

**Safe at Home? Developing Effective Criminal Background Checks
and Other Screening Policies for Home Care Workers**

	Relevant Statutes and/or Regulations	Checks: Mandatory or Discretionary for Providers or Employers ¹	Scope: Publicly-funded Care Only or Publicly & Privately-funded Care ²	Excludes certain provider categories	Required for Volunteers	Addresses Consumer-directed Care ³	Type of Check			Party Responsible for Cost	Conditional Employment	Disqualifying Offenses ⁴	Waiver or Appeal Available	
							State Only	State and Federal	State and Sometimes Federal					
Alabama	Code Title 38 Chapter 13	Mandatory	Publicly & privately-funded care	Yes	Yes	No		Yes		Employer, employee or state agency	Yes; begins when individual signs criminal conviction statement and ends when background check is complete	Homicides, other violent offenses, sex-related offenses, offenses against dependent or vulnerable individuals, drug-related offenses.	Yes	
Alaska	Admin Code Sec. 47.05.300	Mandatory	Publicly-funded care only	Yes	Yes	No		Yes		Employee or employer; fee waived for volunteer unless volunteer resides in the client's home	Yes; check must be requested within 10 days of employment	Homicides, other violent offenses, offenses against dependent or vulnerable individuals, fraud-related offenses, drug-related offenses, property crimes.	Yes	
Arizona	Code Sec. 36-411	Mandatory	Publicly & privately-funded care	None specified	Yes	No		Yes		Employee or state agency	Yes; check must be requested within 20 days of employment	Homicides, sex-related crimes, other violent offenses, fraud-related offenses, drug-related offenses, offenses against dependent or vulnerable individuals, DUI, and property crimes.	Yes	
Arkansas	Public Health and Welfare Code Title 20, Chapter 33, Subchapter 2	Mandatory	Publicly & privately-funded care	None specified	Not specified	No				Yes	Not specified	Yes; expires after 45 days	Homicides, other violent offenses, sex-related offenses, and offenses against dependent or vulnerable individuals.	Yes

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California	Welfare and Institutions Code Sec. 15660, Sec. 12301.6 & 12305.81	All Discretionary	Publicly & privately-funded care	None specified	Not specified	No	Yes			Cost shared by county (35%) and state (65%); state pays 100% of cost once a county's nonprofit consortium or public authority has conducted background checks for at least 50 percent of all providers on their registries.	Not specified	Offenses against dependent or vulnerable individuals or fraud-related offenses.	Yes
Colorado	Title 25, Article 27.5-10	Mandatory	Publicly & privately-funded care	None specified	Not specified	No				Employer or employee	No	None specified	Not specified
Connecticut	Chapter 400o, Section 20-678	Mandatory	Publicly & privately-funded care	None specified	Not specified	No	Yes			Employer (agency) or the applicant	Not specified	None specified	Not specified
Delaware	Title 16, Chapter 11, Subch. V	Mandatory; Some Discretionary	Publicly & privately-funded care	Yes	Not specified	No	Yes			State pays for one check every 5 years; employer pays for additional checks	Yes; begins once individual has applied for check	Homicides, sex-related offenses, other violent offenses, and drug-related offenses.	Not specified
District of Columbia	Section 44-551 and 44-552	Mandatory	Publicly & privately-funded care	Yes	Yes; unless supervised	No	Yes			Employer or applicant	No	Homicides, other violent offenses, sex-related offenses, offenses against dependent or vulnerable individuals, fraud-related offenses, and drug-related offenses.	Not specified

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Florida	Title XXIX, Chapter 400	Mandatory	Publicly & privately-funded care	Yes	Yes; unless supervised and working less than 40 hours per month	No			Yes	Employer or employee (at the discretion of employer)	Yes; DD providers - expires after 90 days and must be under direct supervision of screened employee; home care providers are on probation until results are received	Homicides, sex-related offenses, other violent offenses, drug-related offenses, property crimes, offenses against dependent or vulnerable individuals.	Yes
Georgia	Section 31-7-301	Mandatory	Publicly & privately-funded care	None specified	Not Specified	No				Employee or Employer	Not specified	Homicides, other violent offenses, sex-related offenses, and offenses against dependent or vulnerable individuals.	Not specified
Hawaii	Title 20, Chapter 346-335, and Chapter 846-2.7	Mandatory	Publicly-funded care only	None specified	Yes	No		Yes		Not specified	Yes; check must be requested within five days of employment	None specified	No
Idaho	Rules Governing Mandatory Criminal History Checks," (16.05.06)	Mandatory	Publicly & privately-funded care	None specified	Yes	No		Yes		Not specified	Not specified	Homicides, sex-related offenses, other violent offenses, offenses against dependent or vulnerable individuals, fraud-related offenses, drug-related offenses.	Yes
Illinois	Code 225 ILCS 46	Mandatory	Publicly & privately-funded care	None specified	Not specified	No	Yes			State (Medicaid program) or employer	Yes; expires after 3 months	Homicides, other violent offenses, sex-related offenses, drug-related offenses, fraud-related offenses, property crimes.	Yes
Indiana	Code Title 16, Article 27	Mandatory	Publicly & privately-funded care	None specified	Not specified	No		Yes		Employer; may pass fee on to employee	Yes; 21 days	Other violent offenses, sex-related offenses, and offenses against dependent or vulnerable individuals.	Not specified

