

Hi. This is Chris Micheli, a principal with the Sacramento governmental relations firm of Aprea & Micheli and an adjunct professor at McGeorge School of Law in the Capital Lawyering program. Today's podcast is on Senate Bill 1412 from the 2018 legislative session that provides a new rule for employers in considering prior convictions. Governor Brown signed Senate Bill 1412 by State Senator Steve Bradford on September the 30th. It was chapter 987.

Basically, the bill requires employers to only consider convictions that are relevant to the job which applicants are applying for when screening job applicants using a criminal background check. The bill amended several provisions of Labor Code Section 432.7. As a result of the amendments, SB 1412 now clarifies that employers include public agencies, private individuals, and corporations.

Also, the law states that employers will not be prohibited from conducting criminal background checks for employment purposes, restricting employment based on criminal history, or seeking or receiving an applicant's criminal history report that has been obtained pursuant to procedures that are provided under federal, state, or local laws.

Note that existing state law basically prohibits an employer, whether the employer is a public agency, a private individual, or a corporation, from generally asking an applicant for employment to disclose, for determining a condition of employment, any information concerning participating in a pretrial or post-trial diversion program, or that concerns a conviction that has been judicially dismissed or ordered sealed.

Now this bill, Senate Bill 1412, defines particular conviction under Labor Code Section 432.7(m) and it specifies that the provisions do not prohibit an employer as I indicated before about utilizing certain information. Now again in subdivision (m) employer was added to include public agency, private individual, or corporation. They struck the term "criminal conviction" and substituted instead the term "particular conviction" and subdivision (m) (1) of Labor Code Section 432.7 modifies three of those exceptions.

Now, in subdivision (m) (2) the definition of particular conviction was added, and the legislature defined it to mean, "a conviction for specific criminal conduct or a category of criminal offenses prescribed by any federal law, federal regulation or state law that contains requirements, exclusions or both expressly based on that specific criminal conduct or category of criminal offenses."

Then finally, SB 1412 adds a new subdivision (n) to provide clarifications so that nothing in this section shall prohibit an employer required by federal, state or local laws to conduct criminal background checks for employment purposes to utilize anything that was provided under federal, state or local laws.

This was Senate Bill 1412 enacted in the 2018 legislative session. Thanks for joining.