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## Background Screening & Drug Testing – What You Need to Know Now!

Joseph W. Doyle, TalentWise  
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## Legal Disclaimer

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You should not rely on the information for any legal purpose, and contact your attorney to determine applicability to your situation.

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## AGENDA

- About TalentWise
- Trends that WILL Keep You Up at Night
- Compliance in the Screening Process
- Substance Abuse Testing
- Recent Employment Screening Legislation
- Best Practices in Employment Screening
- Risks in NOT Background or Drug Testing

# About TalentWise

- HISTORY
  - Founded in 2006
  - Headquartered in Bothell, WA with 15 offices throughout North America
  - Experienced leadership team – Microsoft, Nortel, Siebel (Oracle), Concur, Ernst & Young
- RECENT AWARDS AND RECOGNITION
  - 2010 Top Employment Screening and Assessment Provider – *HRO Today*
  - 2007 – 2010 “Hot List of Employment-Related Screening Providers” – *Workforce Management*
  - 2009, 2010 “Winners’ Circle” and “Super Star Provider” – *HRO Today*
  - 2008 – 2010 Ranked Top 2 in Quality of Service – *HRO Today*
- PROVEN SUCCESS
  - 3,000+ customers across all industries



**STATISTICS THAT WILL KEEP  
YOU UP AT NIGHT**

## RESUME MISREPRESENTATION

# 3 in 10



## PEOPLE THAT HAVE CRIMINAL HISTORIES

# 65 million



## ILLICIT DRUG USAGE IN THE WORKPLACE

1 in 6



Source: SAMHSA study, 2010

## COST OF ILLICIT DRUG USAGE IN THE WORKPLACE

5x & 3000%



# Compliance in the Screening Process

## Basic FCRA Compliance

- When using a CRA, you are bound to comply with FCRA
- Obtain an authorization of release prior to a background screening request (clear and conspicuous disclosure required)
- Prohibit use of non-conviction information
- Legal notifications when taking adverse action “based on whole or in part” of the screening report

# Information Restrictions

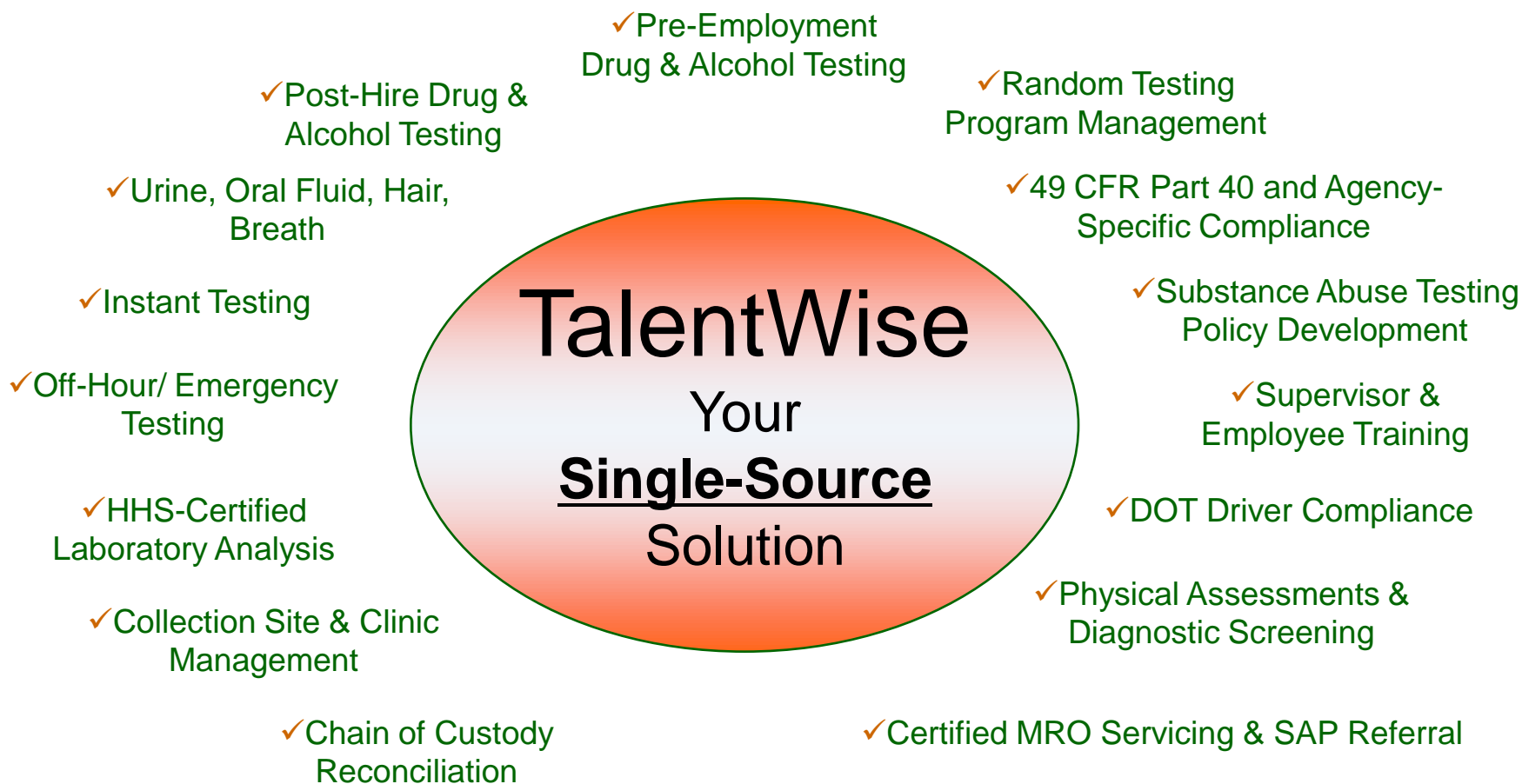
- Criminal Record Reporting Restrictions
  - many states restrict how far back you can report criminal convictions (ie: 7 years)
- Legal use of information
  - use only “authoritative” sources, no databases as final verification
- Credit Report Restrictions
  - more states restricting the use of credit reports for employment purposes