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Iowa	Section 135C.33	Mandatory	Publicly & privately-funded care	None specified	Yes	No		Yes		Not specified	Not specified	Offenses against dependent or vulnerable individuals.	Yes
Kansas	Code 65-5112, 65-5117	Mandatory; Some discretionary	Publicly & privately-funded care	Yes	No	Yes; discretionary			Yes	Employer or employee	Yes; expires when check is complete	Homicides, sex-related offenses, and offenses against dependent or vulnerable individuals.	Not specified
Kentucky	Statute 216.785	Mandatory	Publicly & privately-funded care	None specified	Not specified	No	Yes			State agency or applicant	Not specified	Offenses against dependent or vulnerable individuals, sex-related offenses, property crimes, drug-related offenses and fraud-related offenses.	Yes
Louisiana	No statute or regulation found												
Maine	Section 2142	Mandatory	Publicly & privately-funded care	Yes	No	No		Yes		Not specified	Not specified	Sex-related offenses, offenses against dependent or vulnerable individuals, and fraud-related offenses.	Not specified
Maryland	Section 19-4B-03	Mandatory	Publicly & privately-funded care	None specified	Not specified	No			Yes	Agency or employee	Not specified	None specified	Yes
Massachusetts	Section 172C	Mandatory	Publicly & privately-funded care	None specified	Yes	No	Yes			Not specified	Not specified	Homicides, other violent offenses, sex-related offenses, offenses against dependent or vulnerable individuals, drug-related offenses, and fraud-related offenses.	Yes
Michigan	MI Choice Waiver Minimum Operating Standards	Mandatory	Publicly & privately-funded care	Yes	Yes	Yes; not exempt			Yes	State reimburses cost	Yes; employee must certify in writing that has committed no offenses	Homicides, other violent offenses, sex-related offenses, offenses against dependent or vulnerable individuals, drug-related offenses, fraud-related offenses, property crimes.	Yes

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New Hampshire	2003 Chapter 185: Sec. 161-I6a	Mandatory	Publicly & privately-funded care	None specified	Not specified	No	Yes			Employer; may pass fee on to employee	Yes; but individual may not begin work until check is completed	None specified	Not specified	
New Jersey	Code 45:11-24.3 - 45:11-24.5	Mandatory	Publicly & privately-funded care	None specified	Not specified	No		Yes		State	Yes; expires after 60 days for state check and 120 days for federal check	Homicides, other violent offenses, property crimes, offenses against dependent or vulnerable individuals, and drug-related offenses.	Yes	
New Mexico	29-17-1 through 29-17-5	Mandatory	Publicly & privately-funded care	None specified	Not specified	Yes; not exempt		Yes		Employer or employee	Yes; must be supervised employment and begins once check is requested	Homicides, other violent offenses, sex-related offenses, offenses against dependent or vulnerable individuals, drug-related offenses, property crimes, and fraud-related offenses.	Yes	
New York	Public Health Law 2899 and Executive Code 845B	Mandatory	Publicly & privately-funded care	None specified	Not specified	No			Yes	Agency/provider; agency is forbidden from seeking reimbursement from employee	Yes; must be supervised when in contact with consumers	Homicides, other violent offenses, sex-related offenses, offenses against dependent or vulnerable individuals, drug-related offenses, and fraud-related offenses.	Yes	
North Carolina	Statute 131E-265	Mandatory	Publicly & privately-funded care	None specified	Not specified	No			Yes	Not specified	Yes; check must be submitted within five days of employment	Homicides, other violent offenses, sex-related offenses, offenses against dependent or vulnerable individuals, drug-related offenses, property crimes, DUI and fraud-related offenses; none are automatically disqualifying.	Yes	
North Dakota	No statute or regulation found													
Ohio	Revised Code Section 3701.881 Revised Code Section 173.394	Mandatory	Publicly & privately-funded care	Yes	No	No				Yes	Employer	Yes; expires after 30 days	Homicides, other violent offenses, sex-related offenses, offenses against dependent or vulnerable individuals, drug-related offenses, and fraud-related offenses.	Yes

