

## News and Legislation Relating to Employment and Background Checks

### Federal News and Legislation:

#### Background Checks

- On March 26<sup>th</sup>, a federal district court dismissed a putative class action lawsuit against Paramount Picture Corp. (Paramount) over alleged violations of the Fair Credit Reporting Act (FCRA) by obtaining credit reports on current and prospective employees without providing a separate release form. The plaintiff filed the lawsuit in January 2015 after applying to Paramount for employment and not receiving a separate disclosure form specifying that the company would run a credit report on the plaintiff. Instead, the plaintiff alleged Paramount included the disclosure and authorization form within the employment application, a violation of the FCRA. Paramount argued that its inclusion of the disclosure form, along with another application document that required a signature, did not violate the FCRA. The court agreed with Paramount, stating that it is not “plausible that Paramount violated the FCRA by obtaining the credit checks pursuant to the release found elsewhere in its employment application.” (Peikoff v. Paramount Pictures Corp., No. 3:15-cv-00068 (N.D. Cal., Mar. 26, 2015).)
- On March 24<sup>th</sup>, Sen. Lamar Alexander (R-TN) introduced S. 856 to amend the *Elementary and Secondary Education Act of 1965* to require criminal background checks for certain school employees. The text of the bill has yet to be released.

### State News and Legislation:

- On March 26<sup>th</sup>, the Arkansas state Senate failed to pass H.B. 1087, which would have amended the state’s 2013 social media privacy law. The bill, which passed the state’s House of Representatives in February, would have required current and prospective employees for certain jobs to add their employer to their social media accounts upon the employer’s request. State law currently bars employers from demanding access to a current or prospective employee’s social media accounts. According to the bill’s sponsor, the bill sought to enhance background screening measures for individuals seeking to work in positions that serve “vulnerable populations,” such as the elderly or minors.  
(<http://www.arkleg.state.ar.us/assembly/2015/2015R/Bills/HB1087.pdf>)

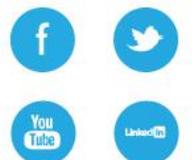
Corporate Headquarters  
CARCO Group, Inc.  
5000 Corporate Court, Suite 203  
Holtsville, NY 11742  
Main Telephone Number: 631-862-9300  
CARCO Toll-Free Number: 800-969-2272  
Fax (Inspection Services Division): 631-862-0380  
Fax (Research Division): 631-584-7094  
FAX 631/584-0095

Fayetteville Office  
CARCO Group, Inc.  
1030 Lillington Hwy  
Spring Lake, NC 28390  
910-497-0081  
877-867-2359  
Fax: 910-497-0162  
sales@carcogroup.com

Palm Beach Gardens Office  
4440 PGA Blvd. Suite 306  
Palm Beach Gardens, FL 33410  
561-249-7300  
877-347-7711  
Fax: 800-663-0874  
sales@carcogroup.com

Tulsa Office  
4500 S 129TH EAST AVE, SUITE 127  
Tulsa, OK 74134-5801  
918-640-6863  
800-848-3397  
Fax: 918-591-2854  
sales@carcogroup.com

Tustin Office  
17821 E 17th Street, Suite 160  
Tustin, CA 92780  
714-547-6541  
CA License # 24087  
sales@carcogroup.com



www.carcogroup.com

- On March 24<sup>th</sup>, the Iowa state House passed HF 394, which would affect background check policies for “transportation network companies,” also known as ride-sharing companies. The bill would require prospective drivers to apply for a driving position and be subject to a local and national criminal background check. The ride-sharing company would be required to search the national sex offender registry database and review a “driving history research report” on the applicant. The bill would require a ride-sharing company to disqualify driver applicants who, among other things:
  - Have had more than three moving violations in the prior three-year period;
  - Have been convicted in the prior seven-year period of any crime involving fraud, a sexual offense, theft, or an act of violence;
  - Is registered on the national sex offender registry database; or
  - Is not at least nineteen years of age.

<https://www.legis.iowa.gov/docs/Published/LGR/86/HF394.pdf>

- On March 23<sup>rd</sup>, Virginia Governor Terry McAuliffe (D) signed HB 2081, which will affect an employer’s ability to access employees’ social media accounts. The bill prohibits employers from requiring current or prospective employees to:
  - Disclose usernames and passwords for their social media accounts; or
  - Add an employee, supervisor, or administrator to the list of contacts associated with the current or prospective employee’s social media account.

According to the bill, if an employer “inadvertently” obtains the usernames or passwords to current or prospective employee’s social media accounts, the employer will not be held liable; however, the employer may not access the account using the information. The bill does not prohibit an employer from viewing information on social media accounts that is publicly available.

<http://lis.virginia.gov/cgi-bin/legp604.exe?151+ful+CHAP0576+pdf>

- On March 19<sup>th</sup>, the New Jersey state Assembly Transportation and Independent Authorities Committee held a hearing on A. 3765, which would require background checks for ride-sharing companies. A similar bill is pending in California, AB 24. Under the New Jersey bill, ride-sharing companies would be required to conduct, “either directly or by a third party, a criminal history record background check on an applicant” and conduct subsequent background checks every three years. Companies would also be required to conduct a driver’s license record check. The bill would expressly prohibit the

employment of drivers who have been convicted of certain crimes. On March 18<sup>th</sup>, Uber Technologies, Inc. (Uber) responded, stating that “the bill...would drive Uber out of New Jersey.”

