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MEMORANDUM

To: House Committee on Corrections and Juvenile Justice

From: Office of Revisor of Statutes

Date: March 12, 2024

Subject: Bill Brief on SB 491

Senate Bill 491 standardizes criminal history record check fingerprinting language and defines who may be fingerprinted for a criminal history record check.

New Section 1 puts fingerprinting requirements in place for criminal justice agencies. These agencies shall require an applicant for criminal justice employment to be fingerprinted and to have such fingerprints submitted to the federal bureau of investigation for a search of the state and federal database. Fingerprints provided pursuant to this section may be used to identify a person and to determine whether such person has a record of criminal history in this state or in another jurisdiction. The Kansas bureau of investigation shall release criminal history record information related to adult convictions, adult non-convictions, adult diversions, adult expunged records, juvenile adjudications, juvenile non-adjudications and juvenile diversions to:

- A city clerk for the position of chief of police
- A county election officer for a candidate for sheriff
- The governor for an appointment to the position of Kansas highway patrol superintendent
- A state, county, city, university, railroad, tribal, horsethief reservoir benefit district or school law enforcement agency for admitting applicants for certification by the Kansas commission on peace officers' standards and training

The bureau shall certify any adult conviction record that is found of a chief of police or candidate for sheriff to the Kansas attorney general. Fingerprints and criminal history record information received shall be confidential and not subject to the Kansas open records act.

Disclosure or use of such information for any purpose other than the purpose described is a class A nonperson misdemeanor and shall constitute grounds for removal from office.

New Section 2 puts fingerprinting requirements in place for governmental agencies that are not criminal justice agencies. Those identified may require a person to be fingerprinted and to have such fingerprints submitted to the federal bureau of investigation for a search of the state and federal database. Fingerprints provided pursuant to this section may be used to identify a person and to determine whether such person has a record of criminal history in this state or in another jurisdiction.

The Kansas bureau of investigation shall release criminal history record information related to adult convictions, adult non-convictions, adult diversions, adult expunged records, juvenile adjudications, juvenile non-adjudications, juvenile diversions and juvenile expunged records to:

- The Kansas department for children and families or the Kansas department for aging and disability services for participation in a program administered for the placement, safety, protection or treatment of vulnerable children or adults

The Kansas bureau of investigation shall release criminal history record information related to adult convictions, adult non-convictions, adult diversions, adult expunged records and juvenile expunged records to:

- The state lottery for candidate for employment
- The Kansas racing and gaming commission for candidates for employment or licensure

The Kansas bureau of investigation shall release criminal history record information related to adult convictions, adult non-convictions, adult diversions, adult expunged records, juvenile adjudications, juvenile non-adjudications and juvenile diversions to:

- The emergency medical services board for applicants for an emergency medical service provider certificate
- The attorney general for applicants for a license to carry a concealed handgun
- The department of administration for candidates for sensitive employees with unescorted physical access to state-operated or contracted data centers, telecommunications facilities or other security-sensitive areas

The Kansas bureau of investigation shall release criminal history record information related to adult convictions, adult non-convictions, adult diversions and adult expunged records to:

- The supreme court and state board of law examiners for applicants to practice law
- The state gaming agency for candidates for employment or licensure
- The attorney general for private detective applicants
- The attorney general for certification to train private detectives in the handling of firearms and lawful use of force
- The commission on peace officers' standards and training for applicants for certification under the Kansas law enforcement training act

The Kansas bureau of investigation shall release criminal history record information related to adult convictions, adult non-convictions, adult diversions and juvenile adjudications to:

- The athletic commission for candidates for boxing commission
- The secretary of health and environment for employees at a childcare facility

The Kansas bureau of investigation shall release criminal history record information related to adult convictions and juvenile adjudications to:

- The secretary for aging and disability services for applicants for employment at an adult care home
- The Kansas department for aging and disability services for applicants for employment as a disability services provider
- The secretary for aging and disability services for applicants for employment with a home health agency

The Kansas bureau of investigation shall release criminal history record information related to adult convictions and non-convictions to:

- The division of motor vehicles for applicants for a license to drive a commercial motor vehicle
- The board of examiners in optometry for applicants for an optometry license
- The board of pharmacy for persons seeking a license, registration, permit or certificate issued by the board

