Legal Notes: June 2017

Past articles have discussed criminal background checks, and perhaps revealed my deep skepticism of their need. Employers often don’t understand what information is being gathered by using these checks and how to use it (or not use it). Subsequently, many employees are being denied jobs because of these misunderstandings (or to put it more bluntly, these biases against anyone who has a criminal background).

There had been a movement afoot known as “Ban the Box,” referring to the box on many employment applications asking whether the applicant had been convicted of a crime. The motivations behind this movement came from many sources, including religious ones. I haven’t heard much about this movement lately for obvious reasons.

It was with some interest that I ran across a study of how people with criminal backgrounds actually do as employees. This myth or bias is that people with criminal backgrounds will not be good employees. Is that true? Yes and no.

The study generally found that employees with criminal backgrounds have a better employment history than those employees who don’t have a criminal background. Yes, you read that right, a better work history. They have a much longer tenure in a job and are much less likely to quit. So much for bias.

This result wasn’t true across the board. Interestingly enough, sales people with criminal backgrounds were more likely to be fired for misconduct. Customer service jobs showed no differences between those with criminal backgrounds and those without.

The study concluded that employers are missing out on hiring employees with criminal backgrounds, except for sales positions. Of course, in Wisconsin, it is illegal to blatantly deny employment based on criminal background, although I suspect employers find other reasons to not hire those with criminal backgrounds.

Once again, it shows that discrimination does not pay.