

Most Companies Ignoring Significant State Differences in Screening Regulations For Permanent Remote Workforce



HRO Today Flash Reports are a series of ongoing research initiatives that address today's topics of interest in the HR community. These are focused briefs that can be used to support business decisions and further discussion among industry practitioners and thought leaders.

This report examines organizations' long-term plans for a remote workforce, differences in policies for remote and on-site staff, and background screening practices for returning employees.

This study was sponsored by **Global HR Research.**

Methodology

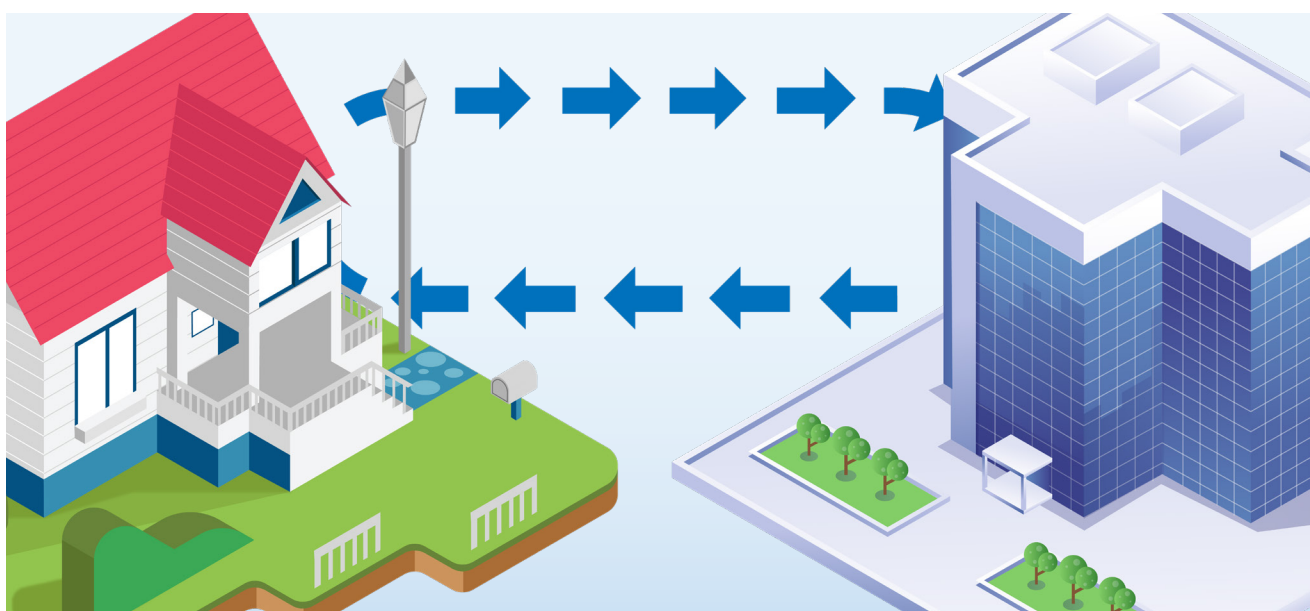
Between March 8 and March 31, 2022, a series of emails were sent to subscribers of *HRO Today* magazine and *HRO Today* newsletters inviting them to take part in an online study. Study respondents were senior HR practitioners familiar with their company's background screening requirements for both remote and onsite employees, primarily in the North American region. Respondents were screened for familiarity with their company's background screening requirements for both remote and onsite employees. The total number of usable surveys was one hundred, and respondents were from North America.

Introduction

For more than two years as COVID-19 has surged and yielded, employers have had to transition between remote and in-person work. Now, many companies are enacting plans to return staff to onsite premises—but this return presents numerous obstacles.

In many industries, the hybrid workforce has become the new normal. Employees increasingly prefer having remote work options, and organizations now have the technology infrastructure to make it possible. Many employees are now required to spend fewer days in the office, and that trend might be here to stay.

But what are the implications of hybrid workplaces on background screening policies for returning employees? Do the same policies apply to both remote and onsite employees? Are companies with long-term remote workforce plans accounting for the significant differences between state-by-state background screening regulations? This study examines the implications of these questions and others.



Conclusions



Most organizations have similar policies for all their employees. Over half (59%) of surveyed HR leaders said there is no appreciable difference

between their remote and onsite policies. However, among those with a difference, just over one-quarter (27%) indicated that their onsite policies are more comprehensive than their remote policies.

