



# Kansas Bureau of Investigation

Tony Mattivi  
*Director*

Kris W. Kobach  
*Attorney General*

Before the Senate Judiciary Committee  
Regarding SB 491 (Proponent)  
Robert Jacobs, Associate Director  
Kansas Bureau of Investigation  
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Chairwoman Warren and Members of the Committee:

The Kansas Bureau of Investigation (KBI) supports SB 491, which will combine and standardize language that must be cited in state statute to allow a non-criminal justice agency to receive national criminal history record information.

*Background:*

In 1978, the KBI was statutorily required the responsibility of maintaining the state's criminal history records through K.S.A. 22-4705. Per K.S.A. 21-2501, fingerprint and palm prints are to be taken by local law enforcement agencies if a person is wanted for the commission of a felony or a class A or B misdemeanor or assault as defined in K.S.A. 21-3408. Those fingerprint and palm prints are to be provided to and maintained by the KBI. The KBI shall forward one set of the fingerprints to the Federal Bureau of Investigation (FBI).

The KBI offers criminal history record checks to both *criminal justice* and *non-criminal justice* entities. Presently, there are fifty-five (55) state statutes that authorize fingerprint based criminal history record checks for non-criminal justice entities. There are four (4) state statutes that authorize fingerprint based criminal history record checks for criminal justice entities. There are eighteen (18) state statutes that authorize name based criminal history record checks for non-criminal justice entities. Some examples of non-criminal justice entities who are authorized to receive fingerprint based criminal history record checks are: State Bank Commissioner, Kansas Department of Aging and Disability Services (KDADS), Kansas Real Estate Commission, State Board of Nursing, Department of Education, Kansas Department of Health and Environment, and Kansas Department of Children and Families (DCF). Many of these entities request criminal history record checks on applicants, employees, and volunteers who work in positions of trust and those working with vulnerable populations such as children, the elderly, and disabled individuals.

When a criminal history record check is requested the KBI searches not only the state criminal history record repository, but also the national criminal history repository, which is maintained by the FBI. The national repository includes arrests and convictions of crimes committed in Kansas as well as all other states and US territories.

*Current Issue:*

As such, the FBI has stringent rules regarding specific language that must be cited in state statute to allow a non-criminal justice agency to receive national criminal history record information. Following each legislative session, the KBI forwards the newly passed bills that include civil criminal history checks to the FBI for their approval. The FBI review process currently takes over a year to complete. Unfortunately, the KBI is often advised that the language in the bill does not meet the requirements of the FBI to permit national record checks. The bill language must then subsequently be amended the following legislative session to become compliant with FBI standards.

Specifically speaking, one of the concerns of the FBI was the lack of “definition” for individuals or positions for whom fingerprint record checks would be performed. SB 491 attempts to provide more specific definitions of those individuals, as needed by the FBI.

Additionally, SB 491 changes the structure of the civil background check statutes to create a single statute, which defines the required language necessary for conducting a civil fingerprint background check, while updating the language in approximately seventy-five (75) different statutes that refer to civil criminal history record checks.

This legislative change proposed by the KBI will be extremely important in preventing the State of Kansas from being prohibited in the future from conducting national fingerprint criminal history record checks and providing that information to our non-criminal justice partners. State and national criminal history record checks are vital to ensuring the safety of our population and the security of our finances.

For further delineation of the various statutory requirements for both criminal justice and non-criminal justice entities to receive civil fingerprint background checks, the following information has been provided:

Criminal Justice Agency as defined in K.S.A. 22-4701

Receives fingerprint based results: Adult convictions, adult non convictions, adult diversions, adult expunged records, juvenile adjudications, juvenile non-adjudications and juvenile diversions

- City clerk for position of Chief of Police as described in K.S.A. 12-1,120
- County election officer for a candidate for sheriff as described in K.S.A. 19-826
- Governor for an appointment to the position of Kansas highway patrol superintendent as described in K.S.A. 74-2113
- State, county, city, university, railroad, tribal, horsethief reservoir benefit district or school law enforcement agency for the purpose of admitting applicants as defined in K.S.A. 74-5602 in connection with K.S.A. 74-5605

Governmental agency other than a criminal justice agency as defined in K.S.A. 22-4701

Receives fingerprint based results: Adult convictions, adult non-convictions, adult diversions, adult expunged records, juvenile adjudications, juvenile non-adjudications, juvenile diversions, juvenile expunged records

- Kansas department for children and families or the Kansas department for aging and disability services for initial or continuing employment or participation in any program administered for the placement, safety, protection or treatment of vulnerable children or adults as described in K.S.A. 75-53,105

Governmental agency other than a criminal justice agency as defined in K.S.A. 22-4701

Receives fingerprint based results: Adult convictions, adult non-convictions, adult diversions, adult expunged records, juvenile adjudications, juvenile non-adjudications, juvenile expunged records

