

**Fingerprinting for Criminal Record Checks; Surveillance by KDWP;
Jurisdiction of Law Enforcement Officers; Search Warrant Time Limitations;
Disclosure of CINC Information; Senate Sub. for HB 2495**

Senate Sub. for HB 2495 creates and amends law related to fingerprinting for criminal history record checks, surveillance by Kansas Department of Wildlife and Parks employees, jurisdiction of law enforcement officers, the time period within which a search warrant must be executed, and disclosure of information to law enforcement agencies regarding a child alleged or adjudicated to be a child in need of care. [Note: Senate Sub. for HB 2495 contains the contents of HB 2299 as agreed to by the Conference Committee on March 30, 2022, without amendment, and repeals HB 2299, as signed by the Governor on April 18, 2022.]

Fingerprinting for Criminal History Record Check—Rap Back Programs

The bill creates law requiring an applicant, employee, or volunteer subject to a criminal history record check to provide to the requesting authorized entity written consent to obtain such person's fingerprints to conduct a criminal history record check and participate in the Rap Back Program for the purpose of determining suitability or fitness for a permit, license, employment, or volunteer service.

[Note: As defined by the bill, "authorized entity" means an agency or entity with authorization under state or federal law to conduct a fingerprint-based criminal history record check, and "rap back" means the state or federal system that enables an authorized entity to receive ongoing notifications of criminal history record updates for individuals whose fingerprints are enrolled.]

The bill requires an authorized entity to notify each such person that fingerprints shall be retained by the Kansas Bureau of Investigation (KBI) and the Federal Bureau of Investigation for all current and future purposes and uses authorized for fingerprint submission and when fingerprints will be enrolled in the Rap Back Program.

The bill requires fingerprints and related records obtained by the KBI for a fingerprint-based criminal history record check to be searched against known criminal fingerprints to determine if a criminal history record exists and against latent fingerprints entered into the unsolved latent fingerprint file.

The bill specifies a criminal history record check can only be completed for the purpose for which the check was requested and requires submission of a new set of fingerprints for any additional record checks. An authorized entity enrolled in the Rap Back Program is required to immediately notify the KBI when the entity is no longer entitled to receive criminal history record information relating to a particular person enrolled in the Rap Back Program. The KBI is required to cancel such enrollment, and updates to criminal history record information will no longer be provided to such entity.

The bill limits availability of fingerprints and records relating to fingerprints acquired by the KBI to only the authorized entities entitled to obtain the information and prohibits KBI employees from disclosing any records of or related to fingerprints acquired in the performance of duties under the bill to any person not authorized to receive the information pursuant to state

or federal law. The bill prohibits a person acquiring the records of or relating to fingerprints, or any information concerning any individual, from disclosing such information to any person who is not authorized to receive such information, and any intentional disclosure of such information is a class A nonperson misdemeanor.

In addition to “authorized entity” and “rap back,” the bill also defines “criminal history record check.”

Surveillance by Kansas Department of Wildlife and Parks Employees

The bill creates law concerning the authority of the Kansas Department of Wildlife and Parks (KDWP) to conduct surveillance on private property.

The bill prohibits KDWP employees who are authorized to enforce the laws of the State from conducting surveillance on private property unless authorized pursuant to a lawfully issued warrant, court order, or subpoena, the *U.S. Constitution*, or an exception to the search warrant requirement specified by the bill.

The bill specifies that the above prohibition on certain KDWP employees does not apply to any activities of an employee of KDWP when the purpose of the surveillance is to locate and retrieve a missing person.

Definitions

The bill defines the following terms:

- “Surveillance” means the installation and use of electronic equipment or devices on private property, including, but not limited to, the installation and use of a tracking device, video camera, or audio recording device, to monitor activity or collect information related to the enforcement of the laws of the State; and
- “Tracking device” has the same definition as in continuing law in the Kansas Code of Criminal Procedure, which defines the term to mean an electronic or mechanical device that permits a person to remotely determine or track the position or movement of a person or object; it includes, but is not limited to, a device that stores geographic data for subsequent access or analysis and that allows for real-time monitoring of movement.

Jurisdiction of Law Enforcement Officers

The bill amends law regarding the jurisdiction and powers of law enforcement officers, as follows.

Powers and Authority of Law Enforcement Officers Without Statewide Jurisdiction

The bill amends a statute governing jurisdiction of various law enforcement officers to provide a new subsection consolidating and clarifying the ability of law enforcement officers who do not otherwise have statewide jurisdiction to exercise the powers and authority of law enforcement officers anywhere when:

- A request for assistance has been made by law enforcement officers from the area for which assistance is requested;
- The officer is in fresh pursuit of a person;
- Transporting persons in custody to an appropriate facility, wherever such facility may be located; and
- Investigating a crime that occurred within the law enforcement officer's jurisdiction, with appropriate notification to and coordination with a local law enforcement agency with jurisdiction where the investigation is to be conducted.

The bill makes conforming technical amendments to reflect the reorganization of the section. The bill also amends a statute governing school security officers and campus police officers to remove redundant language regarding the powers and authority of campus police officers that are included in the new subsection added by the bill.

Powers and Authority of Law Reinforcement Officers Outside Their Jurisdiction

In addition to the authority described above, the bill provides that law enforcement officers may exercise the powers and authority of law enforcement officers when outside their statutory jurisdiction when an activity is observed leading the officer to reasonably suspect a person is committing, has committed, or is about to commit a crime and reasonably believe that a person is in imminent danger of death or bodily injury without immediate action, subject to conditions specified by the bill.

Search Warrant Time Limitations

The bill amends the Code of Criminal Procedure to extend, from 96 hours to 240 hours, the time period within which a search warrant must be executed after it is issued.

Disclosure of CINC Information to Law Enforcement Agencies

The bill amends a law governing access, exchange, and disclosure of information in the Revised Kansas Code for Care of Children to require the Secretary for Children and Families to disclose confidential agency records of a child alleged or adjudicated to be a child in need of care (CINC) to the law enforcement agency investigating the alleged or substantiated report or investigation of abuse or neglect, regardless of the disposition of such report or investigation.

The bill requires the records to include, but not be limited to:

- Any information regarding such report or investigation;
- Records of past reports or investigations concerning such child and such child's siblings and the perpetrator or alleged perpetrator; and
- The name and contact information of the reporter or persons alleging abuse or neglect and case managers, investigators, or contracting agency employees assigned to or investigating such report.

The bill states that such records shall only be used for the purposes of investigating the alleged or substantiated report or investigation of abuse or neglect.

The bill clarifies that a law enforcement agency investigating or receiving a report of a child who is alleged or adjudicated to be in need of care is able to freely exchange information and the above-described records with persons or entities specified in continuing law.

The bill adds an investigating law enforcement agency to the lists of persons or entities with access to the official and social files of a CINC proceeding.