

Nationwide and State Criminal-History Checks

One of the most vital layers of a comprehensive screening program is a nationwide criminal-history check. There are essentially two types of criminal-history checks: fingerprint-based and name-based. Fingerprint-based checks offer one advantage as they can help properly identify someone who is using an alias and attempting to avoid detection. Name-based checks offer their own advantages; most notably—greater accessibility and timeliness of results.

The nationwide fingerprint check is a search of the FBI's master fingerprint file, which can be accessed through state law enforcement agencies. The check involves searching the official state repositories of criminal-history information. These state repositories are maintained in a database called the Integrated Automated Fingerprint Identification System (IAFIS). IAFIS is a national fingerprint and criminal-history system that responds to requests 24 hours a day, 365 days a year. IAFIS searches include arrest records, convictions, juvenile records (if provided by the state), dismissed charges or not-guilty verdicts, warrants, Sex Offender Registry information, physical characteristics (i.e., height, weight, hair, tattoos, and eye color), and aliases. All arrest data included in an Identification Record is obtained from fingerprint submissions, disposition reports, and other information submitted by agencies with criminal justice responsibilities.

Some state search checks allow you to access these records through either a fingerprint or name-based check by submitting the applicant's name, sex, and date of birth; however, the check may only include a search of the state where the information was submitted. State laws and regulations govern access to these records, and they vary significantly. Therefore, it is important to contact your state repository to determine if these records are accessible when creating background-screening policies. If a nationwide search is not an option, then it is important to check every state in which the applicant has resided. A list of the State Identification Bureaus is available on the FBI Criminal Justice Information Service's website at:

<https://www.fbi.gov/services/cjis/identity-history-summary-checks/state-identification-bureau-listing>). The State Identification Bureau for Massachusetts is: Massachusetts State Police State Identification Section, 59 Horse Pond Rd., Sudbury, MA 01776 (508-358-3170).

Private Companies: Another way to obtain a criminal-history check is through a private company. These are name- or social security number- based searches of public court records, state correctional facilities, and state criminal history record repositories. These companies buy the information from the states and create their own proprietary databases. You supply the applicant's name, date of birth, and/or social security number, and they will provide your results in a report. It is important that the search includes a social security number, if possible, which will provide a history of past and present addresses and names associated with the individual's SSN, including aliases.

Private vendors return the results rather quickly; and can tailor the depth of a search (and, therefore, cost) based on the risk associated with a position. However, it is important to remember not all states sell their criminal-history information to commercial databases, even if the report says it is a nationwide check. When choosing a private company, it is recommended to inquire about the sources of their information and how often the data is updated. The commercial databases may also be missing important disposition information that is relevant to determine whether an individual was only *arrested for* versus *convicted of* a particular offense. It is also important to speak to legal counsel as there are certain legal requirements that organizations must meet in order to protect an individual's privacy rights and ensure fair use of the information, including compliance with the Fair Credit Reporting Act and state consumer reporting laws. (For further information, visit the Federal Trade Commission, Bureau of Consumer Protection website at: (<https://www.ftc.gov/tips-advice/business-center/guidance/what-employment-background-screening-companies-need-know-about>))

There are pros and cons to both fingerprint-based and name-based checks. It is therefore recommended that you use a combination of these resources (when available) to minimize the challenges inherent to both types of searches.