## Compliance Considerations

- Have a written policy addressing your screening program
- Avoid “blanket” hiring policies
- Establish “reasonable” limitations regarding the scope of your screening program
- Align with a credible screening provider

# Occupational Health Screening

# Available Occupational Health Services



# Occupational Health Services

## DOT & Non-DOT DFWP Program Administration

### Testing:

- ▶▶ Pre-Employment
- ▶▶ Random
- ▶▶ Reasonable Suspicion
- ▶▶ Post-Accident
- ▶▶ Follow-Up
- ▶▶ Return-To-Duty

### Specimens:

- ▶▶ Urine (Instant/Lab-Based)
- ▶▶ Oral Fluid (Instant/Lab-Based)
- ▶▶ Hair
- ▶▶ Breath



## Strategic Relationships

- ▶▶ LabCorp\*
- ▶▶ Quest Diagnostics\*
- ▶▶ MedTox
- ▶▶ eScreen\*
- ▶▶ Concentra
- ▶▶ ATN
- ▶▶ Alere Toxicology

\* In-network collection site partners

# Drug Testing Panels

- **5 Panel** (Amphetamines; Cocaine; Marijuana; Opiates (Heroin); and PCP)
- **10 Panel** (5 Panel plus Barbiturates, Benzodiazepines, Methadone, Methaqualone, and Propoxyphene)
- **9 Panel** (10 panel minus Methaqualone)
- **12 Panel** (10 panel plus Oxycodone & Ecstasy – Primarily used in Healthcare Ind.)

## Common Additions to above Panels:

- Expanded Opiates Panel – includes Oxycodone, Hydrocodone, Diamorphine, Oxymorphone, Dihydrocodeine plus 5 additional
- Ecstasy

# Drug Testing Methods

- **Urinalysis** - most common and reliable form of drug screening and can be accommodated at a clinic or onsite via instant cup
- **Oral Fluids** – saliva based drug screening recommended for post-accident or reasonable suspicion; does not detect drug use after two days prior to testing
- **Hair Follicle** – very expensive and non-traditional due collection method and limitations for collection sites versus urinalysis; does however give a longer history for drug use detection
- **Breath Alcohol** – available via instant kit BreathScans or lab certified testing

# Occupational Health Services Turnaround Time

- ▶▶ **Lab-Based Testing – Urine, Oral Fluid**
  - One business day following collection for majority of negative results
  - Non-negative results typically add 2 – 3 days
- ▶▶ **Lab-Based Testing – Hair**
  - One to two business day following collection for majority of negative results
  - Non-negative results typically add 3 – 4 days
- ▶▶ **Alcohol**
  - Same day
- ▶▶ **Physicals**
  - Same day or next day

