## COLLAZO CARLING $\mathscr{E}_{MISH}$ ILP

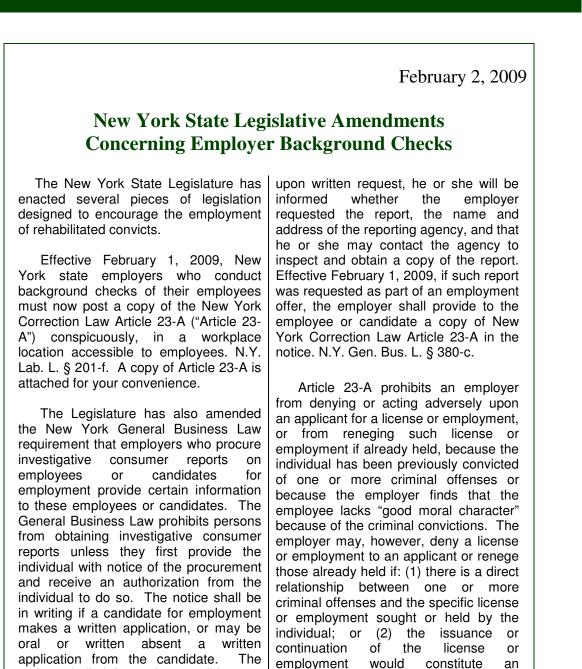
notice shall inform the candidate or

employee that: (1) an investigative report

may be made on the employee; and (2)

Client Advisory

For Clients And Friends Of The Firm



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welfare.

unreasonable risk to property, safety, or

applicant or employee who has

Article 23-A covers any

| previously been convicted of one or<br>more criminal offenses. A private<br>employer means any person, company,<br>corporation, labor organization, or<br>association that employs ten or more<br>persons.<br>In making these determinations, an<br>employer must consider several factors,<br>including:<br>(1) New York's public policy | N.Y. Correct. L. § 753. In addition, the<br>employer shall consider a certificate of<br>relief from disabilities and a certificate of<br>good conduct issued to the applicant, if<br>any. <i>Id.</i> Any person previously convicted<br>and who has thereby been denied a<br>license or employment may request a<br>written statement setting forth the<br>reasons for the denial. This statement<br>shall be provided within thirty days of the<br>request. N.Y. Correct. L. § 754. |
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| encouraging licensure and<br>employment of previously convicted<br>persons;   | The New York Human Rights Law<br>provides that there is a rebuttable<br>presumption favoring the exclusion from  |
| (2) The specific duties and responsibilities related to the license and employment sought or held by the individual;  | evidence a prior incarceration or<br>conviction in a case alleging negligent<br>hiring or retaining if the employer<br>reviewed the criminal record and made a<br>good faith determination to hire or retain   |
| (3) The bearing, if any, the offense(s)<br>will have on the applicant's or<br>employee's fitness or ability to<br>perform those duties and<br>responsibilities;   | the individual. N.Y. Exec. L. § 296.<br>If you have any questions or need<br>further guidance to ensure your business<br>complies with this new law, please<br>contact <u>Tonianne Florentino</u> at (212-758-   |
| (4) The amount of time elapsed since the conviction;  | 7782) or any other attorney at the Firm.   |
| (5) The age of the person at the time of the offense(s);  |  |
| (6) The seriousness of the offense(s);  |  |
| (7) Any information produced by the individual regarding rehabilitation and good conduct; and   |  |
| (8) The legitimate interest of the agency or employer in protecting property, safety, and welfare.  | This Advisory is intended for informational purposes only and<br>should not be considered legal advice. If you have any<br>questions about anything contained in this Advisory, please<br>contact Collazo Carling & Mish LLP. All rights reserved.<br>Attorney Advertising.  |