- State lottery for candidates for employees as defined in K.S.A. 74-8702 in connection with employment as described in K.S.A. 74-8704
- Kansas racing and gaming commission for candidates for employees or licensees as defined in 74-8802 in connection with such employment or license as described in K.S.A. 74-8804
- Attorney general for applicants as defined in K.S.A. 75-7b01 in connection with such application as described in K.S.A. 75-7b04

Governmental agency other than a criminal justice agency as defined in K.S.A. 22-4701

Receives fingerprint based results: Adult convictions, adult non-convictions, adult diversions, adult expunged records, juvenile adjudications, juvenile non-adjudications, and juvenile diversions

- Attorney general for applicants as defined in K.S.A. 75-7c01 in connection with such application as described in K.S.A. 75-7c05
- Department of administration for candidates for sensitive employees as defined in K.S.A. 75-3707e in connection with such employment as described in 75-3707e

Governmental agency other than a criminal justice agency as defined in K.S.A. 22-4701

Receives fingerprint based results: Adult convictions, adult non convictions, adult diversions, and adult expunged records

- Supreme court and state board of law examiners for applicants as defined in K.S.A. 7-127 in connection with such application as described in K.S.A. 7-127
- State gaming agency for candidates for employees and licenses as defined in K.S.A. 74-9802 in connection with such employment or license as described in K.S.A. 74-9805
- Attorney general for applicants as defined in K.S.A. 75-7b01 in connection with such application for certification as described in K.S.A. 75-7b21
- Commission on peace officers' standards and training for applicants for certification as described in K.S.A. 74-5607

Governmental agency other than a criminal justice agency as defined in K.S.A. 22-4701

Receives fingerprint based results: Adult convictions, adult non convictions, adult diversions, and juvenile adjudications

- Athletic commission within Kansas department of commerce for a candidate for boxing commission as defined in K.S.A. 74-50,182 in connection with such appointment as described in K.S.A. 74-50,184
- Secretary of health and environment for employees at a child care facility as defined in K.S.A. 65-503 in connection with such employment as described in K.S.A. 65-506

Governmental agency other than a criminal justice agency as defined in K.S.A. 22-4701

Receives fingerprint based results: Adult convictions and juvenile adjudications

- Secretary for aging and disability services for applicants as defined in K.S.A. 39-970 in connection with such application as described in K.S.A. 39-970
- Kansas department for aging and disability services for applicants as defined in and connection with K.S.A. 39-2009
- Secretary for aging and disability services for applicants as defined in and connection with K.S.A. 65-5117

Governmental agency other than a criminal justice agency as defined in K.S.A. 22-4701

Receives fingerprint based results: Adult convictions and adult non-convictions

- Division of motor vehicles within the department of revenue for applicants for reinstatement of a license to drive a commercial motor vehicle as described in K.S.A. 8-2,142
- Board of examiners in optometry for applicants or licensees as defined in K.S.A. 65-1501 in connection with such application or investigation as described in K.S.A. 65-1505
- Board of pharmacy for candidates as defined in K.S.A. 65-1626 in connection with such application or license as described in K.S.A. 65-1696
- State board of healing arts for an applicant or licensee as defined in K.S.A. 65-28,102 and K.S.A. 65-2901 in connection with K.S.A. 65-28,129 and K.S.A. 65-2924
- Emergency medical services board for applicants as defined in and connection with K.S.A. 65-6129
- Board of nursing for applicants as defined in and connection with K.S.A. 74-1112
- Behavioral sciences regulatory board for a licensee as defined in and connection with K.S.A. 74-7511
- State lottery for a vendor to whom a major procurement contract is to be awarded in connection with an investigation as described in K.S.A. 74-8705
- Attorney general for appointees of the governor to positions subject to confirmation by the senate and judicial appointees as described in K.S.A. 75-712
- Appointing authorities for non-gubernatorial appointees as defined and described in K.S.A. 75-4315d
- Kansas real estate commission for an applicant or a licensee as defined in K.S.A. 58-3035 in connection with an investigation as described in K.S.A. 58-3039

Governmental agency other than a criminal justice agency as defined in K.S.A. 22-4701

