



PAUL, PLEVIN,
SULLIVAN &
CONNAUGHTON LLP



**GOVERNOR DAVIS SIGNS BILL REVISING CALIFORNIA'S
LAW REGARDING BACKGROUND CHECKS
(September 30, 2002)**

Last year, California passed the Investigative Consumer Reporting Agencies Act (ICRAA). ICRAA set out several confusing requirements for employers who conduct background or reference checks on applicants or employees. A new law ([AB 1068](#)) signed by Governor Davis clarifies some of these requirements.

ICRAA required any person who collected a consumer's information, *without the aid of an agency*, to provide that information to the consumer. Employers thus wondered whether they must share the results of their own background and reference checks with applicants. Employers also questioned whether they had to share the results of internal investigations into employee misconduct with the employees involved. The new law answers some of these questions:

- An employer conducting *reference* checks without the help of an outside agency need not comply with ICRAA.
- An employer conducting *background* checks without the help of an outside agency generally need not comply with ICRAA, unless the information collected is a matter of public record (such as a criminal record).
- An employer conducting an internal investigation need not comply with ICRAA. But employers should note that: (1) they remain obligated to comply with the Labor Code, which provides employees with a right to review their personnel records, and (2) federal and state law is unclear as to whether an employer conducting an investigation through an outside agency must give a copy of the investigation to the employee involved.
- An employer using an agency to conduct background or reference checks must comply with ICRAA. Although ICRAA used to require that employers who obtain an investigative consumer report provide the applicant or employee with a copy of the report, the new law requires only that employers provide the applicant or employee with a means (such as a check box) to request a copy.

If you are interested in learning more about ICRAA, as well as an employer's obligations under other "background check" laws, please consider attending our

upcoming seminar. Details about the seminar are provided below.

This E-Update was authored by [Corry R. Watrous](#) and [Michael Minguet](#). If you have any questions about this E-Update, please contact the authors or any PPS&C attorney.

This E-Update is offered as general information to our clients and friends. The Update is not intended as legal advice applicable to any specific situation and should not be taken as such.

SAVE THE DATE! SAVE THE DATE! SAVE THE DATE!

Workplace Law 2003

Paul, Plevin, Sullivan & Connaughton LLP Annual Employment Law Update

Are you Up-to-date?

**Wrongful termination – Discrimination – Reasonable
Accommodation**

Whistleblowing – Leaves of Absence – New Privacy Guidelines

Trade Secrets – 9/11 Impact on Business Immigration Laws

Sexual Misconduct – Religious Harassment – Arbitration

If any of these challenges surface, are you ready to handle
them?

Come join us for an interactive workshop that will focus on how new laws, initiatives and court decisions will impact your company's day-to-day employment practices and what you need to do to get ready for 2003.

Events of the past 12 months have changed the way we live and work in America. This seminar is designed to assist general counsel, human resources executives, risk managers, and executive officers with oversight responsibilities for human resources in dealing with changes in employment laws and practices. Our firm's employment law experts will arm you with practical advice and strategies for understanding and managing your employees. We will provide specific information on:

- Ethical considerations and workplace issues in the post-Enron world. Avoiding allegations of whistleblowing, retaliation, and the effect of recently enacted federal legislation creating a new federal wrongful termination cause of action for retaliation. We will examine how ethical considerations, new laws and other court decisions impact the workplace, what employers are prohibited from doing

and provide practical suggestions for defending against such suits.

- Special Report on Immigration Laws in the Post-September 11th World. Peter Larrabee, a nationally known San Diego immigration attorney with over 23 years of experience, will discuss the fallout and future of immigration law in the workplace and the things employers need to know to be ready for 2003.
- What you need to know when conducting a background check or investigation of employee conduct. We will describe the new challenges created by AB 655 regarding the California Investigative Consumer Reporting Agencies Act and also discuss the Do's and Don'ts of conducting investigations and how to effectively use investigations to defend against litigation.
- All new laws affecting California employers. This year's legislative session has resulted in several bills being sent to Governor Davis for signature. Our seminar is timed to occur just after the Governor's deadline for signing bills into law, some of which take effect immediately.

WHEN: November 7, 2002, 8:00 a.m. - 12:00 p.m.

WHERE: San Diego Marriott Del Mar
11966 El Camino Real
San Diego, CA 92130
Registration and Continental Breakfast: 8:00-8:30 a.m.
Seminar: 8:30-12:00 p.m.

REGISTER: Either register [online](#) or by phone ((619) 237-5200). Advance registration is strongly suggested because seating is limited.

COST: \$125.00 includes breakfast, seminar materials and parking and can be paid in advance or at the door.

3.0 hours of MCLE credit available.