



MEMORANDUM

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TO: Members, House Judiciary Committee
FROM: Scott Frank, Legislative Post Auditor
DATE: January 20, 2015
SUBJECT: Testimony Supporting House Bill 2009

I appreciate the opportunity to testify in favor of House Bill 2009, which would amend our office's background check authority under the Legislative Post Audit Act to include certain temporary workers and contractors who work under the direction of the Post Auditor.

Access to Sensitive Information

Our employees have access to a great deal of sensitive and confidential information when that information is needed as part of an audit. The Legislative Post Audit Act (K.S.A. 46-1101 et seq) gives Post Audit unfettered access to "all books, accounts, records, files, documents and correspondence, confidential or otherwise, of any person or state agency subject to the legislative post audit act or in the custody of any such person or state agency." Given the amount of confidential information our employees work with, we believe it is critical that we minimize the security risks associated with that access—to protect both the agencies that maintain the records, and more importantly, the citizens whose information is in our custody.

Criminal History Checks

One of the key security measures we take is to conduct a criminal history check on all new employees. This record check has three components: (1) a search of the Kansas criminal history records maintained by the Kansas Bureau of Investigation (KBI), (2) a search of the local criminal history records for the Kansas City metropolitan area maintained by the Regional Justice Information Service (REJIS), and (3) a search of the federal criminal history records maintained by the National Crime Information Center (NCIC).

While access to the KBI and REJIS records is readily available, the U.S. Department of Justice requires state agencies seeking criminal history information through NCIC to have a specific state law in place that authorizes such access. In 2012, the Legislature passed such a law, Senate Bill 249, which gave us the authority to conduct these types of criminal history checks on our current and prospective employees.

Request for Broader Authority

Temporary Workers

In recent years our office has found it more efficient to use a local temporary employment agency to fill our clerical positions. The employment agency provides us long-term temporary clerical staff with the goal being to bring those individuals on fulltime if they work out. This saves us a tremendous amount of time that would have been spent reviewing applications and interviewing candidates. It also gives us an extended trial period to work with the potential employees and determine if they will be a good fit.

From a security perspective, the downside to this arrangement is that we are unable to conduct a federal criminal history check on those individuals until they officially become one of our employees. The provisions of 2012 SB 249 only gave the Post Auditor the authority to conduct a federal criminal history record check on the division's own employees. Although the temporary workers work for us for all practical purposes during the trial period, they are legally are considered employees of the temporary employment agency. HB 2009 would further amend the law to allow us to conduct a criminal history check on these types of temporary workers during their trial period.

Other Contractors

In addition to temporary workers through an employment agency, our office also occasionally hires consultants to provide outside expertise for our audits. For example, as part of previous audits we have hired consultants to help us with economic models, statistical analyses, and virtual school models. Because our current background check authority does not extend to contractors, we cannot fully vet them for access to confidential information. As a result, we have to be cautious about what information we share with these consultants. The ability to conduct criminal history checks on contractors would give us additional flexibility.