

ALL ABOUT CRIMINAL RECORDS

Types Of Searches, What's Included
And When To Use Them



While not every crime would automatically prevent an applicant from being hired, and not every criminal record represents the same level of risk, when it comes to employment background checks, it's important to follow your industry's regulations and have all the information you need to make a fair, informed decision.

Background check providers offer many types of criminal records searches, and it can be confusing to understand what they entail.



THIS DECISION GUIDE WILL HELP YOU BETTER UNDERSTAND:

- Types of criminal convictions
- Where to start
- The differences among five criminal record database searches
- The types of records they show
- What they're best used for

Understanding Types Of Criminal Convictions

A **criminal conviction** is a court's finding of guilt for a crime or an offense. There are two types of criminal convictions: felony and misdemeanor. Both felony and misdemeanor convictions can be crimes committed against people, property, or the state. The main difference between a felony and a misdemeanor is the severity of the crime; however, degrees of severity vary from state to state. Within each category, states may classify crimes into subcategories, sometimes known as degrees or classes,

FELONY

An offense which is subject to a potential prison sentence of more than one year in state or federal prison. While each state has its own laws governing what constitutes a felony crime, in general, the more serious the crime, the longer the prison sentence.

EXAMPLES

Murder, rape, kidnapping, arson, theft (values larger than \$500), and aggravated assault

MISDEMEANOR

A less serious offense which is subject to a potential prison sentence of between 15 days and one year in a local prison, or a sentence that does not include any jail time. Punishment for a misdemeanor crime can also include fines, probation and/or community service.

EXAMPLES

Vandalism, trespassing, public intoxication, disorderly conduct, prostitution, theft (values less than \$500), and speeding

Where To Start

The type of criminal records that appear on your employment background checks will depend on the type of searches you use. Consumer Reporting Agencies (CRAs), such as GoodHire, search federal, national, state, county, and motor vehicle records databases to identify criminal records based on the jurisdictions' governing law where the crime was committed and in which court the person was convicted. For example, did the person break a state law or federal law?

All of these background check searches will reveal felony and misdemeanor criminal convictions, any pending criminal cases, and in some cases history of incarceration as an adult. Arrests pending prosecution may also be reported.

FIRST Find Out Where Your Candidate Has Lived With An SSN Trace

For the most accurate and comprehensive criminal records searches, start with your candidate's full name, date of birth, and Social Security number (SSN). An SSN Trace finds names, aliases, and counties on record associated with the candidate's SSN. This validates that the candidate's SSN matches the legal name given and establishes residency history for more in-depth criminal records searches.

NEXT Use A National Criminal Database Search As A Starting Point

This search is most often used to identify other jurisdictions such as states and/or counties where a person may have a criminal record, but it's not a comprehensive source and has limitations. Think of it as a first step to finding and flagging results that require additional investigation.

The most comprehensive background check is a County Criminal Court Search, which will reveal the most up-to-date, accurate information. Depending on your industry and screening policy, you'll want to consider other searches as well to ensure your bases are covered.

Now, let's take a closer look at the five different types of criminal records searches...

NATIONAL Criminal Database Search

What's Included

Searches 850 million records from thousands of jurisdictions nationwide to report crimes that are prosecuted in state and local courts, including:

- Criminal records from state record repositories and some county and township courts
- Departments of Correction
- Administrative Office of Courts

What's NOT Included

- Information from federal district courts
- Detailed records and up-to-date disposition information
- Coverage varies by state due to individual county and state laws, database coverage, and digitization of records

BEST USED FOR

A National Criminal Database Search casts a wide net and is used in nearly every criminal background check for positions across a wide variety of industries. Since state and county borders are easy to cross, criminal activity isn't limited to the local jurisdictions where a person lives—however, searching every county or state is cost- and time-prohibitive. This search is a great starting point to identify other jurisdictions (states and/or counties) where a person may have a criminal record, beyond the results of the SSN Trace that shows where a candidate has worked, lived, or attended school. If a National Criminal Database Search returns a result, you'll need to pull more detailed records from the appropriate jurisdiction.

FEDERAL Criminal Database Search

What's Included

Searches across the U.S. Federal Government's PACER criminal record system, a national index for U.S. district, bankruptcy, and appellate courts, to report crimes that are prosecuted under federal criminal law in federal courts, including:

- Crimes against federal employees (TSA agents, postal workers)
- Crimes committed on federal land (national parks)
- Crimes that cross state lines (kidnapping, child pornography)
- Crimes involving banks (all banks are protected by the FDIC, a federal department)
- Tax evasion, fraud, embezzlement, and identity theft
- Drug cases involving large distribution networks
- Illegal sale of firearms

What's NOT Included

- State or county criminal records
- FBI or Department of Justice records

BEST USED FOR

A Federal Criminal Database Search is used in industries where employees will have access to secure or financial information and where crimes such as fraud or embezzlement are job-relevant. It's often used when hiring C-level executives, CPAs, and financial and banking staff. Since a Federal Criminal Database Search contains limited identifying information, it's important to use a professional background screening provider that will verify possible matches.



