

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

This document describes what was included as of February 2011 in Kansas statutes and regulations relevant to the Centers for Medicare & Medicaid Services' National Background Check Program. Kansas has five 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.

Key Feature	Description
Specific facility and provider types	The State covers six of the long term care (LTC) facility and provider types named in the Patient Protection and Affordable Care Act of 2010 (Affordable Care Act), namely: skilled nursing facilities, nursing facilities, home health agencies, adult day care, residential care providers, and intermediate care facilities for the mentally retarded.
Registry checks	Not addressed.
Fingerprinting	Not addressed.
Rap back	Not addressed.
Provisional employment	Not addressed.
Definition of direct patient access employee	Kansas does not define direct patient access employee. However, background checks are required for all unlicensed LTC employees, to include non-incident contract labor (such as food service workers). There are exemptions for volunteers (at the discretion of the facilities and providers) and licensed professionals who are checked by licensing agencies. Employment agencies must request the background checks and provide documentation showing that individuals have not been convicted of any prohibited offenses.
Provision of criminal background check results to employee	Not addressed.
Expiration of criminal history background check results	State statutes and regulations indicate that criminal history background checks expire, but do not clarify the expiration period.

Key Feature	Description
<p>Inclusion of disqualifying crimes specified in section 6201 of the Affordable Care Act:</p> <ol style="list-style-type: none"> 1. Medicare/Medicaid program-related crimes (42 U.S.C § 1320a-7(a)(1)) 2. Convictions related to patient abuse/neglect (42 U.S.C § 1320a-7(a)(2)) 3. Felony convictions related to health care fraud (42 U.S.C § 1320a-7(a)(3)) 4. Certain felony convictions related to controlled substances (42 U.S.C § 1320a-7(a)(4)) 	<ol style="list-style-type: none"> 1. Not addressed. 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. 3. Not addressed. 4. Not addressed
<p>State-identified convictions</p>	<p>See Appendix A – State-identified Disqualifying Convictions. Kansas identifies various disqualifying convictions. More information on the disqualifying convictions can be found in Appendix A.</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>The State does not provide the ability to remove a hiring prohibition based on rehabilitation factors.</p>
<p>Rehabilitation/mitigation process for negative fitness determinations</p>	<p>Not addressed.</p>
<p>Independence of appeal or review process</p>	<p>The State provides independence of the appeal or review process.</p>

State Statutes and Regulations

Citation	Description
Kansas Statutes Annotated (K.S.A.) § 39-970	This is about barring persons convicted of certain crimes (including persons with juvenile convictions of the same kinds of acts) from working in adult care homes.
K.S.A. § 65-5117	This is about barring persons convicted of certain crimes (including persons with juvenile convictions of the same kinds of acts) from working in home health agencies.
K.S.A. §§ 65-6204 through 65-6205	This has to with the optional request for background information for employees of community service providers (serving persons with developmental disabilities), mental health centers, and independent living agencies (part of home health services).
K.S.A. § 74-1112	This indicates that the State Board of Nursing may order fingerprint-based State and national criminal history record checks and use the results in determining fitness for licensure as a professional nurse, practical nurse, or mental health technician.
K.S.A. § 21-4619	This is about expungement of records of infractions, misdemeanors, and minor felonies.

Key

§ - Section

§§ - Sections

Appendix A – State-identified Disqualifying Convictions

The State-identified disqualifying convictions include, but are not limited to:

- murder in the first degree,
- murder in the second degree,
- voluntary manslaughter,
- involuntary manslaughter,
- assisting suicide,
- aggravated assault,
- aggravated assault on a law enforcement officer,
- battery (felony),
- battery against a law enforcement officer (felony),
- aggravated battery,
- aggravated battery against a law enforcement officer,
- criminal threat,
- aggravated criminal threat,
- kidnapping,
- aggravated kidnapping,
- interference with parental custody (felony),
- aggravated interference with parental custody,

- robbery,
- aggravated robbery,
- blackmail,
- exposing another to a life-threatening communicable disease,
- mistreatment of a dependent adult (misdemeanor or felony),
- stalking,
- capital murder,
- injury to a pregnant woman (felony),
- injury to a pregnant woman by vehicle (felony),
- involuntary manslaughter while driving under the influence,
- trafficking,
- aggravated trafficking,
- battery against a mental health employee,
- terrorism,
- illegal use of weapons of mass destruction,
- furtherance of terrorism or illegal use of weapons of mass destruction,
- rape,
- indecent liberties with a child,
- aggravated indecent liberties with a child,
- criminal sodomy (felony),
- aggravated criminal sodomy,
- lewd and lascivious behavior (felony),
- indecent solicitation of a child,
- aggravated indecent solicitation of a child,
- promoting prostitution (felony),
- sexual exploitation of a child,
- sexual battery,
- aggravated sexual battery,
- unlawful sexual relation,
- unlawful voluntary sexual relations,
- electronic solicitation,
- bigamy,
- incest,
- aggravated incest,
- abandonment of a child,
- aggravated abandonment of a child,
- aggravated endangering a child,
- abuse of a child,
- furnishing alcoholic beverages to a minor for illicit purpose,
- contributing to a child's misconduct or deprivation (felony),
- theft (felony),
- attempt to commit a prohibited offense,
- conspiracy to commit a prohibited offense, and
- criminal solicitation to commit a prohibited offense.