



Federal Court Boosts Criminal History Protections for Pennsylvania Job Applicants: Key Employer Takeaways + Your CHRIA Compliance Plan

Insights

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A federal appeals court just ruled that Pennsylvania's Criminal History Record Information Act (CHRIA) may protect certain information even if the employer receives it from a source other than background check, including from an applicant's voluntary disclosure. PA employers must be aware of the 3rd Circuit's recent decision and how it impacts their compliance obligations during the hiring process. This insight explains everything you need to know and offers steps you can take to avoid potential liability under CHRIA.

Quick Background on CHRIA Rules for Hiring Decisions

Under [Section 9125 of CHRIA](#), Pennsylvania employers generally may not use a job applicant's "criminal history record information" to make a hiring decision. However, employers may consider felony and misdemeanor convictions that relate to the applicant's suitability for the position. If an employer decides not to hire an applicant based on such information, it is required to notify the applicant in writing.

What Led to the CHRIA Lawsuit in *Phath v. Central Transport*

A Philadelphia County man sued Central Transport, a Michigan-based trucking company with operations in Pennsylvania, for refusing to hire him based on his criminal history.

According to Rodney Phath's complaint:

- In 2023, he applied for a driver position and was well-qualified for the role because he had a commercial driver's license, relevant experience, and federal clearance to access secure ports.
- During the interview and hiring process, the company told Phath it would be ordering a criminal background report. He then disclosed that he was convicted of armed robbery in 2008, served six years in prison for it, and has had a clean record ever since.
- The company immediately told Phath that it would not hire him based on his criminal history.

Phath then filed a lawsuit, claiming that Central Transport violated CHRIA by:

- deciding not to hire him for the driver position based on criminal history information that did not relate to his suitability for the role; and
- failing to notify him in writing that it used such information to make that decision.

Phath requested all damages available under CHRIA, including actual damages, exemplary and punitive damages, reasonable costs of litigation, attorneys' fees, and any other relief deemed appropriate by the court.

Lower Court Said Applicant's Self-Disclosure Was Not Protected by CHRIA

A federal district court in Pennsylvania dismissed the case in late 2024, concluding that Phath's voluntary disclosure of his criminal conviction was not "criminal history record information" protected by CHRIA. Essentially, the court said that CHRIA only applies when a prospective employer uses an applicant's criminal history record information that is obtained from a state agency's files during a background check. Phath then appealed.

3rd Circuit's Reversal: Information Type, Not Source, Is What Matters Under CHRIA

The 3rd US Circuit Court of Appeals ruled on Jan. 28 that felony convictions like Phath's are part of an applicant's criminal history record information file under CHRIA, even when the prospective employer learns of that information from an applicant's self-disclosure. The court said that the law's application is not limited to information received from a state agency's file, and that what matters is "the type of information that the employer received, not its source."

Notably, the appeals court also said that even if information that Phath disclosed about his prior conviction were also part of sources specifically exempted under CHRIA's [Section 9104](#) (such as court documents or police blotters that contain criminal history record information), "it would not shield Central Transport" because the company obtained that information from the applicant's self-disclosure, which the law does not list as an exempt source.

Ultimately, the 3rd Circuit reversed the decision of the lower court, where the case will now return and continue playing out.

CHRIA Compliance Plan for Employers Making Hiring Decisions

The recent decision in *Phath v. Central Transport* makes CHRIA compliance during the hiring process more important than ever. Here's what Pennsylvania employers should keep in mind to avoid violations and reduce litigation risks:

- If you receive criminal history information about an applicant, **determine if that information is protected by CHRIA**. Remember, CHRIA only applies to "criminal history record information" as defined by the law. However, the 3rd Circuit has now made it clear that such information may be

protected even if the employer receives it from a source other than a background check. When in doubt, work with counsel to understand your options and obligations.

- If CHRIA protects information you've received, do not use that information to make a hiring decision **unless CHRIA specifically permits you to do so** (see below).
- If you receive information about an applicant's **misdemeanor or felony convictions**, you **may** consider that information for purposes of making a hiring decision **but only to the extent** it relates to the applicant's suitability for the position.
- If you decide not to hire an individual based on criminal history record information, you **must notify them in writing** that such information was used to make that decision.
- **Remember, CHRIA is just one piece of the compliance puzzle** when it comes to what you may or may not do during the hiring process regarding an applicant's criminal history information. For example, local laws, such as [Philadelphia's recently expanded ban-the-box ordinance](#), as well as the federal Fair Credit Reporting Act (FCRA), may impose additional requirements on employers. And FCRA compliance is [growing more complicated for employers that use artificial intelligence to screen job candidates](#).

Conclusion

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Partner
412.822.6630
Email



Leanne Lane Coyle
Associate
610.230.6121
Email



Emily E. Town
Of Counsel
412.822.6638
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