Companies do not understand that they must shift their policies/procedures to include the state the candidate lives in plus the state of HQ — and abide by whatever the “unique” terms that each state has applied. It’s a big sign that many, many companies are putting themselves unknowingly at risk. There is also the data access security risk that’s inherent with any outside workforce — remote or contract.



There is geographical consistency in background screening requirements.

For the majority (76%) of respondents, background screening policies are very consistent across geographies.



Remote work options will remain a permanent part of the work landscape.

On average, 40% of full-time employees are now working remotely at least some of the time. Looking forward, over one-half (53%) estimate this will increase in the next 12 months, with 36% indicating no change.



Hybrid work schedules will be the norm.

The most prevalent arrangement for employees who can work remotely is a hybrid schedule split between home and office, selected by over three-quarters (77%) of respondents.



Companies plan to continue their COVID-19 policies.

The U.S. Supreme Court ruling that the government could not mandate vaccination, masking, and regular testing for employees had little impact on plans for employee vaccine and testing mandates. Only 20% of organizations plan to abandon their practices after the ruling.



Very few organizations plan to screen returning employees.

Only 8% of HR leaders plan to ask employees to submit a renewed background screening.

DETAILED FINDINGS:

Percentage of Employees who Currently Work Remotely

Please select the range below that contains the percentage of your employees who currently work remotely.

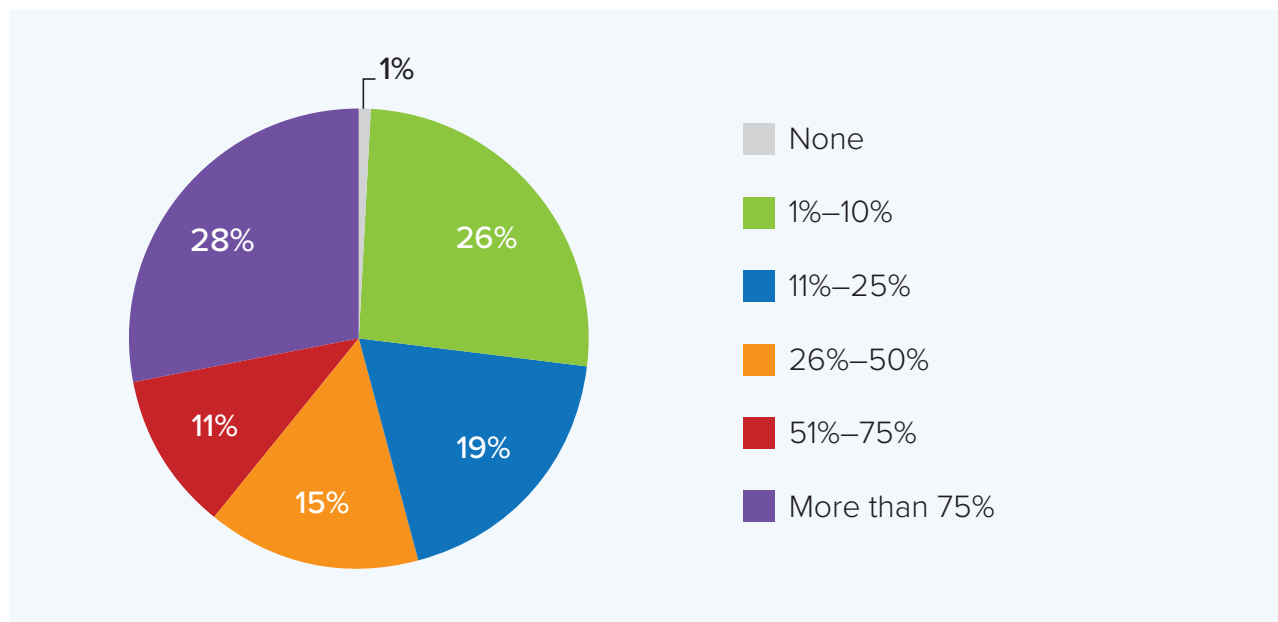
Study participants were asked to identify the percentage of their employees who are currently working remotely. Over one-third (39%) indicated that most of their employees are currently remote.

While many organizations are now calling employees back to the office, this is complicated

by the latest COVID-19 subvariant, BA.2, which has begun taking hold in the U.S.

