

SESSION OF 2013

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2302

As Amended by House Committee on Health
and Human Services

Brief*

HB 2302 would authorize the Secretary of the Kansas Department of Health and Environment (KDHE) to require fingerprinting and state and national criminal history record checks for any person offered employment in and any employee of the Office of Laboratory Services of KDHE who will have access to a secured biological laboratory, as a condition of initial and continued employment. The bill also would amend the existing definition of "safety sensitive positions" to include all employees who have access to a secured biological laboratory in the Office of Laboratory Services to allow for drug screening under existing law, but specifically would exempt employees of the Office of Laboratory Services from provisions in law prohibiting termination solely due to positive results of a drug screening test.

Under existing law, applicants for safety sensitive positions in state government who have been given a conditional offer of employment are subject to drug screening and, once employed, are subject to drug screening based on a reasonable suspicion of illegal drug use (the law applies to a drug screening program implemented by the Division of Personnel Services, Department of Administration, for certain state officials and employees).

The bill would establish the notice requirements, procedures, and purpose for the use of the information obtained from fingerprinting and criminal history record

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

checks. Specifically, the bill would require written notice to persons offered employment and employees that fingerprinting and state and national criminal history record checks (as prescribed by the Secretary of Administration) would be required as a condition of initial and continued employment.

The fingerprints would be used to verify the identity of the person offered a position of employment or an employee and determine whether a person has a record of criminal history in this state or other jurisdiction. Local and state law enforcement officers and agencies would assist KDHE in the taking and processing of fingerprints. Fingerprints would be submitted by KDHE to the Kansas Bureau of Investigation (KBI) and the Federal Bureau of Investigation (FBI) for a state and national criminal history record check. The information obtained from fingerprinting and criminal history would be used by KDHE in determining the eligibility to perform tasks within the Office of Laboratory Services by persons offered a position of employment or current employees.

Further, the bill would require when criminal history record information or results of drug screenings are used to disqualify persons offered a position of employment or to terminate employees, such persons must be informed in writing of the purpose of the disqualification or termination.

Background

The bill was introduced by the House Committee on Health and Human Services at the request of the KDHE, whose representative testified since the agents and toxins evaluated in the secured biological laboratory have the potential to cause harm to the public, it is imperative that all personnel with access to these agents meet security standards. The KDHE representative stated the background checks are required by federal law and the drug screening is highly recommended by the FBI.

There were no opponents present at the House Committee hearing.

The House Committee on Health and Human Services amended the bill by striking language related to drug screening, replacing the stricken language with existing law on a drug screening program established and implemented by the Division of Personnel Services of the Department of Administration, and amending the newly inserted language to expand the definition of "safety sensitive positions" and to exempt persons with access to a secured biological laboratory in the Office of Laboratory Services of KDHE from provisions prohibiting termination due to positive results of a drug screening test. The House Committee also amended the bill to change the effective date from publication in the *Kansas Register* to publication in the statute book and to make technical amendments.

The fiscal note on the original bill prepared by the Division of the Budget states passage of the bill would increase federal expenditures for KDHE by \$200 in FY 2013 and \$300 in FY 2014 and subsequent years. The estimate is based on a cost of \$100 per individual for a background check and drug screening for approximately two to three applicants per year. Any fiscal effect associated with the bill is not reflected in *The Governor's Budget Report for FY 2014*.