

Donate Today and Take a Stand for Employers, Employees and the Survival of Our Industry

There currently exists a confluence of events that do not bode well and pose serious threats to our industry. We want to make sure that NAPBS members are aware of these challenges posed by policymakers at the state and federal levels and why we must remain vigilant and, where appropriate, take adequate measures in response. Because the issues are too vast for any single entity to tackle, NAPBS has joined with other affected parties – law firms, lobbyists, individuals, companies and associations – in an informal ad hoc “Public Policy Group” to respond to these governmental initiatives. Action plans primarily concentrate around information gathering, outreach to other affected entities, EEOC activity and response to studies on recidivism and its impact in the hiring process. Examples of recent activity include:

The Equal Employment Opportunity Commission (“EEOC”) is becoming more aggressive in finding that employer use of criminal background checks has a disparate impact on minorities.

We understand that the EEOC may issue a narrowing of its 1987 guidance governing when a “business necessity” exists for denying employment because of a conviction record. If the EEOC takes these steps, it could well make it significantly more difficult for employers to invoke the business necessity defense and thus discourage them from relying on background checks.

The Pennsylvania Human Relations Commission (“PHRC”) has released proposed guidance that creates a presumption of disparate impact discrimination for an employer to deny an African-American or Hispanic job applicant a job if the employer used a criminal history as part of a background check on the applicant.

NAPBS and other affected groups have filed comments critical of the proposed guidance. The comment period runs through March 5, 2010. >>

A May 2009 study (The Blumstein/Nakamura study) that attempts to show a point in time when the relevance of a criminal history is negligible and should no longer be considered by vendors of background screens and prospective employers, has raised concerns it will be utilized by consumer advocates to justify problematic legislation or other policy changes (such as the PHRC guidance).

Some of the comments filed with the PHRC have pointed out numerous flaws with the study including it (1) examines arrests that take place in a single state, ignoring arrests that occur elsewhere despite the fact that ex-offenders frequently move to other states when applying for jobs and individuals now are more mobile than ever before; (2) surveys only a limited number of offenses; (3) relies upon the analysis of arrest records rather than conviction records which alters the outcome of the analysis; and (5) is a preliminary study, with much more analysis needed.

Legislators in Massachusetts are under political pressure to pass CORI reform legislation.

This poorly drafted proposal passed the Senate in the final hours of session in 2009, and it is pending in the House committee. NAPBS members are working to articulate concerns with the legislation as currently drafted. In the bill, it is not clear that background screening companies will be permitted to request the CORI record information for their clients; the bill would also set up a regulatory scheme and fee structure that will likely make obtaining these records more difficult. The proposed law has become a linchpin of the Governor's re-election campaign and at his insistence the Senate passed an omnibus bill. The governor is now putting pressure on the Speaker of the House to pass the proposal in the coming session.

The ongoing work is largely being conducted voluntarily by the participants in the Public Policy Group, however identified needs require financial investment in order to fund parts of the planned activity. This group has contracted with a qualified expert to review and respond to studies of recidivism that are being used in legislative and policy making efforts. Public relations will be an avenue utilized to communicate our position. The Board of NAPBS supports the efforts of the Public Policy Group and has authorized a \$5000.00 donation to this important work. >>

CALL TO ACTION

The Board feels strongly that it is the responsibility of the association to participate on behalf of its members. However, it is also important that every member understand the potential impact and take a stand.

**We are asking each member
to make a donation
to this worthy cause.**

Donations can be made to the “National Association of Professional Background Screeners” in an amount to be determined by your own ability to participate. Please forward to:

Tracy Seabrook
NAPBS Executive Director
2501 Aerial Center Parkway
Ste. 103
Morrisville, NC 27560

The individual members of the Board will be making donations and ask you to join them in this worthy cause.

Thank you for your support.

