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RE: Policy Regarding Misdemeanor Records

To Our Valued Clients:

CARCO has always been at the forefront in protecting our clients from risk by providing the most thorough, well researched and verified background information to our clients. CARCO has also protected our clients by dedicating resources to stay abreast of legislative and judicial decisions, as well as regulatory trends that indicate new issues that might create challenges for our clients.

We are seeing increased emphasis placed on the relationship between the crime under consideration and the position to be filled commonly referred to as the "BFOQ" test or Bonafide Occupational Qualification. The significant dimensions include relevance, (is the nature of the crime related to the position?), seriousness, (if the crime is related, is it serious enough to matter?), and time since the crime occurred, (is it recent enough to matter even if the crime is related to the position, and would be serious enough to matter if it were more recent?).

Misdemeanor charges may only have sentences for up to one year. Although it is permissible under federal law to report convictions indefinitely, reporting misdemeanor convictions beyond a typical seven or ten year scope may create unnecessary liability for the employer. Except in specific statutory circumstances, it is unlikely that any misdemeanor for which the last action on the case is over ten years old would stand up to the test of being recent enough to bear on the employability of an applicant. If an adverse hiring decision is made on an applicant having a misdemeanor conviction beyond your program scope, the presence of that conviction in the report may be used against the employer as proof of unfair hiring practices because it fails the test of timeliness even if that conviction was unrelated to the adverse decision.

Therefore, to protect CARCO clients against unnecessary liabilities or litigation, and unless we have been notified that you have a statutory requirement or we have received specific instructions to the contrary, CARCO will no longer report misdemeanor convictions that have occurred outside the scope of your program (seven or ten years) plus one year, (the maximum period of confinement for a misdemeanor). Also, you should be aware that some states classify moving violations as misdemeanors, but most states do not. Since the best source of moving violations is the state motor vehicle report, CARCO will not report moving violations of less severity than a DUI/DWI on a criminal history.

We are instituting this policy to better serve and protect you, our valued clients. You will notice an additional benefit to this policy as time service will improve as we will no longer have to wait for older, archived case files. We appreciate your business, and appreciate that our role is to provide a service to you. Please feel free to contact us if you have specific requirements or requests regarding your background program. CARCO Group, Inc. is not a law firm and does NOT provide legal advice. As always, we encourage you to seek the advice of counsel when designing or refining a background program.



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