DID YOU KNOW?

*The standard scope for criminal records is **seven years**, with extended searches available in some jurisdictions. **LEARN MORE about your state's specific background check laws >>***

7-YEAR COUNTY Criminal Court Search

What's Included

Searches are available for all 3,200 county courthouses in all 50 states. In many counties, court records have not been digitized, so background check providers use professional court runners to search at the county level for the most targeted, up-to-date, and accurate information. County courts whose records are more easily accessible may report records that are older than seven years as long as they still comply with state and local laws.

Reports include:

- Defendant's name
- Case number
- Charge classification (felony or misdemeanor)
- Charge type
- Disposition (guilty, pending, dismissed, etc.)
- Disposition date
- Sentencing information (prison time, probation, fines, etc.)
- Records older than 7 years (in some counties)

What's NOT Included

- Information from federal district courts

BEST USED FOR

A County Criminal Records Search is an essential component of a comprehensive background check and is recommended for any position. At a minimum, all counties of residence, work, and school should be searched for a period of at least seven years, and in any jurisdiction where a criminal record is revealed in a National Criminal Database Search or State Criminal Records Search in order to access more detailed information. Most felony and misdemeanor cases are filed in county courts, and contain the most up-to-date, detailed information.

STATE Criminal Records Search

What's Included

Searches criminal records at the state level, accessing sources such as:

- State Judicial Court System
- State Police
- State Department of Law Enforcement
- Administrative Office of the Courts

What's NOT Included

- Coverage varies by state; not all records are available from every county
- Detailed records and up-to-date disposition information
- Information from federal district courts

BEST USED FOR

Statewide criminal records searches can be a requirement for certain industries, such as healthcare and child care. A State Criminal Records Search is best used to identify criminal records that may be missed by county-level focused searches based on an SSN Trace. Since some states maintain up-to-date county-level records, and others maintain a database that is only periodically updated by select county sources, record details vary by state.



MOTOR VEHICLE

Records Search

What's Included

Searches state department of motor vehicles, or similar entity, to confirm whether a driver's license is valid or has been suspended and identify any driving-related violations. Information reported in MVRs includes:

- Driver's license status (valid, suspended, expired, etc.)
- Class (commercial driver's license, operator, etc.)
- Moving violations, suspensions, and restrictions
- Traffic accidents (in some jurisdictions)
- Convictions (DUI, DWI)

What's NOT Included

- Criminal records from federal, state, and local courts

BEST USED FOR

A Motor Vehicle Records Search can help identify candidates with unsafe driving records and is important for positions where employees will operate motor vehicles, such as commercial drivers, couriers and chauffeurs, contract drivers in the gig economy, employees who drive company vehicles, and machine operators. In some states, convictions for driving under the influence of alcohol or drugs are not on a criminal court record and can only be reported through a Motor Vehicle Records Search.

IMPORTANT TO KNOW

CRIMINAL RECORDS SEARCHES

DO NOT REPORT

- Civil records, such as liens and civil judgments, found in upper and lower courts
- Non-criminal activities, such as healthcare sanctions, sex offender registry, domestic watch lists (FBI's Most Wanted), and global watch lists (terrorists and INTERPOL Most Wanted)

CRIMINAL RECORDS SEARCHES

MAY REPORT

- Arrests that did not lead to convictions
- Active warrants
- Infractions or violations (petty offenses that are typically punishable by fines but not jail time, and are not considered criminal offenses)



DID YOU KNOW?

*It's a common misconception that a **non-conviction** means that a person will not have a criminal record on their background check report. A non-conviction in relation to a criminal matter in the court will always result in a criminal record; however, the disposition, or outcome of interaction with the court, is what's important to understand. For example, was the person tried in court and found guilty, not guilty, or was the case dismissed?*

To help our customers comply with guidance from the EEOC and with state laws that restrict the use of arrest records in employment screening, GoodHire omits non-convictions from background check reports. However, GoodHire does report pending cases and convictions that are deemed reportable under federal and state laws to ensure employers are aware of applicants' criminal records.

Deciphering Your Candidate's Background Check Results

Courts and Common Disposition Terms

Jurisdictions use different terms to report the status or outcome of a court case, which makes reviewing background checks confusing. The following are common disposition terms and what they mean.

