



COLORADO

Restrictions On Employers' Ability To Obtain And/Or Use:

Consumer Reports:

Colorado has a state Consumer Credit Reporting Act that is similar to the federal Fair Credit Reporting Act, but that applies only to credit reports. Colo. Rev. Stat. § 12-14.3-101 *et seq.* Under the Colorado law, a consumer credit reporting agency may furnish a consumer credit report to a person whom the agency believes intends to use the information for employment purposes so long as the consumer is first informed that a consumer credit report may be requested in connection with his or her employment application and the consumer consents in writing to the request. Colo. Rev. Stat. §§ 12-14.3-101.5, 12-14.3-103.

The consumer credit reporting agency (CRA) must notify a consumer by letter (sent by first class mail that contains identifying information about the consumer) that the agency will provide the consumer with a copy of the consumer's file at no charge. The agency also must include a toll-free number to call to request such a copy when, within a 12 month period, either (1) the CRA has received eight credit inquiries about the consumer or (2) the CRA has received a report that would add negative information to a consumer's file. Colo. Rev. Stat. § 12-14.3-104(2)(a).

A consumer credit reporting agency must not furnish a credit report that contains medical information about a consumer unless the consumer consents to the disclosure even if the report is requested for employment purposes.

A consumer reporting agency may not provide a consumer report that contains records of arrest, indictment, or conviction of a crime that, from the date of disposition, release or parole, antedates the report by more than seven years unless the report will be used in connection with the employment of an individual expected to receive an annual salary of \$75,000 or more. Colo. Rev. Stat. § 12-14.3-105.3.

Credit Reports:

No Colorado statutes have been located, other than the statute described above, that restrict an employer's ability to obtain and/or use an individual's credit report.

Criminal Records:

Arrest: Colorado law prohibits employers from requiring applicants to disclose information contained in sealed arrest records. Colo. Rev. Stat. § 24-72-308. According to the Colorado Civil Rights Commission, questions concerning arrests are not permitted and are considered discriminatory. Colorado Pre-employment Inquiry Guidelines, Fair Employment Practices Manual (BNA), 453:4561. However, any qualified entity (described as a public, private, for-profit, not-for-profit, or voluntary business or organization) that provides care or care placement services (or licenses such care/services) may determine whether an owner, employee, prospective employee, or volunteer has been convicted of, or is under pending indictment for, a crime that bears upon that individual's fitness for the safety and well-being of children, the elderly, or individuals with disabilities. Colo. Rev. Stat. § 24-72-305.3. In addition, any division, board,



commission, or person responsible for the licensing, certification, or registration functions for any governmental entity may use fingerprints to access arrest history records maintained by the state of Colorado for comparison purposes. Specifically, these entities may check the arrest history records of: (1) any applicant for licensure, registration or certification to practice a profession or occupation; (2) a licensee, registrant or certified person; or (3) any prospective employee or any employee of a licensee, registrant, or certified person. Colo. Rev. Stat. § 24-72-305.4.

Consumer reporting agencies cannot report arrest records containing convictions that antedate a report by more than seven years.

Conviction: Colorado law prohibits employers from requiring applicants to disclose information contained in sealed conviction records. Colo. Rev. Stat. § 24-72-308. According to the Colorado Civil Rights Commission, inquiries about convictions may lead to a discriminatory inference if the questions are not substantially related to the applicant's ability to perform a specific job and addressed to every applicant. Colorado Pre-employment Inquiry Guidelines, Fair Employment Practices Manual (BNA), 453:4561.

Consumer reporting agencies cannot report conviction records containing convictions that antedate a report by more than seven years.

Public Employers: A conviction of a felony or other offense involving moral turpitude does not, by itself, preclude a person from applying for or obtaining public employment or from applying for and receiving a license, certification, or registration required by the state, unless the licensure or employment involves educators, peace officers, vulnerable persons, juvenile or correctional facilities, or employees of the public employees' retirement association with access to certain confidential information, or involves certain offenses as defined by statute. Colo. Rev. Stat. § 24-5-101.

Child Care: A criminal background check is required for all applicants, employees, and adult residents (18 years of age or older) at licensed or certified family care homes, facilities, or agencies if they will have contact with children. Out-of-state employees working for a children's resident camp or school-age child care center in a temporary capacity (for a camp or center that is in operation for less than 90-days) are exempt from criminal history background checks. However, these individuals must provide a written statement attesting that they have not been convicted of any charge of child abuse, unlawful sexual offense, or any felony. Prospective employers of these individuals must conduct reference checks to verify previous work history and conduct personal interviews with each prospective employee. 12 Colo. Code Regs 2509-8; Colo. Rev. Stat. §§ 19-2-411.5, 26-6-103.5, 26-6-107. Each adult 18 years of age or older who provides care for a child in an exempt family child care home provider, whose care is funded in whole or part with child care assistance program moneys or who resides with such a home provider, must submit to a criminal history records check. Colo. Rev. Stat. § 26-6-120.

Any qualified entity (described as a public, private, for-profit, not-for-profit, or voluntary business or organization) that provides child care or care placement services (or licenses such care/services) may determine whether an owner, employee, prospective employee, or volunteer has been convicted of, or is under pending indictment for, a crime that bears upon that individual's fitness for the safety and well-being of children. Colo. Rev. Stat. § 24-72-305.3.



