



Details matter.

STATES RESTRICTING EMPLOYERS FROM CHARGING APPLICANTS FOR BACKGROUND CHECKS

	LAW	LANGUAGE
California	Labor Code § 450-452	“No employer, or agent or officer thereof, or other person, may compel or coerce any employee, or applicant for employment... in the purchase of anything of value. ” ¹
District of Columbia	D.C. Code § 44-552	Facility must pay fees “established and charged by the entity that provides the criminal background check result.” ²
Iowa	Code §692.2(6)	“ the fee for conducting a criminal history data check for a person seeking release of a certified copy of the person s own criminal history data to a potential employer... shall not be paid by the person but shall be paid by the employer ” ³
Kansas	K.S.A. §22-4710	“It is unlawful for any employer or prospective employer to require a person to inspect or challenge any criminal history record information relating to that

¹ Law states that “value” includes when an employer provides, accepts, or processes an application to an applicant. Background checks are not specifically stated but secondary sources mention case law holding that employers cannot pass background check costs to applicants. (See 450 (b) http://www.easylawlookup.com/California-Law/Labor-Code/par1171/easylookup.blp?GO=Prepare&print=&data=LABOR&sidfw=&par=1171&p_start=65&p_end=65&p_para=1169&p_epara=1177&displayer=YES&site=EASY&location=78232&spon=&stype=S&sterm=VALUE&smode=AND&sexact=OFF&ru_sz=50#par_1171)

² Nothing precludes employers from “seeking reimbursement of the fee paid.”

³ This restriction only applies to costs associated with conducting a **state or national criminal history record check and do not include county court checks. (661-11.2 (17A, 690, 692) Definitions—Fees).**

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		person for the purpose of obtaining a copy of the person's record in order to qualify for employment.” ⁴
Kentucky	Statute 336.220	“it is unlawful for any employer to require any employee or applicant for employment to pay the cost of a medical examination or the cost of furnishing any records required by the employer as a condition of employment”⁵
Louisiana	R.S. §23:897A	“It is unlawful for any public or private employer to require any employee or applicant for employment to pay or to in any manner pass on to the applicant or to withhold from an employee's pay the cost of fingerprinting, a medical examination, or a drug test, or the cost of furnishing any records available to the employer or required by the employer as a condition of employment.”⁶
Minnesota	Minn. Stat. § 181.645	“Except as provided by section 123B.03 or as otherwise specifically provided by law, an employer, as defined in section 181.931, or a prospective employer may not require an employee or prospective employee to pay for expenses incurred in

⁴ Please note the law does not speak directly to charging an applicant; the law only limits an employer from requiring an applicant to request a criminal record, which might extend to limiting an employer from charging a fee. Additionally, this law only applies to **state searches** and **does not cover county searches or statewide searches, outside of Kansas.**

⁵ Records include any criminal background check, driving record, civil check, or personal history searches. Kentucky only mentions furnishing.

⁶ Please note that Louisiana also includes “drug tests” as a cost an employer must cover.

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		criminal or background checks, credit checks, or orientation.”⁷
Vermont	20 V.S.A. §2056c(c)(10)	“No person entitled to receive a criminal conviction record pursuant to this section shall require an applicant to obtain, submit personally, or pay for a copy of his or her criminal conviction record, except that this subdivision shall not apply to a local governmental entity with respect to criminal conviction record checks for licenses or vendor permits required by the local governmental entity” ⁸

NOTE: The following states prohibit employers from charging applicants the cost of a medical examination⁹ for screening purposes:

- California (Cal. Lab. Code Sec. 222.5)
- Colorado (Colo. Rev. Stat. § 82-118(1))
- Illinois (820 Ill. Comp. Stat. 235/1)
- Louisiana (R.S. §23:897A)
- Ohio (Ohio Rev. Code Ann. § 4113.21)
- Oklahoma (OK 40 O.S. §191)
- Pennsylvania (PA. Cons. Stat. § 1002)
- Vermont (21 V.S.A. §301)

⁷ 123B.03 exceptions include individuals who seek employment in schools, regardless of whether compensation is paid

⁸ This statute **specifically limits state-wide searches from the Vermont Crime Information Center.**

⁹ Employers must exercise caution with respect to “medical examinations” because these listed states do not provide a clear definition of a “medical examination” and, therefore, drug screening may be considered a medical examination.

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