The estimated number of workers that are remote has been a moving target for over two years. The most recent estimate is that 58.6% of the total U.S. workforce are remote workers, though that includes contingent workers.¹

Percentage of Employees who Currently Work Remotely



Percentage of Workforce in Office in 12 Months

How will the percentage of your workforce in the office change in the next 12 months?

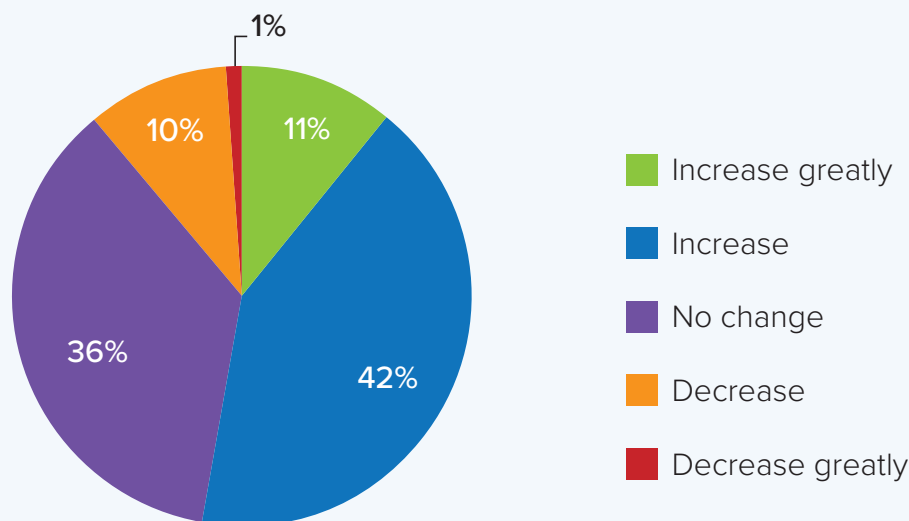
Respondents were asked to identify how the percentage of their onsite workforce will change in the next 12 months. Over one-half (53%) estimated it would increase, while just over one-third (36%) felt there would be no change.

Many employees prefer a remote work arrangement. A recent Gallup study revealed that when asked what their preferred work location would be going forward, 91% of remote workers indicated they wanted to be hybrid (54%) or exclusively remote (37%).²

There are many reasons why remote work has become the norm for many workers. A better work-life balance is the main reason people choose to work remotely. Additionally, 75% of people work remotely because there are fewer distractions, which leads to higher productivity.³

The transition to remote will have a lasting impact on the workforce. According to recent research by Gartner, 48% of employees will work remotely at least some of the time in the post-pandemic world, compared with 30% before.⁴

Percentage of Workforce in Office in 12 Months



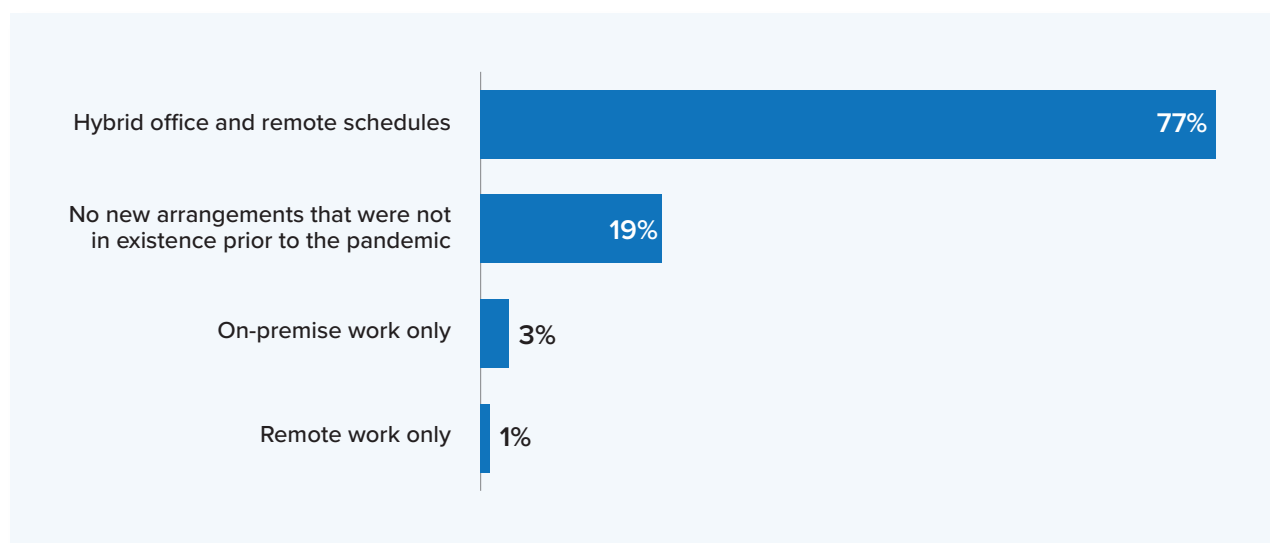
New Arrangements for Remote and Office Work

