ability to recruit and hire a skilled workforce — a process that begins with employment screening.

It's easy to consider employment screening as a simple box to check on your HR team's to-do list,

but they can represent an enormous risk to your organization if not performed or used correctly. And if a company gets too big or busy to create a comprehensive and compliant screening policy, it can open the door to potential lawsuits, responsibility for crimes committed on the clock and more.

"Background checks allow companies to make educated hiring decisions and mitigate several different kinds of risk," said Chad Ascar, Director of Compliance and Product Training at IntelliCorp. "Once a company realizes that or sees the process in action, employment screenings become a critical way to protect their employees and their organization."

## Here are three worst-case compliance scenarios you can help avoid by developing a strategic plan for employment screenings:

95% of employers conduct some kind of employment background screening

86% conduct screenings  
to protect customers  
and employees

52% conduct screenings  
to improve quality  
of hires

38% conduct screenings  
to protect company  
reputation

39% conduct screenings  
because they are  
mandated by law  
or regulation

Source: Professional Background Screening Association (PBSA)<sup>3</sup>

## RISK #1

### Exposing Your Company to Possible Lawsuits and Litigation

Companies have both the right and an ethical obligation to learn about an applicant's history in order to identify and avoid potential liabilities. But the presence of a certain type of record shouldn't necessarily disqualify someone from a position — it should just be used to assess and provide context for potential risk.

For example, a moving violation on a candidate's driving record may not be relevant if that person is applying for a position in the finance department, but it may be very relevant if the position is delivery driver.

"One of the primary goals of an HR professional is to help ensure the safety of the organization and the people who work there, which is why a written screening policy to conduct background checks is considered best practice," said Michael Kendrick, Senior Manager of Product Training and Education at IntelliCorp. "But it's also important to understand that any time you run a background check and use information such as criminal records or motor vehicle reports to make a hiring decision, you run the risk of not using the information found in a report properly

or in accordance with legal and recommended guidelines — and that's exactly what can put your organization at risk."

Using or evaluating background screening reports correctly can help avoid costly court fees and fines from different governing bodies. A good example is Dollar General's recent \$6 million Equal Employment Opportunity Commission (EEOC) settlement for using candidates' criminal history improperly during the hiring process.<sup>4</sup>

To avoid these scenarios, your HR department should work closely with legal counsel that specializes in the Fair Credit Reporting Act (FCRA) and associated laws that govern the screening industry. But it can also be helpful to work with a screening provider that can help your organization stay up to date on best practices and compliance processes, giving you the tools and resources to build a detailed employment screening program. You can't just buy the information you need and move along in making a hiring decision — it's crucial to understand state, federal and other guidelines that impact background checks and how the information should be used.

