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A multi-perspective approach on exploring employment opportunities for injured workers with felony convictions

It certainly can be challenging in today's economy to locate employment if one has a criminal record. With increased security and more lenient laws for the public access to criminal conviction records, one-time offenders are finding it more difficult to locate new employment. In addition, this is can be even more challenging for those who have physical limitations or disabilities.

Employers now have the ability to utilize inexpensive, online databases to run general background investigations. These databases are typically maintained by local law enforcement authorities who provide public access for a small fee, providing clients with general information pertaining to the criminal charge, general location of offense, date of incident, date of conviction, and sentencing information. It appears that employers are often utilizing this information since it is inexpensive and easily obtained.

The fact is that many persons who have a one-time, antiquated felony conviction are no more a risk or unreliable than other job applicants with no criminal record. We are all aware that life-choice decisions sometimes lack judgment or careful thought depending on the circumstances or situation, especially for juveniles facing tough peer pressure or social acceptance issues. Adults may also make poor life decisions, however in many cases, this makes them no less productive an employee than the next person.

When considering an applicant with a criminal record the focus should initially center on the frequency and nature of the offense. Secondly, employers should note the elapsed time from the date of the conviction and their application. Third, by reviewing their work history and references, employers will be able to gain a better understanding of the applicant's general work ethic and dependability. Lastly, if the applicant appears otherwise qualified, allow for a detailed interview that allows the candidate an opportunity to explain the offense.

Employers are regularly faced with the challenge of sorting through numerous job applications in their search for productive, reliable and trustworthy employees. Implementing a policy with the consideration that not all applicants with one, pre-

vious felony conviction are automatically unqualified is good Human Resource practice. Equal employment consideration should never allow for the elimination of all job applicants who have a one-time, antiquated felony conviction who are otherwise able and qualified to perform all the essential functions of the job.

Expunging or setting aside one-time felony convictions.

The State of Michigan allows for one-time offenders to seek expungement or the setting-aside of felony convictions for those who have committed one-time offenses. More specifically persons convicted of a felony may submit an *Application To Set Aside Conviction* no earlier than five years from the date of conviction or completion of sentence (whichever is earlier), and have no more than one offense on their record. In addition, the applicant will need to submit two sets of fingerprints, completed application form (MC227), and a \$50.00 processing fee payable to the State of Michigan (Act 213 of 1965, MCL 780.621). As a reminder, applications also typically need to be filed with the original sentencing court at the district level.

The purpose of this process is to conceal a criminal record from public search. This of course doesn't restrict private companies, who maintain historical data, from disseminating this information if it exists. This process will, however, allow applicants to lawfully answer "no" to the common application question, "Have you ever been convicted of a felony?" It is made clear within the present legislation that this determination is made by the court on an individual basis and is conditional upon thorough review of the offense and application of the petitioner. Major or capital offenses classified as life sentences, traffic offenses, and criminal sexual conduct convictions are not eligible for expungement.

The information contained above is not intended for legal advice and serves merely as general information. If you have questions regarding any of the discussed material above, please feel free to contact a representative at 800-801-4778.