What new arrangements are you making for remote and office work?

Study participants identified the arrangements they are making for remote and office-based work. Overall, 81% of companies have made some new arrangements that were not in existence prior to the pandemic. By far the most common arrangement is a hybrid office and remote schedule, which was selected by over three-quarters (77%) of respondents.

Employees will not return to the same workplaces they left behind during the pandemic. Those with the ability to work remotely are anticipating a hybrid office environment going forward. In fact, when asked their employer's long-term plans, remote-capable employees confirmed that a hybrid work schedule will be the predominant office arrangement going forward. About 53% of employees expect a hybrid arrangement and 24% expect to work exclusively remotely.⁵

New Arrangements for Remote and Office Work

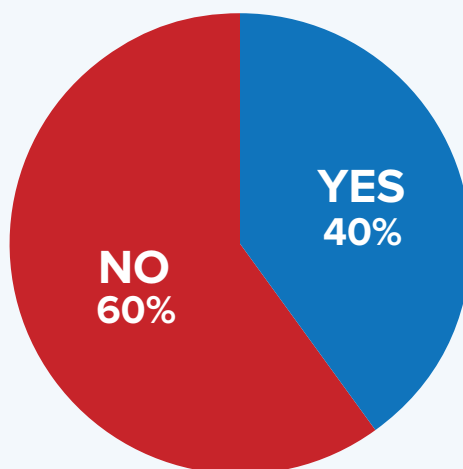


Implementation of Employee Vaccine and Testing Mandates

In January 2022, the U.S. Supreme Court ruled that the government could not mandate vaccination, masking, and regular testing for employees outside the health care system. Prior to that, had your company begun implementing all employee vaccine and testing mandates?

After reading a brief description of the recent U.S. Supreme Court ruling, 40% of study respondents indicated that they had already begun implementation of employee vaccine and testing mandates.

Implementation of Employee Vaccine and Testing Mandates



Vaccine and Testing Actions Taken

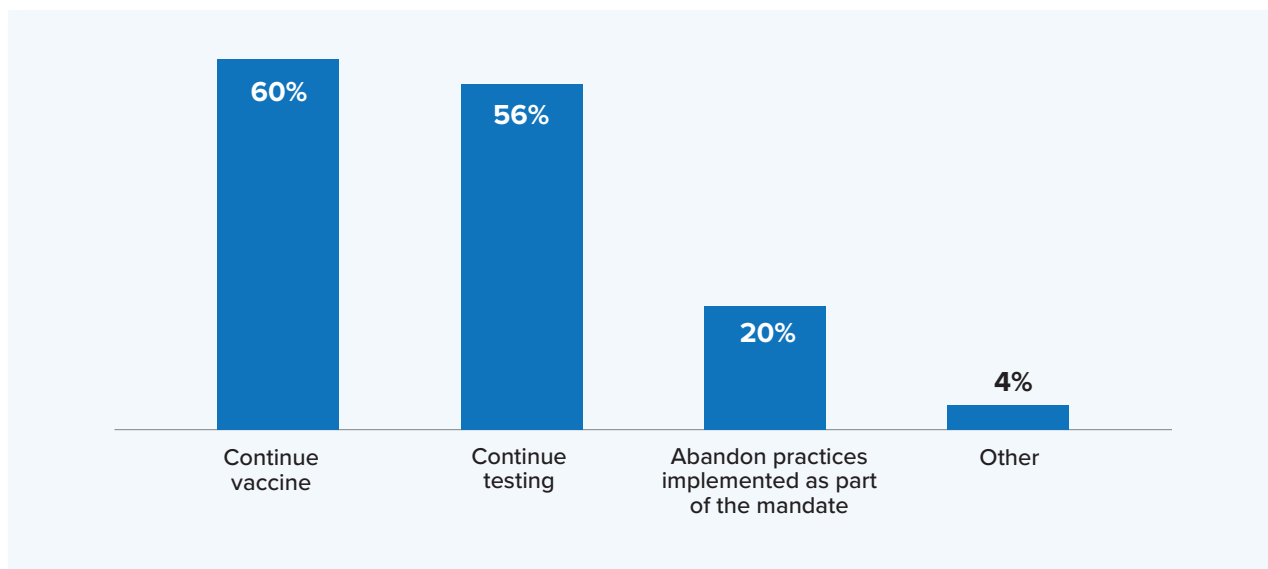
Which actions related to employee vaccine and testing is your company taking? Select all that apply.