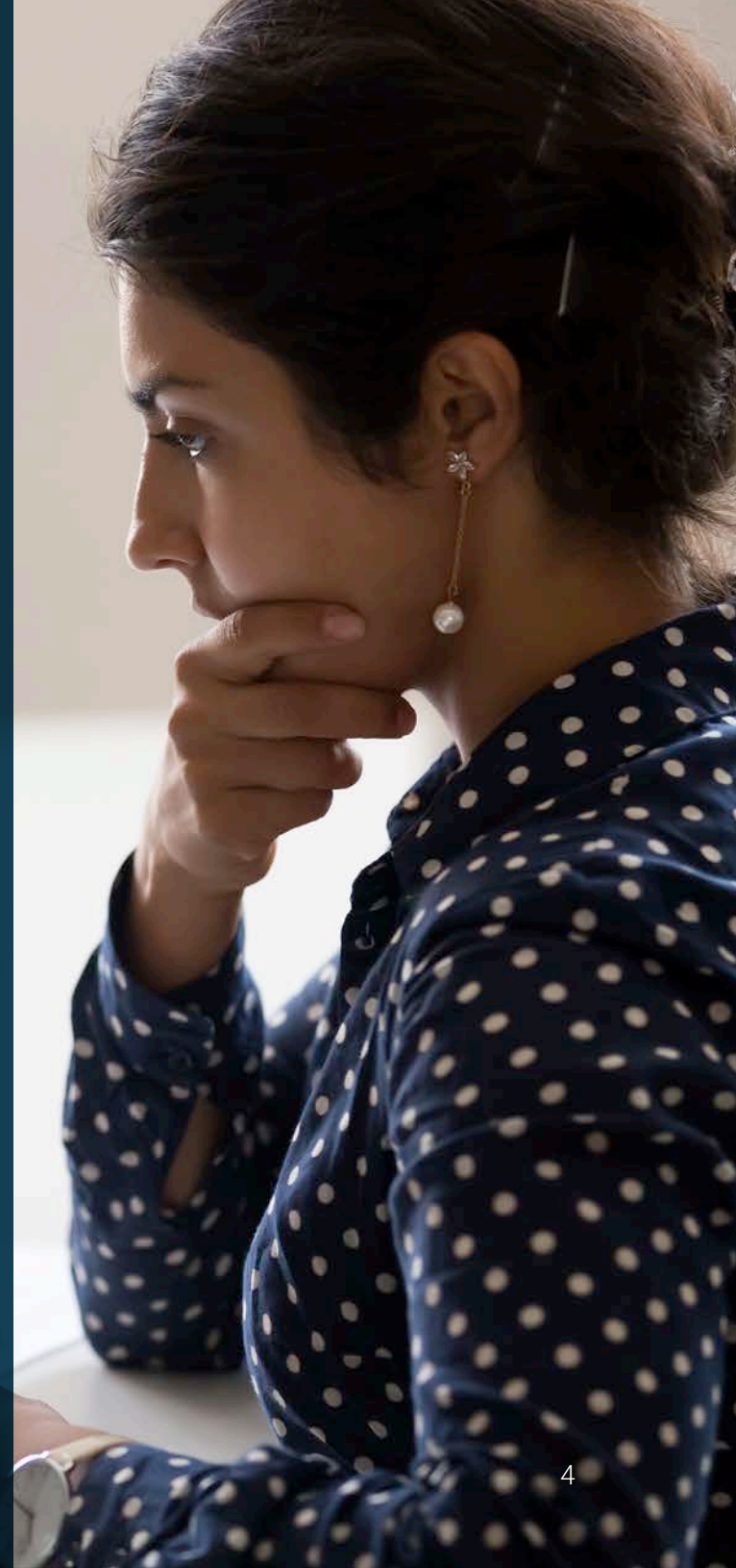


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Societies and courts have the power and the responsibility to punish people for the commission of past crimes. ”

*Michael Kendrick*

*Senior Manager of Product Training and Education at IntelliCorp*



## RISK #2

### Failing to Uncover Resume Fraud

Even though the digital age makes it easier than ever to verify candidate information, resume fraud is still common among job candidates. In fact, one CareerBuilder survey revealed that 75% of employers have uncovered a lie on a candidate's resume.<sup>5</sup>

Small resume discrepancies, such as changing a hire date, can appear to reveal more about a candidate's character as opposed to putting your company at any serious liability should that person be hired. But in fields such as finance, healthcare, manufacturing and cybersecurity, or in positions that interact with vulnerable populations, such as children and the elderly, resume fraud can introduce significant risk

to your organization and leave you open to serious repercussions.

"If a candidate presents themselves as having a particular degree and skill set, it's on your organization to verify that information is true," Ascar said. "If you place someone in a role and they do not have the proper credentials, or their certification or training dates have lapsed, it has real-world consequences."

In the case of resume fraud, these consequences might look like a class action lawsuit against a hospital system for negligent hiring<sup>6</sup> or, in extreme cases, responsibility for acts of violence committed by employees.<sup>7</sup>

## RISK #3

### Not Getting the Screening Support You Need

Good background screening providers are generally your best resource to obtain comprehensive and quality information regarding potential job candidates. But it's not just the information you need about an applicant — it's about being educated, informed and adhering to all relevant guidelines when evaluating the information found in a background check report. Otherwise, you could unintentionally make an employment decision that results in negative consequences.

“When you screen candidates independently, you may not have processes in place to assess your employee demographic and the additional rules and regulations that might protect that population,” Ascar said. “As you work with your legal counsel to screen potential hires, an employment-screening

partner can help you further customize your employment screening efforts in the most efficient and effective manner possible.”

If you don't bring in the right kind of expertise in your employment-screening process, you may miss out on useful insights about potential candidates. In the case of one non-profit organization that sought out background screening support, it realized that the positions it was hiring for required employees to cross state lines frequently, which could have greater consequences to the organization if it did not screen for certain behaviors. As a result, the company strategically expanded its county-level background screening to federal-level screening to protect itself and its customers.






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The right employment screening partner will make sure that you get the information you need and also provide education on how to use them in accordance with applicable federal, state and other legislative guidelines. ”

*Michael Kendrick*

*Senior Manager of Product Training and Education at IntelliCorp*



## CONNECT WITH A SCREENING PROVIDER TO CAPTURE ALL THE BENEFITS AND REDUCE RISKS

Background checks and employment screenings are basic HR tools that protect your business and limit your legal liability. To help avoid risks of violating FCRA guidelines, employment discrimination laws and other enacted legislation that impacts background screening, it's wise to take steps to approach employment screenings with an informed, compliant and up-to-date perspective. It's also a good idea to consult with your legal counsel. A solid practice to receiving the benefits of a quality employment screening program — and to mitigate risk — is to find a screening provider that has the knowledge, efficiency and service it takes to avoid these worst-case compliance scenarios.

“A compliance modernization program that combines new technologies and new approaches, keeping both of them in alignment with enterprise goals, can generate a measurable value proposition for the compliance function — and turn the CCO into a strategic partner.”<sup>8</sup>



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- Accredited through the Professional Background Screening Association (PBSA)
- 11-time winner of HRO Today's Baker's Dozen award recognizing excellence in the background screening industry
- Included 12 times on Workforce Magazine Hot List for background screening providers
- Earned "Excellent" rating and "Editor's Choice" distinction from PCMag.com
- A Cative Company

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