The California bill is similar to the New Jersey bill; however, the California bill would “require a driver...to submit to the [state’s] Department of Justice fingerprint images and related information for the purpose of obtaining information as to the existence and content of state convictions and state arrests.” The bill would also subject drivers to mandatory drug and alcohol testing.

(New Jersey Bill: [http://www.njleg.state.nj.us/2014/Bills/A4000/3765\\_U1.HTM](http://www.njleg.state.nj.us/2014/Bills/A4000/3765_U1.HTM))

(California Bill: [http://www.leginfo.ca.gov/pub/15-16/bill/asm/ab\\_0001-0050/ab\\_24\\_bill\\_20150316\\_amended\\_asm\\_v98.pdf](http://www.leginfo.ca.gov/pub/15-16/bill/asm/ab_0001-0050/ab_24_bill_20150316_amended_asm_v98.pdf))

(Uber Statement:

[http://www.nj.com/politics/index.ssf/2015/03/fighting\\_nj\\_taxi\\_industry\\_over\\_regulation\\_uber\\_tak.html](http://www.nj.com/politics/index.ssf/2015/03/fighting_nj_taxi_industry_over_regulation_uber_tak.html))

- On March 19<sup>th</sup>, the Alabama state House Boards, Agencies, and Commissions Committee reported out HB 9, which would affect background checks for polygraph examiners. Specifically, the bill states that it would “require [a polygraph examiner] applicant to provide two sets of fingerprints to the Board of Polygraph Examiners to forward to the State Bureau of Investigations for a state and national background check of the applicant.” Additionally, the bill would require the applicant to provide written consent for the release of the background check to the Board of Polygraph Examiners and that the applicant pay costs associated with the background check. Finally, the bill states that information obtained pursuant to the background check would be kept confidential, “except that such information received and relied upon in denying the issuance of a license in [the] state may be disclosed as may be necessary to support the denial or when subpoenaed from a court.”

(<http://alisondb.legislature.state.al.us/ALISON/SearchableInstruments/2015RS/PrintFiles/HB9-eng.pdf>)

- On March 16<sup>th</sup>, the Arkansas state House referred to its Public Health, Welfare and Labor Committee HB 1876, which would require a student entering into a medical professional education program to undergo a criminal background check both during the application process and before licensure. Specifically, the bill states three requirements for individuals applying to a medical education program or school:

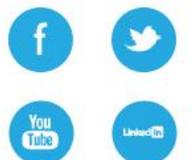
Corporate Headquarters  
CARCO Group, Inc.  
5000 Corporate Court, Suite 203  
Holtsville, NY 11742  
Main Telephone Number: 631-862-9300  
CARCO Toll-Free Number: 800-969-2272  
Fax (Inspection Services Division): 631-862-0380  
Fax (Research Division): 631-584-7094  
FAX 631/584-0095

Fayetteville Office  
CARCO Group, Inc.  
1030 Lillington Hwy  
Spring Lake, NC 28390  
910-497-0081  
877-867-2359  
Fax: 910-497-0162  
sales@carcogroup.com

Palm Beach Gardens Office  
4440 PGA Blvd. Suite 306  
Palm Beach Gardens, FL 33410  
561-249-7300  
877-347-7711  
Fax: 800-663-0874  
sales@carcogroup.com

Tulsa Office  
4500 S 129TH EAST AVE, SUITE 127  
Tulsa, OK 74134-5801  
918-640-6863  
800-848-3397  
Fax: 918-591-2854  
sales@carcogroup.com

Tustin Office  
17821 E 17th Street, Suite 160  
Tustin, CA 92780  
714-547-6541  
CA License # 24087  
sales@carcogroup.com



www.carcogroup.com

- The applicant shall undergo a state and federal criminal background check;
- The student shall be responsible for payment for the state and federal criminal background check; and
- The medical program or school shall establish criteria by which the passage of the criminal background check is determined based upon the medical profession criteria for licensure.

<http://www.arkleg.state.ar.us/assembly/2015/2015R/Bills/HB1876.pdf>

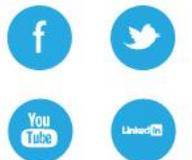
Corporate Headquarters  
CARCO Group, Inc.  
5000 Corporate Court, Suite 203  
Holtsville, NY 11742  
Main Telephone Number: 631-862-9300  
CARCO Toll-Free Number: 800-969-2272  
Fax (Inspection Services Division): 631-862-0380  
Fax (Research Division): 631-584-7094  
FAX 631/584-0095

Fayetteville Office  
CARCO Group, Inc.  
1030 Lillington Hwy  
Spring Lake, NC 28390  
910-497-0081  
877-867-2359  
Fax: 910-497-0162  
sales@carcogroup.com

Palm Beach Gardens Office  
4440 PGA Blvd. Suite 306  
Palm Beach Gardens, FL 33410  
561-249-7300  
877-347-7711  
Fax: 800-663-0874  
sales@carcogroup.com

Tulsa Office  
4500 S 129TH EAST AVE, SUITE 127  
Tulsa, OK 74134-5801  
918-640-6863  
800-848-3397  
Fax: 918-591-2854  
sales@carcogroup.com

Tustin Office  
17821 E 17th Street, Suite 160  
Tustin, CA 92780  
714-547-6541  
CA License # 24087  
sales@carcogroup.com



www.carcogroup.com