Schools: Any public or private school may inquire into an applicant's criminal background to determine whether the applicant has been convicted of a crime involving children. Colo. Rev. Stat. § 24-72-305.3. Private schools also may make inquiries about any prospective applicants to the state department of education to determine (1) whether such person has been convicted of, has pled nolo contendere to, or has received a deferred sentence/prosecution for a felony or a misdemeanor crime involving unlawful sexual behavior or unlawful behavior involving children; (2) whether such person has been dismissed by, or resigned from, a school district as a result of an allegation of unlawful behavior involving a child (which was supported by a preponderance of the evidence); or (3) whether such person's certification/license has ever been annulled, suspended, or revoked for unlawful behavior. Colo. Rev. Stat. § 22-1-121.

Colorado law requires a school district board of education to request a background check on applicants to determine whether the applicant has been convicted of a crime involving children. A former employer that provides information to a school district about an applicant is immune from liability for the disclosure, unless the information is false and the former employer knows it is false or acts with reckless disregard for the truth. Colo. Rev. Stat. § 22-32-109.7.

As a condition of employment, Colorado law requires fingerprinting of applicants for school district positions that do not require a certification. Such applicants also must attest that they have not been convicted of any felony or misdemeanor (other than a traffic offense). Colo. Rev. Stat. §§ 22-32-109.8; 22-60.5-101 through 22-60.5-103.

Health Care: Colorado requires applicants for employment at nursing and adult day care facilities to undergo a criminal background check based on the applicant's fingerprints. The background check will be used to ascertain whether the individual has a criminal history, including arrest and conviction records. The criminal history check must be conducted not more than 90 days prior to the employment of the applicant. Criminal background check companies must be approved by the state board of nursing. Colo. Rev. Stat. § 25-1-124.5. Applicants for a nurse-aide certification by competency evaluation must submit written evidence that they have not committed any act or omission that would be grounds for discipline or denial of certification. Colo. Rev. Stat. § 12-38.1-105. Applicants for employment at state facilities involving direct contact with "vulnerable persons" (*i.e.*, any person served by the state Department of Human Services who is susceptible to abuse because of his or her circumstances, including, but not limited to, age, disability, frailty, developmental disability, or mental illness, or ill health) must undergo a criminal background check based on fingerprints. Prospective employees or contracting employees will be disqualified from employment based on certain offenses as delineated by statute. Employees having direct contact with vulnerable persons who are arrested, charged with, or issued a summons and complaint for any of the disqualifying offenses must inform his or her supervisor before returning to work. An employee charged with certain offenses must be suspended until the resolution of such charges. Colo. Rev. Stat. § 27-1-110.

Any qualified entity (described as a public, private, for-profit, not-for-profit, or voluntary business or organization) that provides care or care placement services (or licenses such care/services) may determine whether an owner, employee, prospective employee, or volunteer has been convicted of, or is under pending indictment for, a crime that bears upon that individual's fitness for the safety and well-being of the elderly or individuals with disabilities. Colo. Rev. Stat. § 24-72-305.3.



Security: All peace officers must undergo a criminal background check and will not be employed if convicted of a felony or crime involving moral turpitude. Colo. Rev. Stat. §§ 22-60.5-101 through 22-60.5-103. The Department of Institutions may inquire into an applicant's criminal background if the position sought requires direct, unsupervised contact with service recipients. Colo. Rev. Stat. § 27-1-110. Security guards (including any private uniformed security officer, armored car service officer, alarm response runner, watchman, lobby attendant, or other private uniformed person who is engaged in the protection of persons, property, information or assets) must undergo a criminal history record check. Colo. Rev. Stat. § 24-33.5-415.4.

Driving Records:

Employers may be given access to personal information to verify information furnished by the holder of a commercial driver's license. Colo. Rev. Stat. § 24-72-204. Applicants for a hazardous materials endorsement on a commercial drivers license must undergo a criminal history record check. Fingerprinting for such checks may be conducted by a state or local law enforcement agency or any other person who has authority by a federal agency. Colo. Rev. Stat. § 42-2-404.

Education/Employment History:

Education: Colorado law does not prohibit the custodians of school records from transmitting data about any student's scholastic achievement to any prospective employer of the student. Colo. Rev. Stat. § 24-72-204(3)(b).

Employment: No Colorado statutes have been located that restrict an employer's ability to verify and/or inquire about an individual's employment history.

Blacklisting: Colorado prohibits an employer from acting to prevent a former employee from obtaining employment. Colo. Rev. Stat. §§ 8-2-110, 8-2-111, 8-2-111.5, 8-2-114, 8-2-115. On request, an employer may make truthful statements about a former employee. Colo. Rev. Stat. § 8-2-111.5.

References: An employer that provides, at the request of a prospective employer or a former or current employee, information about the former or current employee's job history or job performance is immune from civil liability unless the information provided is false and is known to be false. Colo. Rev. Stat. Sec. § 8-2-114. Former employers that provide reference information relevant to an applicant's fitness for employment cannot be sued for providing the information, unless the information is false and is known to be false or is provided with reckless disregard for the truth. Colo. Rev. Stat. § 27-1-110.

Financial Institutions: Banks, savings and loans, credit card or travel and entertainment card companies, industrial banks, trust companies, credit unions, and other state or federally chartered lending institutions operating in Colorado may disclose any information about any involvement in theft, embezzlement, misappropriation, or other defalcation by an employee or former employee. These entities are immune from civil liability if the information is provided in good faith. Colo. Rev. Stat. § 8-2-111.5.