- The state board of healing arts for applicants for any license, registration, permit or certificate issued by the board
- The state board of healing arts for applicants to be a physical therapist or physical therapy assistant
- The board of nursing for applicants for licensure as a professional nurse, practical nurse or mental health technician
- The behavioral sciences regulatory board for applicants for a license, registration, permit or certificate issued by the board
- The state lottery for a vendor to whom a major procurement contract is to be awarded
- The attorney general for appointees of the governor to positions subject to confirmation by the senate and judicial appointees
- Appointing authorities for nongubernatorial appointees
- The Kansas real estate commission for applicants for a license to act as a broker or salesperson
- The insurance commissioner for applicants for licensure as an insurance agent
- The insurance commissioner for applicants for a public adjuster license

The Kansas bureau of investigation shall release criminal history record information related to adult convictions to:

- The department of agriculture for hemp employees
- The department of agriculture for applicants for licensure as a hemp producers
- The office of state fire marshal for applicants for registration as a hemp processor
- The department of agriculture for hemp destruction employees
- The bank commissioner for a license issued by the commissioner applicants for licensure under the Kansas money transmitter act
- The bank commissioner for an applicant for employment as a new executive officer or director with a money transmitter company
- The bank commissioner for a proposed officer, director or shareholder of a trust company related to a change of control applications
- The bank commissioner for applicants for a license to engage in mortgage business or registration to conduct mortgage business in this state as a loan originator

- The state banking board for any officer, director or organizer of a proposed fiduciary financial institution
- Municipalities for applicants for merchant or security police
- The bank commissioner for members of a copartnership or association and certain officers or directors of a corporation under the uniform consumer credit code
- The state department of credit unions for candidates for employment
- The division of alcoholic beverage control for nonresident applicants for licensure
- The division of post audit for employees or contractors of the division
- The bank commissioner for applicants for licensure under the Kansas credit services organization act
- The real estate appraisal board for licensure under the certified and licensed real property appraisers act
- The real estate appraisal board for applicants for licensure under the appraisal management company registration act
- The department of health and environment for an employee in the office of vital statistics
- The Kansas commission on veterans affairs office for candidates for certain types of employment within the commission
- The members of a senate standing committee for appointees to the public employee retirement systems board of trustees
- The attorney general for applicants for licensure as a bail enforcement agent
- The department of revenue for employees and contractors with access to federal tax information
- The division of motor vehicles for employees authorized to manufacture, produce or issue drivers' licenses and identification cards
- The Kansas commission for the deaf and hard of hearing for the executive director of the commission
- The Kansas commission for the deaf and hard of hearing for communication access service providers
- The department of health and environment for employees in the office of laboratory services
- The head of an executive branch agency for employees or contractors who have access to personal information

State and local law enforcement agencies shall assist with taking fingerprints of individuals authorized by this section. Any public body shall recess into a closed or executive session to receive criminal history information received pursuant to this section. The Kansas bureau of investigation may charge a reasonable fee for conducting a criminal history record check. Fingerprints and criminal history record information received shall be confidential and not subject to the Kansas open records act. Disclosure or use of such information for any purpose other than the purpose described is a class A nonperson misdemeanor and shall constitute grounds for removal from office.

New section 3 provides for name-based criminal history record checks for certain individuals. The Kansas bureau of investigation shall release criminal history record information related to adult convictions and non-convictions to:

- The state board of healing arts for determining qualifications for licensure by the board
- The state lottery for the purpose of awarding major contracts

The Kansas bureau of investigation shall release criminal history record information related to adult convictions to:

- The department for aging and disability services for applicants for an adult care home operator license
- The joint committee on Kansas security for committee staff members of the office of revisor of statutes and the legislative research department
- The attorney general for applicants for roofing contractor registration
- The department of health and environment for applicants for a permit to construct, alter or operate a solid waste processing facility
- The Kansas department of aging and disability services for applicants for licensure as an adult care home administrator
- The board of nursing for applicants for nurse licensure
- The state lottery for applicants for employment at the lottery
- The governor and the senate for appointees as executive director of the Kansas racing and gaming commission
- The Kansas racing and gaming commission for employees who are animal health officers

- The governor and the senate for appointees as executive director of the state gaming agency

The Kansas bureau of investigation may charge a reasonable fee for conducting a criminal history record check. Criminal history record information received pursuant to this section shall be confidential and shall not subject to the Kansas open record act.

Sections 4 through 103 amend the statutes that authorize fingerprinting and criminal history record checks. These amendments remove language that is found in new sections 1 through 3 to standardize the language used for fingerprinting and criminal history record check information throughout the statutes.