# RECENT EMPLOYMENT SCREENING LEGISLATION

## LATEST EMPLOYMENT SCREENING LEGISLATION – CREDIT REPORTS

### Trends in the Use of Credit Reports as Part of Background Checks

- *20% of employers seek credit reports on prospective employees in addition to running background checks*

– Source: Entrepreneur.com

- 60% of employers ran a credit check on at least some applicants
- 91% of employers that conducted credit checks did so for jobs of financial or fiduciary responsibility such as handling cash, banking, and accounting

– Source: SHRM 2010 member survey

## LATEST EMPLOYMENT SCREENING LEGISLATION – CREDIT REPORTS

### Challenges

- The Equal Employment Opportunity Commission (EEOC) is investigating the use of credit reports as a possible ‘discriminatory practice’
  - Speculation that the EEOC may enact guidance that prohibits credit reports for employment-related purposes entirely
  - 12/21/10 – EEOC filed nationwide hiring discrimination lawsuit against Kaplan Higher Education Corporation
- New federal legislation in the works to limit the use of credit checks
- Handful of states have recently enacted laws restructuring their use for employment-related decisions
- States that have enacted laws restructuring the use of credit reports for employment-related decisions: OR, HI, WA, IL , and NJ (MD & CA just added)

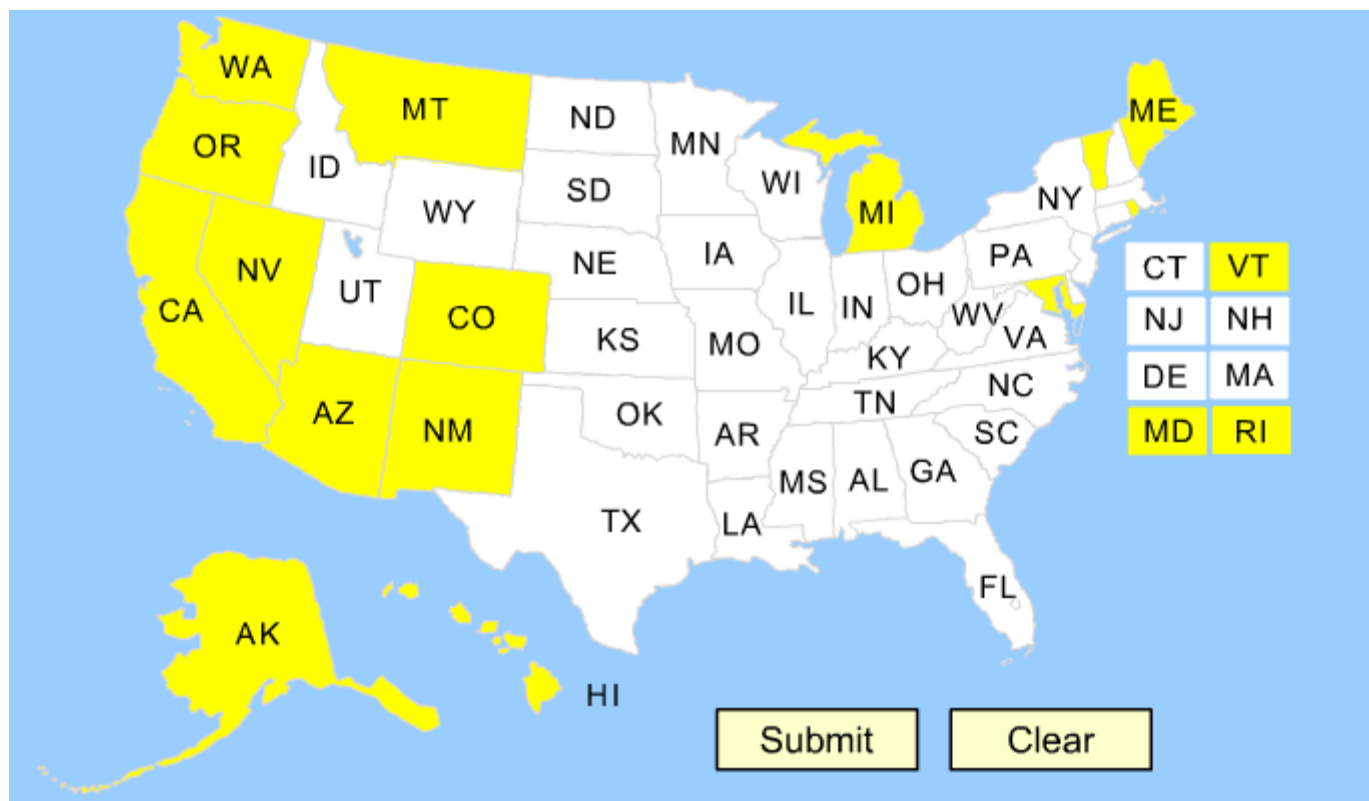
