



Kansas Bureau of Investigation

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Neutral Testimony regarding House Bill 2286
Before the Kansas House Standing Committee on Insurance
Leslie Moore, Information Services Division Director
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Chairman Schwab and Members of the Committee,

My name is Leslie Moore and I am the Division Director of the Information Services Division at the Kansas Bureau of Investigation. Thank you for the opportunity to provide neutral testimony on House Bill 2286.

The Kansas Bureau of Investigation is statutorily identified by K.S.A. 22-4701, et. seq., as the state central repository for criminal history records. This repository includes transaction information for all felonies and most misdemeanors, from arrest through the court process. The Kansas Bureau of Investigation does not allow data mining of its databases. The only official criminal records for the state of Kansas and the nation are maintained within the central repositories at the state and federal levels, respectively.

While there is no statute mandating criminal history record checks be requested through the KBI, there are currently no statutes that authorize the utilization of third party vendors to conduct such checks. Currently, the KBI provides several options for agencies that wish to obtain criminal history record check information for the purpose of hiring or licensure. In accordance with the intent of House Bill 2286, the fingerprint based state and national criminal history check is available for a cost of \$48.00. In addition to the criminal history record information, the results will include a check of the state and national sexual offender registry.

In response to a criminal history records check, the Kansas Bureau of Investigation disseminates information related to adult arrests that have occurred within the last 12 months and have no associated conviction; adult convictions; and pending adult diversions. Information related to any juvenile records or adult completed diversions, acquittals, dismissals, or expunged records are not disseminated unless otherwise specifically authorized by statute.

The criminal history record information contained in the central repository changes daily as a result of electronic connections between the repository and submitting agencies, which include law enforcement agencies, courts, prosecutors, and the Department of Corrections. As such, we state that our record checks results have a useful life and recommend that when a new decision should be made regarding hiring and/or licensure, a new record check should be requested.

Typically, fingerprint based criminal history results are provided to the requestor within two to three business days. If the submitted fingerprints are not machine-readable at the national level, it may require a manual comparison between the electronic fingerprint card and the physical file at the Federal Bureau of Investigation. In this case, the response to the requestor may take up to six weeks.

Because the transportation network companies, as defined by House Bill 2286, are not governmental agencies, they are prohibited by the Federal Bureau of Investigation from receiving a copy of the national criminal history record check. Therefore, the central repository would compare the national criminal history to the stated disqualifiers to determine whether or not the applicant or licensee meets the qualifications. The response provided to the transportation network company will include a copy of the Kansas criminal history record and, in lieu of the national criminal history record, a letter stating whether or not the applicant or licensee met the stated qualifications.

In instances where individuals submit their fingerprints directly to the Federal Bureau of Investigation without going through the state central repository, it could take between nine and twelve months to receive the results.

House Bill 2286 also requires an applicant's driving history to be obtained by the transportation network company. This information is not submitted to the central repository and therefore not included in the criminal history record check. This information would need to be requested from the Kansas Department of Motor Vehicles.

House Bill 2286 authorizes these local and national criminal history record checks to be conducted by third party vendors. These vendors often fail to interpret applicable Kansas law and disclose more information to the requestor than what is allowable, to include information about expungements and completed diversions, and may include information about juvenile arrests and adjudications. These classes of information are considered protected and not subject to disclosure to public entity. Disclosure of such may be unnecessarily detrimental to the hiring or licensure status of an applicant.

Third party vendors are not regulated by any state or federal regulations. They often continue to use the accumulated criminal history record information indefinitely rather than update the records on a regular basis in order to redact applicable transactions, such as expungements and completed diversions. This often results in information regarding a person's expunged conviction or completed diversion being illegally released over and over again.

House Bill 2286, as written, requires that a local and national criminal background check be conducted but does not state that the records be dependent upon submission of fingerprints. The Federal Bureau of Investigation requires that fingerprints be submitted in order to conduct a national criminal history record check. Because this bill does not require submission of fingerprints, the records received from the third party vendor will be name based only. Criminal history records are identified by fingerprints rather than by name. Absent the submission of fingerprints, there is no assurance the records returned are associated to the individual applying for hiring or licensure.

I would be happy to stand for questions.

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