

# Background Screening Compliance Updates Employers Need in Q1 2025

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Employers entered 2025 facing one of the most dynamic and fast-moving compliance landscapes in recent memory. In the first quarter alone, lawmakers across the country advanced new rules affecting background screening, drug testing, pay equity, and the use of artificial intelligence in hiring.

Organizations that conduct background checks must pay close attention to these changes. The compliance landscape is evolving quickly, and staying ahead will require updates to policies, procedures, and platforms. These early developments already carry significant implications for employers' hiring and risk management strategies.

## **Criminal History Reform: Clean Slate Laws and Fair Chance Hiring**

Several states implemented or expanded clean slate laws this year, allowing certain criminal records to be sealed or expunged after an individual remains crime-free for a set period. Some laws provide automatic relief, while others require a petition to the court. The goal is to improve access to employment and reduce the stigma associated with a criminal record.

Minnesota's clean slate law became effective on January 1. It authorizes the automatic expungement of specific non-violent misdemeanors and some felonies after up to eight years. Although the law is now in effect, the state will not begin sealing records until mid-May due to technical delays.

Colorado continues implementing its law, which allows for the automatic sealing of civil infractions after four years, misdemeanors after seven, and eligible felonies after ten. Employers should expect older records to phase out of background checks as the state updates its eligibility lists.

Washington, D.C. passed the Second Chance Amendment Act, which will begin automatically expunging marijuana possession and other decriminalized offenses in January 2026. Other records, such as dismissed charges and certain misdemeanors, will be eligible for sealing on a petition basis or after a waiting period.

Portions of Virginia's clean slate law will not take effect until July 1, 2026, unless the state completes technical upgrades sooner. The law covers many misdemeanor convictions and expands eligibility to include some previously overlooked offenses.

At the same time, states like California, New York, and Texas have introduced legislation to expand record relief options. Employers should prepare for the continued erosion of access to certain criminal history data.

### **Ban-the-Box, Fair Chance, and Criminal History Protections**

Kansas City, Missouri, adopted an ordinance earlier this year that recognizes criminal history status as a protected class. The ordinance applies to city agencies and contractors, but it also updates civil rights protections for private employers. Although the law does not specifically require individualized assessments from private companies, the shift in language suggests the city may move in that direction. Employers in Kansas City should consider adopting individualized assessments as a best practice.

In Madison, Wisconsin, employers must evaluate an applicant's "character" when considering criminal history. This new requirement follows the repeal of a stricter three-year lookback rule and aligns with the Wisconsin Fair Employment Act. While the ordinance does not define "character," employers may want to document rehabilitation factors such as steady employment, references, or community involvement.

Several states are actively considering ban-the-box laws or amendments to existing laws. These include proposals in Alabama, Kentucky, New York, Oregon, South Carolina, Texas, and Washington. In many states, bipartisan support for second-chance policies signals a national trend that employers cannot ignore.

### **Pay Transparency and Pay Data Reporting**

Pay transparency laws continue to expand across the country. Illinois, Minnesota, and Vermont now require employers to disclose salary ranges in job postings. New Jersey's law takes effect on June 1, and Massachusetts will begin enforcement on July 31.

Each jurisdiction takes a slightly different approach. Vermont requires employers to disclose commission structures and tipped wages. Illinois mandates that job postings include benefits

information and contact details for follow-up questions. Employers hiring remotely must comply with these laws, even if they do not maintain operations in those states.

Massachusetts has also implemented a new pay data reporting requirement. Employers with 100 or more workers must submit annual wage reports broken down by race, ethnicity, sex, and job category. Although the state will not identify individual employers in its public disclosures, the aggregated data will become publicly available.

In Ohio, a new law took effect on April 9. Employers must now include specific details on all employee pay stubs. Hourly workers must receive statements that list hours worked, hourly rates, and overtime. Salaried employees must receive information on gross and net pay, deductions, and pay periods. Noncompliance could result in complaints or even public posting of violations.

Cleveland is also considering a salary history ban and pay transparency ordinance. If passed, the law would prohibit employers from asking about a candidate's salary history and would require disclosure of pay ranges in job advertisements. Employers with 15 or more employees would fall under the law, including those hiring for temporary or part-time roles.

### **Cannabis Legalization and Testing Policies**

Kentucky launched its medical cannabis program on January 1. The law does not require employers to accommodate medical marijuana use. Employers may continue to enforce drug-free workplace policies and discipline employees for violations. The law also does not protect employees from termination based on medical marijuana use.

In Delaware, the launch of recreational cannabis sales has been delayed. The FBI rejected the state's application to run fingerprint-based background checks for cannabis licensees. As a result, the licensing process is on hold, and the market will likely open later this year. Delaware's law does not provide employment protections for recreational users, so employers may continue to test and take action on positive results.

Across the country, employers must navigate a patchwork of marijuana laws. Some states prohibit pre-employment testing for THC or require employers to assess impairment rather than relying on test results. Employers in California, Minnesota, New York, Washington, Philadelphia, and Pittsburgh must revise their drug testing policies to reflect these limitations.

### **Artificial Intelligence and Employment Decisions**

At the federal level, the Trump administration rescinded the Biden-era executive order that prioritized responsible AI use in employment. The new administration has taken a deregulatory approach, focusing on rapid innovation and global competitiveness. Although federal oversight has loosened, civil rights laws still apply.

State and local governments have stepped into the gap. New Jersey issued guidance holding employers accountable for discriminatory outcomes caused by AI—even if the technology

comes from a vendor. Employers must understand how these tools function and how they are used.

In New York, Governor Hochul announced plans to revise WARN Act regulations, which require advance notice of mass layoffs. The new proposal would require employers to disclose whether AI contributed to those decisions. This proposal, the first of its kind, signals a shift in how lawmakers view AI's role in workforce decisions.

Several states, including California, Colorado, Massachusetts, and Virginia are considering or have passed AI-related laws. These laws often include transparency requirements, impact assessments, and anti-discrimination provisions. Employers using AI in recruiting or workforce management should prepare for heightened scrutiny.

### **I-9 and E-Verify Updates**

The new Form I-9, dated January 20, 2025, is now in effect. Employers may continue using earlier editions through May 31, 2027, but they must update their systems to reflect the correct expiration date by July 31, 2026.

E-Verify has also updated its terminology to match the new I-9 form. Employers must now select the updated status "an alien authorized to work" instead of the previous "noncitizen authorized to work." These updates apply across E-Verify, E-Verify+, and Web Services.

At the same time, immigration enforcement has increased. The Trump administration reinstated worksite audits, expanded deportation priorities, and issued new executive orders on border security. Employers now face penalties of up to \$30,000 per violation for I-9 infractions. To stay compliant, employers must complete I-9s on time, conduct internal audits, and train HR teams.

### **Parting Thoughts**

The first quarter of 2025 brought a surge of legal and regulatory activity that is reshaping how employers conduct background checks, screen for drug use, and integrate technology into hiring. As laws continue to evolve, compliance requires more than technical updates; it demands strategic thinking, legal awareness, and cross-functional collaboration.

### **Employers should:**

- Review screening policies and prepare for reduced access to criminal history records
- Update job postings to reflect pay transparency requirements
- Revise drug testing policies to account for changes in cannabis law
- Audit automated decision-making tools for bias and transparency
- Ensure I-9 and E-Verify processes reflect current standards

Employers who stay informed and adaptable will not only reduce legal exposure but also build stronger, more equitable hiring programs. In a time of accelerating change, compliance is not just about following the rules; it is about fostering trust, protecting people, and positioning organizations to thrive in a modern workforce.