

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

This document describes what was included as of June 2011 in Missouri statutes and regulations relevant to the Centers for Medicare & Medicaid Services' National Background Check Program. Missouri has 12 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 all 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, hospices, long term acute care hospitals, personal care services, adult day care providers, residential care providers, and intermediate care facilities for the mentally retarded.
Registry checks	Statutes and regulations indicate that the State conducts a State-based search of abuse and neglect registries.
Fingerprinting	Not addressed.
Rap back	Not addressed.
Provisional employment	Not addressed.
Definition of direct patient access employee	Missouri does not have a definition of direct patient access employee. However, Missouri requires background checks for everyone with direct access to patients in the LTC setting. This includes volunteers, contractors, and vendors; it includes anyone who has routine access.
Provision of criminal background check results to employee	For agencies and facilities required to or that choose to use the Missouri Family Care Safety Registry (FCSR), it is required that FCSR results are provided to the registrant each time a screening is requested.
Expiration of criminal history background check results	Not addressed.

<b>Key Feature</b>	<b>Description</b>
<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. Not addressed.</li> <li>3. Not addressed.</li> <li>4. Not addressed.</li> </ol>
<p>State-identified convictions</p>	<p>See Appendix A – State-identified Disqualifying Convictions. Missouri 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’s Good Cause Waiver Program provides this ability.</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 took place, extenuating circumstances, rehabilitation, and relevance of the conviction to the job in question.</p>
<p>Independence of appeal or review process</p>	<p>The State provides an independent appeal or review process.</p>

## State Statutes and Regulations

Citation	Description
Missouri Revised Statutes (RSMo) §§ 210.900 to 210.936	This deals with the Family Care Safety Act, which requires background checks for employees of residential care facilities, assisted living facilities, intermediate care facilities, skilled nursing facilities, home health care providers, and hospices, and establishes a registry of such employees.
RSMo § 660.317	This indicates that LTC providers, nurse/nurse assistant staffing agencies, and others must obtain a criminal background check before hiring (or in the case of a staffing agency, referring to a provider) a person who will have contact with patients or residents.
RSMo § 660.315	This is about the Department of Social Services investigating possible incidents of elder abuse and neglect, and maintaining an employee disqualification list. This duty was transferred to the Department of Health and Senior Services in 2001, but the statute does not yet reflect this change (see cell below).
RSMo § 198.070.13	This is about the Department of Health and Senior Services maintaining a list of disqualified employees; these are individuals who were employed in a residential care facility, assisted living facility, intermediate care facility, or skilled nursing facility, and who have been determined to have knowingly or recklessly abused or neglected a resident.
RSMo § 43.540	This is about the State and national criminal record checks conducted by the State Highway Patrol upon the request of a State agency or qualified employer.
19 Code of State Regulations (CSR) 30-80.010 through 30-80.040	This is about regulations implementing the Family Care Safety Act.
19 CSR 30-82.060	This is about regulation concerning "good cause" waivers.
19 CSR 85-042(17), (18), and (23)	These deal with the criminal background check-related obligations of intermediate care and skilled nursing facilities.
19 CSR 30-35.010(1)(E)1.D.3	This regulation says that hospices shall conduct criminal background checks in accordance with State law.
19 CSR 30-86(11)(A) and (21)(G); 19 CSR 30-86.043(12) and (19); 19 CSR 30-86-042(11); 19 CSR 30-86.047(13) and (20)(G)	These regulations are about the criminal background check-related obligations of residential care facilities and assisted living facilities.

<b>Citation</b>	<b>Description</b>
19 CSR 30-86.047(14) and 19 CSR 30-86-042(12)	These indicate that assisted living facilities and residential care facilities may not employ as an agent or employee who has access to controlled substances, any person who has been found guilty or entered a plea of guilty or nolo contendere in a criminal prosecution under the laws of any State or of the United States for any offense related to controlled substances.
19 CSR 30-90.040(3)(G) and (11)(A); 19 CSR 30-90.060(1)(C)4	These regulations are about the criminal background check-related obligations of adult day care programs.

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**Appendix A – State-identified Disqualifying Convictions**

The State-identified disqualifying convictions for residential facilities, such as nursing homes and assisted living facilities, include, but are not limited to:

- any offense against the person, sexual offense, or robbery, arson, burglary, or related offense, which, if committed in Missouri, would be a class A or B felony,
- knowingly failing to make a report of abuse or neglect within a reasonable time after the act of abuse or neglect in a residential care facility, assisted living facility, intermediate care facility, or skilled nursing facility (by a person who has a statutory duty to make such a report), and
- incest.

For in-home service providers and home health agencies, any FCSR finding is disqualifying.