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Oklahoma	Chapter 71 of 2008	Mandatory	Publicly & privately-funded care	Yes	Not specified	Yes; not exempt	Yes			Employer	Yes; expires after 30 days	Homicides, other violent offenses, sex-related offenses, offenses against dependent or vulnerable individuals, drug-related offenses, and fraud-related offenses.	Yes
Oregon	Administrative Code, Chapter 407-007-200	Mandatory	Publicly & privately-funded care	None specified	Yes	No			Yes	Not specified	Yes; only under direct supervision and begins once check is requested	Homicides, other violent offenses, sex-related offenses, offenses against dependent or vulnerable individuals, drug-related offenses, DUI, and property crimes; none are automatically disqualifying.	Yes
Pennsylvania	2006 Act 69	Mandatory	Publicly & privately-funded care	Yes	No	No			Yes	Employer	Yes; expires after 30 days for residents and 90 days for non-residents	Homicides, other violent offenses, sex-related offenses, offenses against dependent or vulnerable individuals, and fraud-related offenses.	Not specified
Rhode Island	Sec. 23-17-34	Mandatory	Publicly & privately-funded care	None specified	Not specified	No	Yes			State	Yes; check is required within one week of employment	Homicides, other violent offenses, sex-related offenses, offenses against dependent or vulnerable individuals, drug-related offenses, and fraud-related offenses.	Not specified
South Carolina	Article 23, Criminal Records Checks of Direct Care Staff	Mandatory	Publicly & privately-funded care	Yes	Yes	No			Yes	Employee or employer	No	Homicides, other violent offenses, sex-related offenses, offenses against dependent or vulnerable individuals, drug-related offenses, and fraud-related offenses.	Not specified
South Dakota	Rules: 67:54:06:08	Mandatory	Publicly & privately-funded care	None specified	Not specified	Yes; not exempt				Not specified	Not specified	No convictions that affect applicant's fitness for employment.	
Tennessee	Chapter 0030-1-6	All Discretionary	Publicly & privately-funded care	None specified	Yes	No			Yes	Employer	Yes	Homicides, other violent offenses, sex-related offenses, offenses against dependent or vulnerable individuals, drug-related offenses, and fraud-related offenses.	Not specified

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Texas	Chapter 250, Health and Safety Code Handbook	Mandatory	Publicly & privately-funded care	None specified	Not specified	No	Yes			Employer	Yes; pending the results of the check but only in emergency situations	Homicides, other violent offenses, sex-related offenses, and offenses against dependent or vulnerable individuals.	Not specified
Utah	Code Sec. 62A-2-120, 62A-3-104.3, 62A-3-106.5, 62A-3-311.1 and 62A-5-101	Mandatory	Publicly & privately-funded care	Yes	Not specified	No			Yes	Employee	No	Homicides, other violent offenses, sex-related offenses, offenses against dependent or vulnerable individuals, drug-related offenses, and fraud-related offenses.	Yes
Vermont	Background Check Policy (Department of Disabilities, Aging and Independent Living, Agency of Human Services)	Mandatory; Some Discretionary	Publicly-funded care only	None specified	Yes	Yes; not exempt	Yes			State	Yes; expires after 60 days	Homicides, other violent offenses, sex-related offenses, offenses against dependent or vulnerable individuals, drug-related offenses, fraud-related offenses and property crimes.	Yes
Virginia	Code Sec. 32.1-126.01	Mandatory	Publicly & privately-funded care	Yes	No; unless supervised	No	Yes			Employer	Yes; expires after 30 days	Homicides, other violent offenses, sex-related offenses, and offenses against dependent or vulnerable individuals.	Not specified
Washington	Code Title 70 (sections 127 and 128)	Mandatory	Publicly & privately-funded care	None specified	Yes	No			Yes	State or employer	Yes; pending the results of the check	Homicides, other violent offenses, sex-related offenses, offenses against dependent or vulnerable individuals, drug-related offenses, and fraud-related offenses.	Not specified
West Virginia	Rules: 64-50	Mandatory	Publicly & privately-funded care	None specified	Not specified	No	Yes			Not specified	Not specified	Offenses against dependent or vulnerable individuals and fraud-related offenses.	
Wisconsin	The Wisconsin Caregiver Law, Sec. 50.065	Mandatory	Publicly & privately-funded care	Yes	Yes; unless client requests exemption	Yes; not exempt				Employer	Not specified	Homicides, other violent offenses, sex-related offenses, offenses against dependent or vulnerable individuals, and fraud-related offenses.	Yes

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Wyoming	Statute 7-19-201	All Discretionary					Yes						
Puerto Rico	8 L.P.R.A. Sec. 481	Mandatory	Publicly & privately-funded care	None specified	Yes	No	Yes			Not specified	Not specified	Homicides, other violent offenses, sex-related offenses, and offenses against dependent, fraud-related offenses, property crimes or vulnerable individuals.	Not specified
U.S. Virgin Islands	No statute or regulation found												
Guam	No statute or regulation found												
Samoa	No statute or regulation found												
Wake Islands	No statute or regulation found												
		1 "Discretionary" indicates that law states checks are discretionary for some employer groups	2 "Publicly-funded Care Only" indicates that law or reg covers at least one program funded wholly or in part by state dollars (e.g. Medicaid waiver program); "Publicly & Privately-funded Care" indicates that law broadly applies to home care workers both privately and publicly-funded.				3 Indicates that statute explicitly mentions consumer-directed care, and if mentioned, whether it is exempt or not exempt under CBC requirements.					4 Offenses listed are disqualifying for some period of time, according to law. In two states (North Carolina and Oregon), these offenses are not automatically disqualifying and employment is at the discretion of the employer. For more detail, see state summaries and narrative. Also see disqualifying offenses categories on separate page.	