Federal Laws Regarding Employment of Sexual Offenders

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Federal laws remain indifferent regarding the hiring of sexual offenders.

The decision of hiring a sexual offender in the workplace remains with the organization itself. Federal laws do not address the hiring of a sexual offender. Some states, such as New York and Pennsylvania, have mandated specific guidelines for the hiring of employees, including sexual offenders.

Although the hiring of sexual offenders falls short in the federal law jurisdiction, rules exist to ensure employers provide a safe environment within the workplace, including safe hiring and retention of staff. Have

Negligent Hiring

- Employers screen and interview potential employees to gain a better understanding of the individual interested in employment. The risk employers take when hiring a new employee stands crucial to the all-around safe environment of the workplace. Although federal laws do not place restrictions on the hiring of sexual offenders, laws do address safe hiring practices. According to the Nonprofit Risk Management Center, negligent hiring is defined as a complaint that the employer did not fully screen an employee that later injured or committed a crime against another employee of the organization. If an employer fails to conduct a criminal history check on a sexual offender and later that sexual offender attacks an employee, the victim may claim negligent hiring.

Negligent Retention

- Negligent retention describes the act of keeping an employee on staff that commits a crime toward, or hurts, another employee at work. According to hrtools, a recent study revealed that 80 percent of employees did not provide completely accurate information on job resumes or applications. Employers interested in providing a safe environment for all workers consider some form of checks or assessments to determine appropriate eligibility.

Safeguards

- A company’s policies and procedures regarding hiring and retention require consistent review and discussion. Screening tools such as criminal checks, abuse registry checks and driving record checks provide an initial or ongoing assessment of staff. A policy outlining consistent assessments of all staff hired regardless of position eliminates the potential mistake of not gathering all crucial information about an employee.


Sexual Offender Laws

Many people assume that all sexual offenders are dangerous rapists, a common misconception. Rape—or, as it is known in statutory law, criminal sexual conduct—has many layers. It can include both consensual and nonconsensual sex and, in some instances, requires no sexual activity at all. Have

First Degree

- Criminal Sexual Conduct (CSC) in the first degree is a felony, generally punishable by up to life in prison. Typically, CSC in the first degree involves sexual activity with a person under 13; one who is between 13 and 16 but where the other is a blood relation, the victim's teacher or other person of authority; or where force or coercion or fear of
bodily harm is used to accomplish the act. While penetration is generally a necessary element of CSC in the first degree, if the victim is under 13 any type of sexual contact is prohibited.

**Second Degree**

- Criminal Sexual Conduct in the second degree is a felony punishable by up to 15 years in prison in some states and as many as 25 in others. The conduct prohibited by CSC in the second degree is virtually identical to CSC in the first degree, the only difference being that second degree does not require actual penetration. Sexual contact short of penetration is enough.

**Third Degree**

- Criminal sexual conduct in the third degree is a felony punishable by up to 15 years in prison. While penetration is an essential element here and prohibited activity includes the use of force or coercion, CSC in the third degree is more limited in scope than CSC in the first degree. The most obvious difference is that it does not address conduct between members of the same family or the actions of someone in a position of trust or authority.

**Fourth Degree**

- A felony punishable by up to 10 years, CSC in the fourth degree is similar to CSC in the third degree except that whereas penetration is an essential element of CSC third degree, sexual contact short of penetration is all that is required for CSC in the fourth degree.

**Misdemeanor Criminal Sexual Conduct**

- The actions that constitute misdemeanor criminal sexual conduct are much more difficult to pin down, as jurisdictions differ greatly on this matter. However, it is safe to say that Misdemeanor CSC is usually reserved for lesser offenses, such as exposing oneself to another. In some instances misdemeanor CSC is punishable by two years in prison.

**Registration**

- One thing common to all sex offenders, whether convicted under a felony or misdemeanor, is the need to register with local authorities and to comply with any reasonable restrictions upon where they may reside in relation to schools, parks, etc.

**Caution**

- Laws differ from state to state. Always consult with a local, licensed attorney if you have any questions or concerns.