CONVICTION

What it means: A person has been found guilty of a crime in a court of law

Other terms: Guilty, Admission, Forfeited, Paid, Probation, Revocation, Responsible

NON-CONVICTION

What it means: A record of a person's involvement in any court proceeding or police interaction in which no official conviction resulted

Other terms: Not Guilty, Dismissed, Withdrawn, Resolved, Set Aside, Nolle Prose, No Bill

PENDING

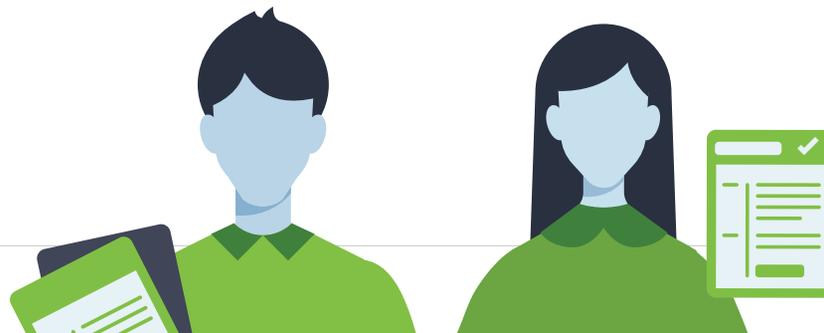
What it means: The case is waiting for court adjudication (conviction, plea deal, acquittal, etc.)

Other terms: None

DEFERRED ADJUDICATION

What it means: A court decides to sentence but not convict

Other terms: Adjudication Withheld, Probation Before Judgment, Prayer Before Judgment, Pretrial Intervention (PTI), Court Supervision





COMPLIANCE TIP

The federal Fair Credit Reporting Act (FCRA) prohibits background check results from reporting the same criminal record more than once in the same report. (For example, a report that shows the arrest as one record and a resulting conviction as another record.) When it comes to criminal records that are non-convictions, the Equal Employment Opportunity Commission (EEOC) discourages employers from using non-convictions in their employment decisions, and some states prohibit them altogether.

*To keep employers compliant, **GoodHire conducts manual reviews** to both identify and remove duplicate records and determine record disposition results to assess whether it's a disposition type that cannot be legally used by employers to evaluate candidates, and removes these results from background check reports. (Many background check providers don't conduct manual reviews.) It's another way we're working to help you make confident, effective, and fair hiring decisions.*

Background Checks Help You Make Fair And Informed Decisions

Background check providers offer many employment screening options and packages. The types of criminal record searches you use depends on your organization's employment screening policy, federal and state regulations for your industry, and which types of criminal records are relevant for the position.

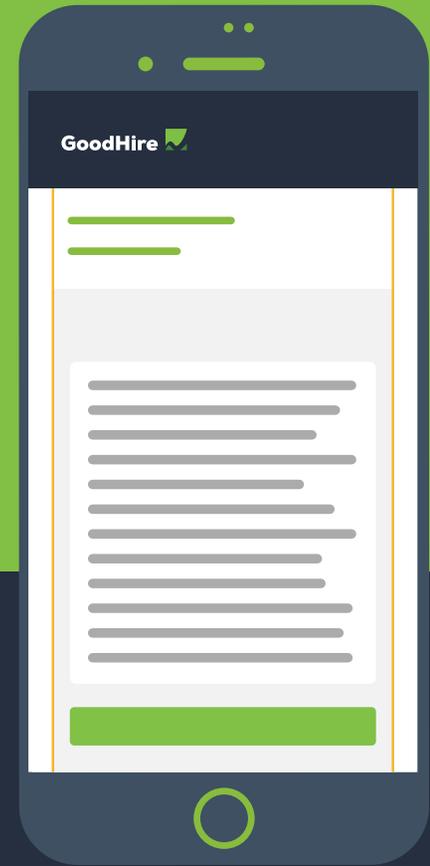
A considered approach to candidates with criminal records lets you keep great candidates in your hiring pool and treat all candidates—even those you may ultimately deny—with respect in accordance with the law.



BACKGROUND CHECKS YOUR WAY

At GoodHire, in addition to criminal record searches, we offer Healthcare Sanctions Checks, Civil Records Searches, Drug Screening, Credit Reports, Ongoing Alerts, and other screening options as add-on services to give you the flexibility to customize your screening program to your industry and the specific roles you're trying to fill.

DISCLAIMER: The resources provided here are for educational purposes only and do not constitute legal advice. If you have questions regarding your background check process, we advise you to consult legal counsel.



GoodHire's value-packed background check platform is unparalleled. Find out what we can do for your business.

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