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# Texas Licensing Regulator's Update Of Criminal Conviction Guidelines May Merit Review Of Employer's Criminal Conviction and Background Check Policies

The Texas Commission of Licensing and Regulation ("Commission") recently updated the Criminal Conviction Guidelines of the Texas Department of Licensing and Regulation ("Department"). These guidelines describe the process by which the Department determines whether a criminal conviction renders an applicant an unsuitable candidate for the license, or whether a conviction warrants revocation or suspension of a license previously granted. The guidelines present the general factors that are considered in all cases and the reasons why particular crimes are considered to relate to each type of license issued by the Department. Businesses hiring individuals as employees or contractors to perform services in Texas, who are required under Texas law to be licensed should review these guidelines to update their understanding of how a criminal conviction of such an employee or contractor may impact on the ability of that worker to maintain his required licensure and to verify that no changes to their existing worker credentialing, reporting or background check requirements are warranted.

Businesses that require employees to submit to criminal or other background checks are reminded that the Fair Credit Reporting Act requires that employers conducting background check comply with specific notification and consent requirements prior to conducting a background check. Violation of these mandates can result in civil and/or criminal sanctions. Additionally, businesses are reminded that information collected as part of criminal or other background checks is likely to qualify as personal information for purposes of federal and many state laws. As the federal regulations, as well as many state laws, have been substantially tightened in recent years, most businesses also should review their practices for collecting, using, protecting and destroying this information to minimize their liability under federal and state privacy and other data security laws.

A copy of the updated Criminal Conviction Guidelines is posted on the Department's website at <http://www.license.state.tx.us/enforcement.htm>.

If you have questions about your company's criminal background check or other worker credentialing, data security or other human resources practices, or want to request publications, information about upcoming programs, or other materials, please contact: Cynthia Marcotte Stamer, P.C., Member, Glast, Phillips & Murray, P.C., 2200 One Galleria Tower, 13355 Noel Road, LB 48, and Dallas, Texas 75240. Telephone (972) 419-7188. E-mail [cstamer@gpm-law.com](mailto:cstamer@gpm-law.com).

We hope that this information is useful to you. If you or someone else you know would like to receive future Alerts or other information about developments, publications or programs, please be sure that we have your current contact information – including your preferred e-mail – by providing that information to us through registration on our website at [Cynthiastamer.com](http://Cynthiastamer.com) or via telephone, fax or e-mail.

For other helpful resources and information about employee benefits and human resources matters, go to [CynthiaStamer.com](http://CynthiaStamer.com) or contact Ms. Stamer.

## ABOUT CYNTHIA STAMER

Board Certified In Labor and Employment Law by the Texas Board of Legal Specialization, attorney Cynthia Marcotte has nearly 20 years experience helping employers and business leaders design, implement, administer and defend human resources and other internal controls, outsourcing and other external services arrangements, employee benefit and compensation, and other human resources management and legal risk management practices. Her practice focuses on working with businesses to manage their people and processes to help the business prevent and solve problems, manage risks and costs, and support other business objectives.

Recognized in the International Who's Who of Professionals and bearing the Martindale Hubble AV-Rating, Ms. Stamer is a highly regarded legal consultant, author and speaker, who regularly conducts management and other training on a wide range of human resources and other related risk management matters. She also serves in leadership positions in numerous human resources, corporate compliance, and other professional and civic organizations. For instance, in addition her many leadership roles in the American Bar Association, Ms. Stamer also serves the editorial advisory board of The Bureau of National Affairs, Inc. (BNA), Employee Benefits Library on CD and various other editorial advisory boards, is a past Chair of the Dallas Bar Association's Executive Compensation and Employee Benefit Committee, is a former Board Member and Continuing Education Chair of the Southwest Benefits Association, a former member of the Society For Human Resources Management's Consultants Forum and Region IV Boards on the Board of Directors of the National Kidney Foundation of North Texas, and in leadership roles in various other professional, charitable and civil organizations.

Ms Stamer is the author of 100s of publications on a host of human resources and related issues. Her writings have appeared in a variety of other publications, including works published by the American Bar Association, Aspen Publishers, BNA, the American Health Lawyers Association, and Government Institutes, Inc. and others. For a listing of some of these publications, see [cynthiastamer.com](http://cynthiastamer.com). Her insights on human resources risk management matters also have been quoted in The Wall Street Journal, various publications of

The Bureau of National Affairs and Aspen Publishing, the Dallas Morning News, Spencer Publications, Health Leaders, Business Insurance, the Dallas and Houston Business Journals and a host of other publications.

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