

The Screening Check:

Compliance and Best Practices for a Shifting Hiring Landscape

CIC SCREENING

What HR teams need to know as hiring stays lean, regulations shift, and the cost of getting it wrong keeps rising

Executive Summary

The second half of 2026 is a natural checkpoint for employers, a moment to step back from day-to-day hiring and ask whether the screening practices built for January still fit the **organization**, the **workforce**, and the **legal landscape** of today.

That question matters as much heading into 2027 as it did at any point in 2026. Hiring remains constrained, which raises the stakes on every individual hire. At the same time, the rules governing how employers can use background information are changing faster (and more unevenly across states) than they have in years.

This whitepaper looks at both forces, and at what they mean for how organizations should approach screening, monitoring, and compliance heading into 2027.



The Hiring Landscape:

Lean Teams, High Stakes

What began as a 'low-hire, low-fire' 2026 labor market has now settled into a persistent operating reality heading into 2027, as slow growth, sector divides, AI disruption, and ongoing policy uncertainty show no signs of resolving quickly. Organizations that have worked through recent volatility have largely kept teams smaller, and leaned more heavily on existing staff and AI-assisted tools rather than staffing up in anticipation of growth.

Running Lean

Fewer roles are opening, but filling each one correctly matters more with **less room to absorb hiring mistakes** when teams are already running lean. The dynamic raises the stakes on screening specifically. A delayed background check can slow down an offer in a market where strong candidates have options.

No Room For Error

An **incomplete or poorly targeted screening package** can let a real risk through when there's no extra headcount to cover for a bad hire. And a screening process that isn't legally current can expose an organization to liability at the exact moment it can least afford the distraction. It's worth asking if your screening program is built for this kind of market or for the market you were hiring in last year.

That doesn't mean hiring has gotten easier.

68%

HAVE DIFFICULTY **RECRUITING** FULL-TIME POSITIONS

42%

HAVE DIFFICULTY **RETAINING** THE FULL-TIME EMPLOYEES THEY HAVE



The Compliance Landscape *Is Shifting Fast*

If there's one area where 'we'll get to it eventually' is the riskiest possible HR strategy right now, it's criminal background check compliance.

The patchwork of Fair Chance and Clean Slate laws governing how employers can use criminal history has grown substantially. Thirty-seven states have now adopted some form of Fair Chance and 13 states are actively automating the sealing of older low-level criminal records through Clean Slate legislation, meaning records that were legally visible on a background check a year or two ago may no longer be reportable today.

Several recent and upcoming changes illustrate how fast this is moving:

- **Texas enacted its first statewide ban-the-box law in September 2025,** joining the growing list of states regulating the timing of criminal history inquiries.
- **In January 2026, Philadelphia narrowed what convictions employers may consider** under its amended Fair Criminal Record Screening Standards, including shorter misdemeanor lookback periods.
- **Washington State strengthened its Fair Chance Act for medium and large employers in July 2026,** requiring that all criminal history inquiries be delayed until after a conditional offer, paired with a mandatory individualized assessment before any adverse decision. Washington's expansion also extends to smaller employers (fewer than 15 employees) effective January 1, 2027, meaning any organization that wasn't yet covered should confirm its compliance now.
- **Virginia's Clean Slate provisions, that took effect in July 2026, create automatic and petition-based sealing** for many misdemeanors and some lower-level felonies, meaning qualifying convictions will generally stop appearing on background reports going forward.

For multi-state employers, the practical effect is that a single, static screening policy is no longer a safe approach. A policy that's fully compliant in one state may create real exposure in another, and a policy that was compliant in 2026 may not be compliant in 2027 in the same state.

Keeping pace with changes like these is difficult to do well in isolation. This is one of the reasons why many organizations work with a dedicated screening partner whose focus is on tracking exactly this kind of jurisdictional shift so HR teams don't have to worry.



From Blanket Policies to *Individualized Assessments*

Underneath these **state-by-state changes** is a broader shift in how criminal history is expected to be used in hiring decisions, away from blanket disqualification policies, and toward documented, job-relevant individualized assessments. Rather than an automatic rule like 'no felony convictions within seven years', employers are increasingly expected to evaluate the nature of the offense, its relevance to the specific job's duties, how much time has passed, and to document the reasoning.