The respondents who indicated their company had begun implementing employee vaccine and testing mandates were asked to identify what actions their organization had taken. Over half (60%) asked employees to be vaccinated against COVID-19, while nearly as many (56%) implemented COVID-19

testing measures. Only 20% planned to abandon these practices after the Supreme Court ruling.

The Supreme Court's decision would have required businesses with at least 100 employees to ensure workers are vaccinated against the coronavirus or undergo weekly COVID-19 testing, which would have led to significant challenges handling large numbers of exemption requests and administering weekly tests.⁶

Vaccine and Testing Actions Taken



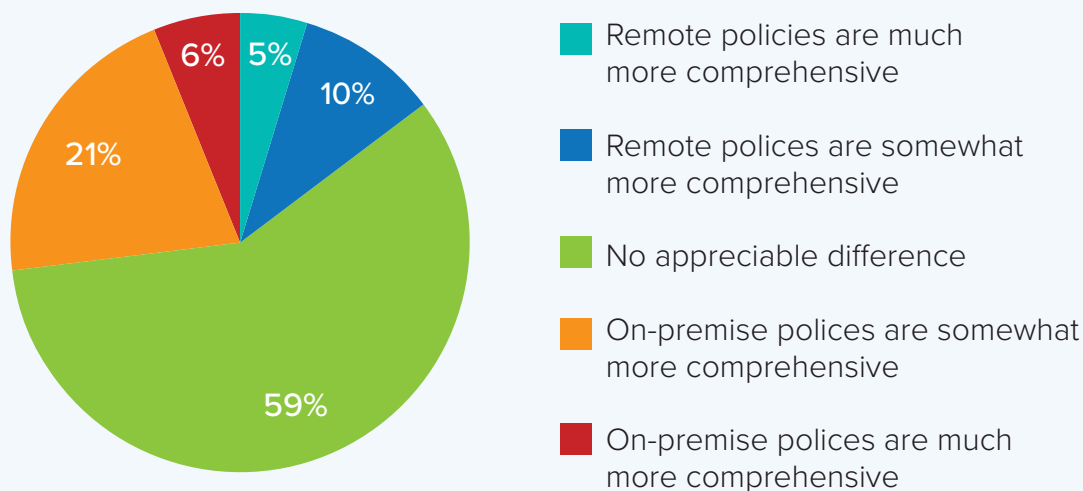
Extent Remote Workforce Policies Vary

To what extent are your remote workforce policies different than on-premises facilities?

Study respondents were asked to indicate the extent to which their remote workforce policies varied from their on-premises facilities policies. Most respondents (59%) said there is no appreciable difference between their remote and on-premises policies. However, for just over one-quarter (27%), on-premises policies are at least more comprehensive than remote policies.

Employers should make clear that employees with remote and alternative work arrangements are obligated to comply with all company policies, procedures, and guidelines outlined in the company's employee handbook. The same policies and procedures that apply to onsite workers apply to remote and hybrid employees as well. These policies include external business activities; the use of alcohol, smoking, or other drugs (even if lawful and prescribed); discrimination laws; and worker's compensation practices.⁷

Extent Remote Workforce Policies Vary



Extent Background Screening Policies Have Changed

How have you modified your background screening policies to accommodate remote workers for each of the areas below?

Companies have not modified their background screening policies to accommodate remote workers. Policies have remained the same for the

degree of drug testing, criminal background checks, and motor vehicle records verification.

While many policies will have to be reexamined for remote workers to be sure they are consistent with onsite policies, the areas related to background screening are not likely to change in the near term.

