

Kansas Legal Services

A non-profit law firm and community education organization helping low and moderate income people in Kansas



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Errors by Criminal Background Check Companies Continue to Harm Consumers

Seven years ago, the National Consumer Law Center (NCLC) issued **Broken Records: How Errors by Criminal Background Checking Companies Harm Workers and Businesses**, a report detailing the harmful mistakes that criminal background screening companies routinely make. Since then, advocates have litigated many class action and individual lawsuits against these companies for violations of the Fair Credit Reporting Act (FCRA).

Both the Federal Trade Commission (FTC) and the Consumer Financial Protection Bureau (CFPB) have brought actions resulting in settlements requiring background screening companies to reform their procedures and practices and pay millions of dollars in civil penalties and in relief to harmed consumers. Despite these efforts to improve background check reporting, companies continue to generate inaccurate reports that have grave consequences for consumers seeking jobs and housing.

This report provides an update to the 2012 Broken Records report.

Today, the background screening industry is a multi-billion dollar industry, with about 94% of employers and about 90% of landlords using background checks to evaluate prospective employees and tenants. Background screening companies now generate reports through largely automated processes.

Generally, they run automated searches through giant databases of aggregated criminal record data. Reports may undergo only minimal, if any, manual review or quality control before an employer or landlord receives them.

The data included in reports often is purchased in bulk through intermediaries or obtained from websites via web scraping technology. The data often is incomplete, missing key personal identifiers. It also may be infrequently updated.

Practices like these often lead to erroneous background check reports that result in consumers being denied jobs and housing. Even consumers who successfully remove errors from their reports may not get the job or the apartment. Background screeners continue to generate these

inaccurate reports even though the FCRA requires them to maintain procedures to ensure the accuracy of the information they report.

This report uses stories from lawsuits and public enforcement actions to illustrate the types of errors that continue to harm consumers. In particular, background screening companies generate criminal background check reports that:

- Mismatch the subject of the report with another person,
- Include sealed or expunged records,
- Omit information about how the case was disposed of or resolved,
- Contain misleading information, and
- Misclassify the offense reported.

This report also examines the problems that arise out of relying on automated processes to decide whether to reject or accept a prospective employee or tenant. Based on the issues identified in the original report and in this one, this report recommends action at the federal and state levels.

The report was produced by the **National Consumer Law Center**.

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 [report-broken-records-redux.pdf](#)

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