Receives fingerprint based results: Adult convictions

- Department of agriculture for hemp employees as defined in K.S.A. 2-3901 in connection with such employment as described in K.S.A. 2-3902
- Department of agriculture for applicant or licensure as a hemp producer as defined in K.S.A. 2-3901 in connection with such application as described in K.S.A. 2-3906
- Office of state fire marshal for applicants for registration as a hemp processor as defined in K.S.A. 2-3901 in connection with such application as described in K.S.A. 2-3907
- Department of agriculture for hemp destruction employees as defined in K.S.A. 2-3901 in connection with such employment as described in K.S.A. 2-3911
- Bank commissioner for any applicant as defined in K.S.A. 9-508 in connection with such application as described in K.S.A. 9-509
- Bank commissioner for an applicant for employment as a new executive officer or director with a money transmitter company as defined in K.S.A. 9-513e
- Bank commissioner for any applicant as defined in K.S.A. 9-1719 in connection with such application as described in K.S.A. 9-1722
- Bank commissioner for an applicant , registrant or licensee as defined in K.S.A. 9-2201 in connection with such application, registration, or license as described in K.S.A. 9-2209
- State banking board for any officer, director or organizer of a proposed fiduciary financial institution as defined in K.S.A. 9-2301 in connection with such role as described in K.S.A. 9-2302
- Municipalities for the applicant for merchant or security police as described in K.S.A. 12-1679
- Bank commissioner for any applicant as defined in K.S.A. 16a-6-104 in connection with such application as described in K.S.A. 16a-6-104
- State department of credit unions for every candidate as defined in and connection with K.S.A. 17-2234
- Insurance commissioner for applicants for licensure as an insurance agent as defined in K.S.A. 40-4902 in connection with such application as described in K.S.A. 40-4905
- Insurance commissioner for applicants as defined in K.S.A. 40-5501 in connection with such application as described in K.S.A. 40-5505
- Division of alcoholic beverage control within the department of revenue for applicants as defined in K.S.A. 41-102 in connection with such application as described in K.S.A. 41-311b
- Division of post audit for employees as defined in and connection with K.S.A. 46-1103
- Bank commissioner for any licensee as defined in K.S.A. 50-1126 in connection with such license as described in K.S.A. 50-1128
- Real estate appraisal board for a licensee as defined in K.S.A. 58-4102 in connection with an application or investigation as described in K.S.A. 58-4127
- Real estate appraisal board for an applicant as defined in K.S.A. 58-4703 in connection with such application as described in K.S.A. 58-4709
- Department of health and environment for an employee as defined in K.S.A. 65-2401 in connection with such employment as described in K.S.A. 65-2402
- Kansas commission on veterans affairs office for candidates as defined in and connection with K.S.A. 73-1210a
- A senate standing committee for a member named, appointed, or elected to the public employee retirement systems board of trustee membership as described in K.S.A. 74-4905
- Attorney general for applicants as defined in K.S.A. 75-7e01 in connection with such application as described in K.S.A. 75-7e03

Continued from previous chart: Governmental agency other than a criminal justice agency as defined in K.S.A. 22-4701

Receives fingerprint based results: Adult convictions

- Department of revenue for employees as defined in and connection with K.S.A. 75-5133c
- Division of motor vehicles within the department of revenue for employees as defined in and connection with K.S.A. 75-5156
- Kansas commission for the deaf and hard of hearing for applicants and employees as defined in K.S.A. 75-5397f in connection with such application as described in K.S.A. 75-5393a and K.S.A. 75-5393c
- Department of health and environment for employees as defined in and connection with K.S.A. 75-5609a
- Executive branch agency head for employees as defined in and connection with K.S.A. 75-7241

Governmental agency other than a criminal justice agency as defined in K.S.A. 22-4701

Receives name-based results: Adult convictions and adult non-convictions

- State board of healing arts for determining qualifications for an original application or reinstatement of a license, permit registration or certification as described in K.S.A. 65-2839a
- State lottery for the purpose of awarding major contracts as described in K.S.A. 74-8705

Governmental agency other than a criminal justice agency as defined in K.S.A. 22-4701

Receives name-based results: Adult convictions

- Department for aging and disability services for applicants for an adult care home operator license as described in K.S.A. 39-969
- Joint committee on Kansas security for committee staff members of the office of revisor of statutes and the legislative research department as described in K.S.A. 46-3301
- Attorney general for applicants for roofing contractors registration as described in K.S.A. 50-6,126
- Department of health and environment for applicants of a permit to construct, alter or operate a solid waste processing facility as described in K.S.A. 65-3407
- Kansas department for gaining and disability services for applicants for licensure as an adult care home administrator as described in K.S.A. 65-3503
- Board of nursing for applicants for a mental health technician license as described in K.S.A. 65-4209
- Board of nursing for applicants for nurse licensure as described in K.S.A. 65-1120
- State lottery for applicants of employment at the lottery as described in K.S.A. 74-8763
- State lottery for applicants of employment at the lottery as described in K.S.A. 74-8769
- Governor and the senate appointees to the Kansas racing and gaming commission as described in K.S.A. 74-8803
- Governor and the senate for an appointee as executive director of the Kansas racing and gaming commission as described in K.S.A. 74-8805
- Kansas racing and gaming commission for employees who are animal health officers as described in K.S.A. 74-8806
- Governor and the senate for an appointee as executive director of the state gaming agency as described in K.S.A. 74-9804

Thank you for your consideration of this testimony in your deliberation of SB 491. The KBI encourages the committee to pass SB 491 out of committee.

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