

## Information in State statutes and regulations relevant to the National Background Check Program: Alabama

This document describes what was included as of December 2010 in Alabama statutes and regulations relevant to the Centers for Medicare & Medicaid Services' National Background Check Program. Alabama has three relevant statutes and regulations, all of which were used in gathering information for this document, and which are listed below in the State Statutes and Regulations section.

<b>Key Feature</b>	<b>Description</b>
Specific facility and provider types	The State covers one of the long term care (LTC) facility and provider types named in the Patient Protection and Affordable Care Act of 2010 (Affordable Care Act): adult day care.
Registry checks	Not addressed.
Fingerprinting	All applicants for employment with an adult day care facility or provider are fingerprinted.
Rap back	Not addressed.
Provisional employment	The statutes and regulations indicate that the State allows for provisional employment, but do not clarify the provisional employment period.
Definition of direct patient access employee	Alabama does not have a definition of a direct patient access employee. However, background checks are required for licensees, license applicants, volunteers, volunteer applicants, job applicants, and current employees (including contract employees) of adult care facilities.
Provision of criminal background check results to employee	Not addressed.
Expiration of criminal history background check results	Not addressed.

Key Feature	Description
<p>Inclusion of disqualifying crimes specified in section 6201 of the Affordable Care Act:</p> <ol style="list-style-type: none"> <li>1. Medicare/Medicaid program-related crimes (42 U.S.C § 1320a-7(a)(1))</li> <li>2. Convictions related to patient abuse/neglect (42 U.S.C § 1320a-7(a)(2))</li> <li>3. Felony convictions related to health care fraud (42 U.S.C § 1320a-7(a)(3))</li> <li>4. Certain felony convictions related to controlled substances (42 U.S.C § 1320a-7(a)(4))</li> </ol>	<ol style="list-style-type: none"> <li>1. Not addressed.</li> <li>2. State statutes and regulations may bar LTC employment for convictions of some of these federally mandated disqualifying crimes, but do not cover all possible such crimes.</li> <li>3. Not addressed</li> <li>4. State statutes and regulations may bar LTC employment for convictions of some of these federally mandated disqualifying crimes, but do not cover all possible such crimes.</li> </ol>
<p>State-identified convictions</p>	<p>Alabama statutes and regulations do not identify any disqualifying convictions.</p>
<p>Opportunity to contest accuracy of background check findings</p>	<p>The State provides a way to contest the accuracy of background check findings.</p>
<p>Ability to remove hiring prohibition based on rehabilitation factors</p>	<p>Not addressed.</p>
<p>Rehabilitation/mitigation process for negative fitness determinations</p>	<p>The State's process takes into account the following: elapsed time since the disqualifying conviction, extenuating circumstances, rehabilitation, and relevance of the conviction to the job in question.</p>
<p>Independence of appeal or review process</p>	<p>Not clear.</p>

## State Statutes and Regulations

<b>Citation</b>	<b>Description</b>
Code of Alabama (Ala. Code), Sections 38-13-1 through 38-13-12	These are about criminal background checks for staff of adult and child facilities licensed by the Department of Public Welfare. (Note: Nursing facilities, hospitals, hospices, assisted living facilities, and intermediate care facilities for the mentally retarded are licensed by the Department of Health; see §§ 22-21-20 and 22-21-22. There are no criminal background check requirements in the Department of Public Health's regulations for any of these facilities.)
Alabama Administrative Code (Ala. Admin. Code) rule 660-5-46	This has to do with criminal background checks for workers of adult day cares and other Department of Public Welfare-licensed facilities.
Ala. Admin. Code rule 760-X-1-.18	This includes procedures for obtaining criminal history information from the Department of Public Safety.