## LATEST EMPLOYMENT SCREENING LEGISLATION – CREDIT REPORTS

### **Our Recommendations**

- Consider the risk versus benefit of using credit reports before you incorporate them into your screening program
- Consider using them only for positions that are job-related and necessary

## LATEST EMPLOYMENT SCREENING LEGISLATION – Medical Marijuana

15 states and Washington, D.C. have enacted laws that legalize medical marijuana



## LATEST EMPLOYMENT SCREENING LEGISLATION – Medical Marijuana

- Employers that run businesses in these states are confused about how these laws impact their ability to perform drug testing in the workplace
  - Am I allowed to ask job candidates about their use of MM?
  - How do these laws impact my drug and alcohol testing policy?
  - Do I have to accommodate these candidates for the use of MM?
  - What if my state’s medical marijuana law is inconsistent with other state case law or federal laws?
- Under state and federal Americans with Disabilities Act (ADA) laws, employers may have to accommodate an employee whose medical condition has led to a recommendation of medical marijuana use
- Employers in these states are not necessarily bound to accept medical marijuana usage as a legitimate reason for a positive drug test

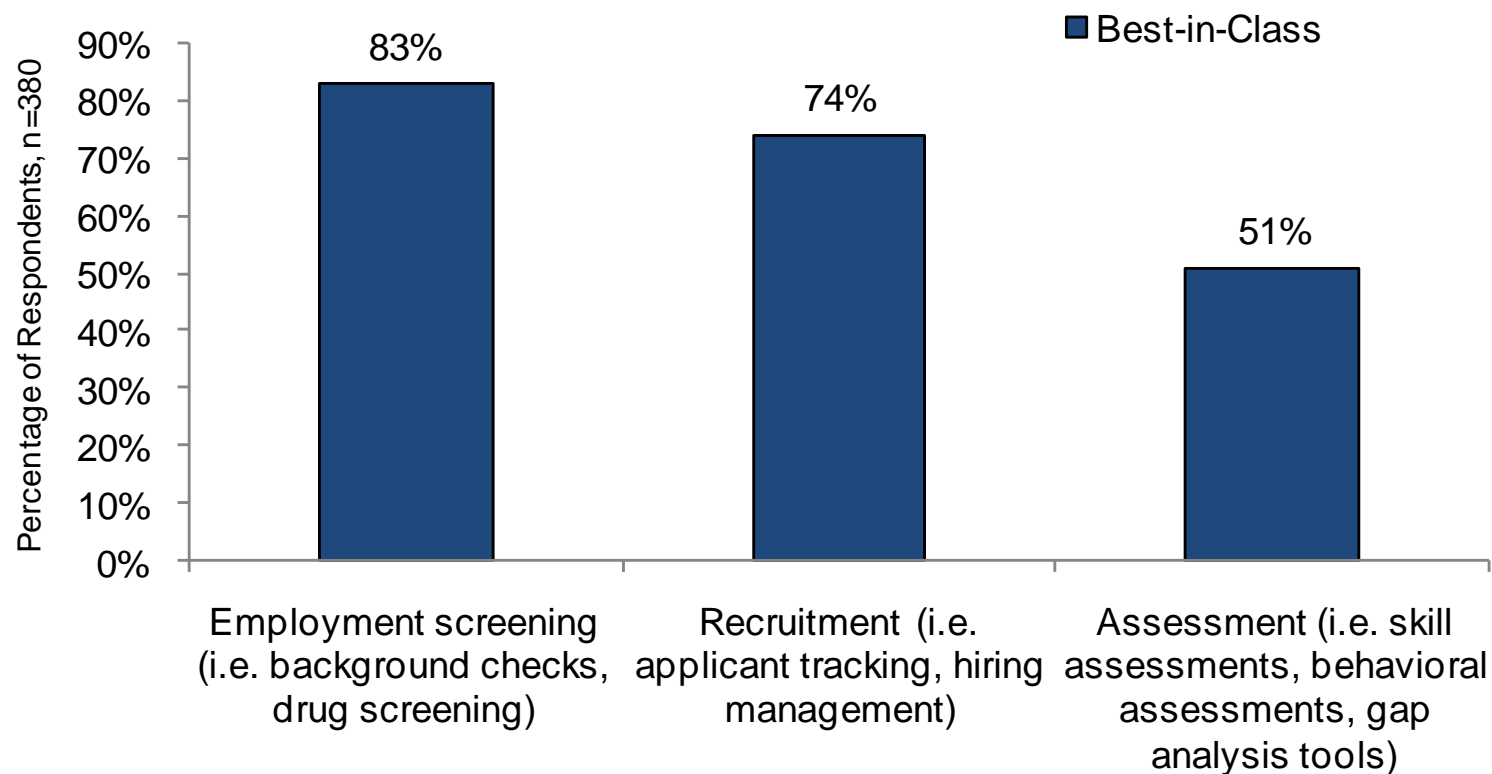
## LATEST EMPLOYMENT SCREENING LEGISLATION – Medical Marijuana