Extent Background Screening Policies Have Changed	Remained the Same
Degree of drug testing	97%
Criminal background checks	97%
Motor vehicle records verification checks	98%

Extent of Plans for Renewed Background Screening for Returning to Office Workforce

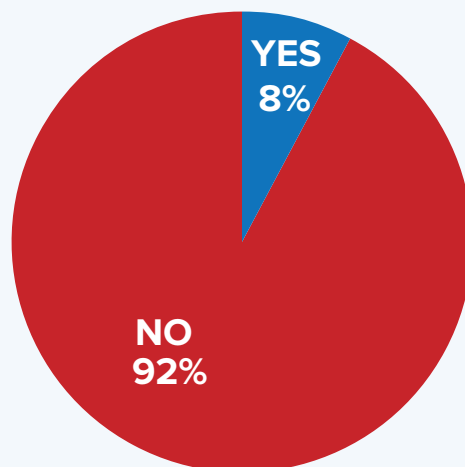
If you are planning on bringing back your facilities-based workforce, will they be required to submit to a renewed background screening?

Respondents were nearly unanimous (92%) in indicating that they will not require facilities-based employees who were working remotely but are

being brought back onsite to submit a renewed background screening.

The industries that will require renewed background screening are likely those required to by law, such as education, health care, government, finance, and IT.

Extent of Plans for Renewed Background Screening for Returning to Office Workforce



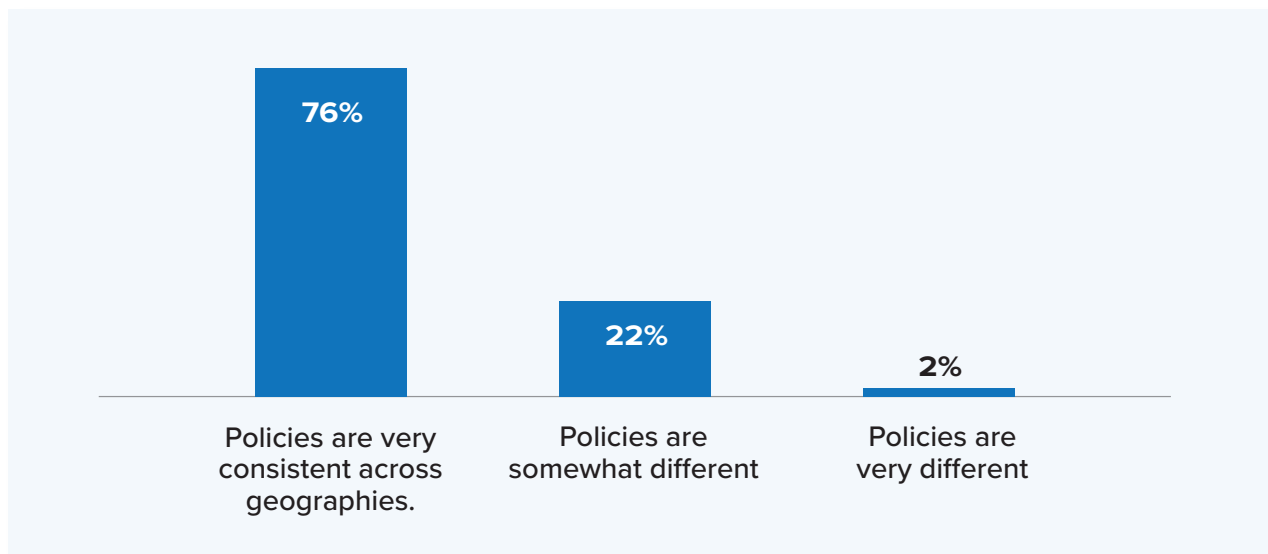
Extent Background Screening Policies Vary by Geography

To what extent do your background screening policies vary by geography because of different legal standards?

Study participants were asked to indicate the extent to which their background screening policies vary by geography due to different legal standards. For over three-quarters (76%) of respondents, policies are very consistent across geographies.

However, there are substantial differences between federal and state background screening laws, as well as laws between states. Not all criminal records are reportable on a background check and the dates of records provided may be limited. Further, not every state has the same laws, such as the rapidly changing laws around the use of marijuana.

Extent Background Screening Policies Vary by Geography



Notes

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<https://bit.ly/3vbQ0Z4>
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<https://www.gartner.com/en/human-resources/trends/remote-work-revolution>
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<https://www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/supreme-court-vaccine-or-testing-rule.aspx>
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