When Blanket Policies Create Exposure

The risk of skipping that step isn't theoretical. According to the EEOC's complaint in a pending lawsuit against Sheetz, a large convenience store chain, the agency alleges that the company's long-standing practice of screening all applicants for criminal convictions and denying employment based on those records had a disparate impact on Black, Native American/Alaska Native, and multiracial applicants.

The allegations haven't been adjudicated, but the case illustrates exactly the exposure employment law attorneys warn about: a blanket policy applied uniformly, without individualized review, can draw exactly this kind of scrutiny. That's why attorneys consistently advise narrowly tailoring any automatic exclusions to legally required disqualifiers, and then conducting individualized assessment for everything else.

This isn't an argument against running background checks. It's an argument for making sure the policy behind the screen is current, job-relevant, and well-documented.

What This Means in Practice

For most employers, this isn't an argument against running background checks. Organizations that work with vulnerable populations, employees who visit people's homes, or safety-sensitive roles still have clear, defensible reasons to screen. It's an argument for making sure the policy behind the screen, not just the screen itself, is current, job-relevant, and well documented.

What This Means *Operationally*

Translating these shifts into a **workable approach for the year ahead** comes down to a few practical questions, organized around the areas where most screening programs tend to drift out of date.



Are you running the right searches for the roles you actually have?

A screening package is only as good as its fit to the role. Criminal background checks can vary widely in depth, from a national database scan to a county-level courthouse search, and the right combination for a driver, a healthcare worker, or an office role looks different.

Add in employment and education verifications, driving history checks, and drug and occupational health testing, and the right package starts to look more like a custom fit than an off-the-shelf product. As headcount and role mix shift over the course of the year, it's worth confirming the package still matches the job, not just the department.



Does your policy reflect this year's law or last year's?

Given how many states and cities have updated **Fair Chance and Clean Slate** rules for 2026 alone, a policy that was reviewed even twelve months ago may already be out of step in one or more of the jurisdictions where you hire. This is especially true for multi-state employers, where a **policy written for headquarters may not reflect requirements in every state** where staff are actually located.



Does your process include a real individualized assessment, not just a background check?

A clean, FCRA-compliant background report is the start of the process, not the end of it. Confirming that adverse-action decisions are documented, job-relevant, and consistent is what actually reduces legal exposure, on top of producing fairer outcomes.



Does monitoring extend past the day someone is hired?

A background check is a snapshot at a single point in time. For roles involving driving, healthcare responsibilities, or other safety-sensitive duties, **ongoing monitoring after hire** helps surface relevant changes (say, for example, a new driving violation, a new conviction, or a name that newly appears on an exclusion list) that a one-time check by definition can't catch.

The last point matters greatly: an employee who was eligible on day one isn't necessarily still eligible a year later, particularly in regulated industries where exclusion list status can change without any obvious red flag.

For organizations that work with a screening partner, these are the right questions to bring to that relationship. A good screening partner will be able to answer all of them.

Anatomy of a *Annual Screening Audit*

A short audit covering these same areas can go a long way toward closing the gaps before the next big hiring surge:

Review your screening package against your current role mix and any new locations added this year.

Confirm your criminal history policy reflects the latest changes in every state and city where you have employees, not just where you're headquartered.

Check that adverse action and individualized assessment steps are documented consistently, not just performed informally.

Verify that consent forms and disclosures are current and standalone as required under the FCRA.

Confirm ongoing monitoring is in a place for any safety-sensitive, driving, or healthcare roles where a point-in-time check isn't enough.

None of this requires overhauling a screening program from scratch. In most cases, it simply requires a focused mid-year review, the kind that catches a policy that hasn't kept pace with a new law, a package that no longer matches a changed role, or a monitoring gap that's gone unnoticed since onboarding.

In a hiring market where **every position carries more weight,** that kind of review is one of the more actionable and higher-value things an HR team can do before the next round of hiring begins.





CIC Screening works with employers to build screening programs that hold up to exactly this kind of scrutiny, from criminal background checks and verifications to drug and occupational health testing and ongoing monitoring. If your team is ready for a review of your screening program, we'd love to talk.

Reach out to your CIC Screening representative or contact us to learn more.

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