### Our Recommendations

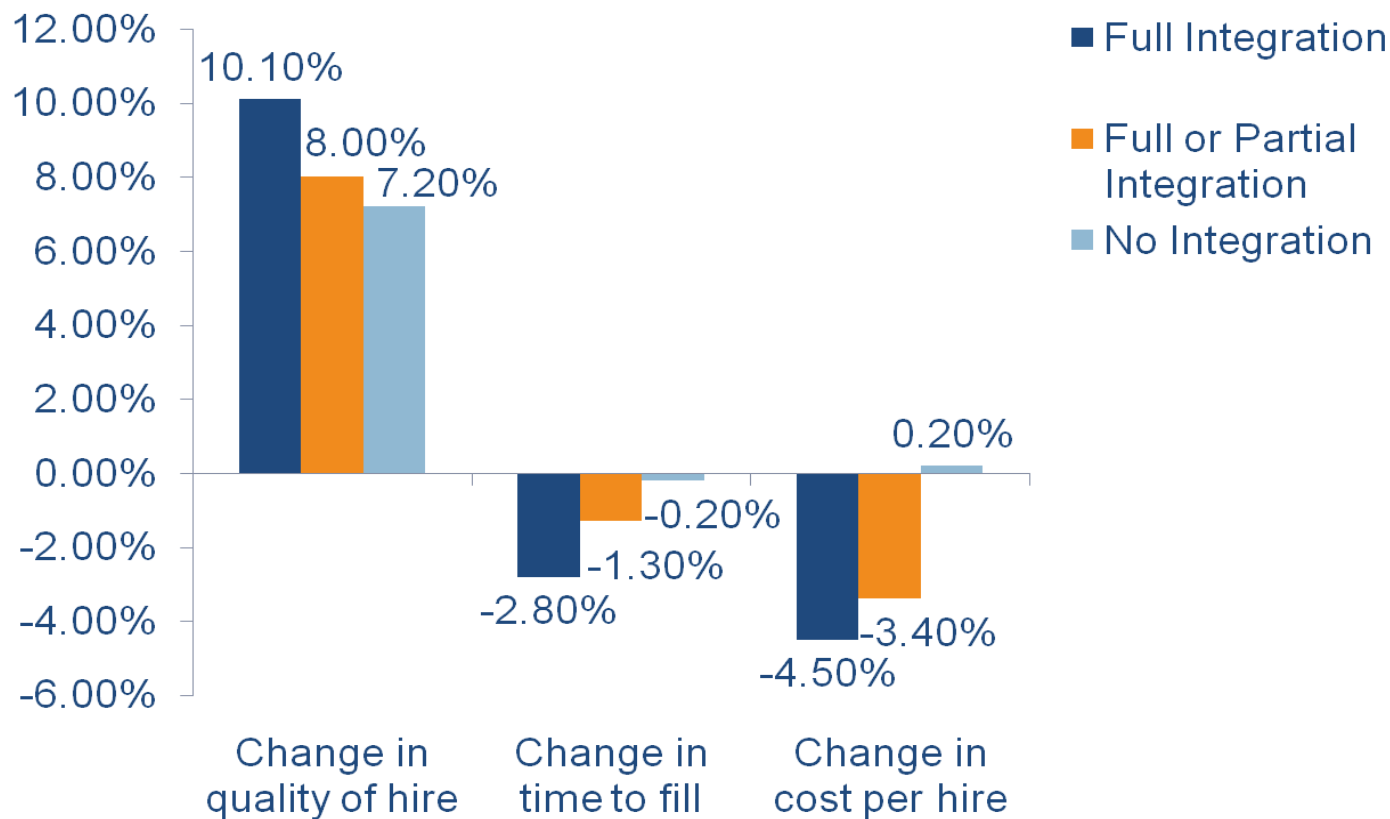
- Make your drug and alcohol policy clear – including the medical marijuana policy
- Obtain sound legal advice if you're business are located (or you're hiring employees) in states where medical marijuana laws have been enacted
- Adhere to federal and state laws – best you can!

# **BEST PRACTICES IN EMPLOYMENT SCREENING**

# MOST UTILIZED HIRING PROCESS TECHNOLOGIES

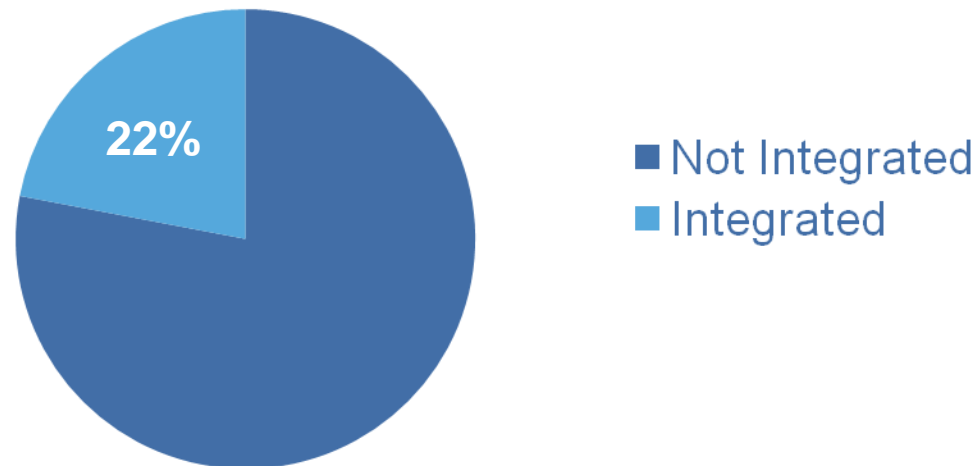


# RESULTS FROM INTEGRATING ATS WITH BACKGROUND SCREENING SOLUTION



## BACKGROUND SCREENING INTEGRATION WITH APPLICANT TRACKING SYSTEMS (ATS)

**22%** of companies that perform background screening indicate that their screening solution is **fully integrated** with their ATS



# Benefits of a fully integrated solution



## Benefits:

- ✓ **Increase efficiency** by eliminating duplicate data entry
- ✓ **Reduce risk** by lowering the probability of manual data entry errors
- ✓ **Increase productivity** by eliminating the need to work in multiple systems
- ✓ **Improve compliance** by automating and tracking your hiring process from end to end

# TalentWise Integrated Process Benefits

## **Electronic Background Screening/ Drug Testing/On-Boarding**

- **Integrated , paperless solution to initiate, review, and request screening results**
- **TalentWise dashboard integrates inside the ATS system with single sign-on**
- **Electronic Consent/Disclosure form capture**
- **Electronic Drug Testing – no paper COC's**
- **Electronic Form I-9/eVerify – integrated w/ DocuSign**

## **Integration Turnaround Deployment**

- **Some integrations can be deployed in days, not weeks**
- **Little to no IT resources need to be tied up**

## **Proof of Validation**

- **Clients with/out ATS systems are taking advantage of integrated screening**
- **Over hundreds of joint client integrations to date with ATS' such as: Taleo, iCIMS, Kenexa, Bullhorn, Bond, Interview Exchange, HealthcareSource, FastRecruiting**

## Risks in NOT Background & Drug Testing

- Negligent hiring liability
- The statistics are overwhelming!
- Exposed workforce
- Threat to your company's brand/image
- Loss of competitive edge for talent

## Top Trends in Employment Screening

- Increased use of background screening
- More comprehensive screening being employed
- Drug screening becoming more prevalent
- Integration of ATS with screening provider
- Company's are aligning with credible providers who offer integrated solutions for all size organizations

# Questions??

Contact:

Joseph W. Doyle

Regional Sales Manager

TalentWise Solutions, LLC.

Ph 919.359.2097

[jdoyle@talentwise.com](mailto:jdoyle@talentwise.com)