

SESSION OF 2023

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 51**

As Recommended by Senate Committee on  
Financial Institutions and Insurance

**Brief\***

SB 51 would amend the Technology-enabled Fiduciary Financial Institutions Act (TEFFI Act) to authorize the State Bank Commissioner (Commissioner) to accept state and national criminal history record checks performed by private entities.

***Fingerprinting of Certain Officials; Criminal History  
Record Checks, Use of Private Entities; Unlawful  
Disclosure***

The bill would amend existing fingerprinting criteria in the TEFFI Act to add the Commissioner to the entities permitted to require fingerprinting of officers, directors, or organizers of fiduciary financial institutions. Under current law, the State Banking Board (Board) is assigned this duty.

The bill would further authorize the Board or the Commissioner to accept a state or national criminal history record check from a private entity if the Kansas Bureau of Investigation (KBI) or Federal Bureau of Investigation (FBI) is unable to supply the criminal history record checks through available repositories. The bill would also state that the Board and Commissioner would not be allowed to disclose or use a state or national criminal history record check except for the purposes provided in the TEFFI Act. The unauthorized use of a state or national criminal history record check would constitute a class A nonperson misdemeanor.

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\*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>

The bill would also provide each criminal history record check would be deemed confidential, not subject to the Kansas Open Records Act, and could not be disclosed to any fiduciary financial institution. The bill would provide these confidentiality provisions would expire on July 1, 2028, unless the Legislature reviews and reenacts such provisions prior to July 1, 2028.

### ***Definitions***

The bill would add definitions in the TEFFI Act for the terms “director,” “officer,” “organizer,” and “private entity.” A “private entity” would mean an entity other than the KBI or FBI that can provide a state or national criminal history record check.

The bill would be in effect upon publication in the *Kansas Register*.

### **Background**

The bill was introduced by the Senate Committee on Financial Institutions and Insurance at the request of the Office of the State Bank Commissioner (OSBC).

[*Note:* The Joint Committee on Fiduciary Financial Institutions met in December 2022, and among topics discussed, the Committee received comment and a legislative proposal from the OSBC regarding the agency’s inability to obtain background checks from the FBI and language updates to the TEFFI Act to define certain officials and permit the Commissioner to require fingerprinting of these officials. The Joint Committee recommended introduction of legislation to accommodate this request.]

## ***Senate Committee on Financial Institutions and Insurance***

In the Senate Committee hearing, a representative of the OSBC provided **proponent** testimony, stating the bill would include the additional language necessary for the OSBC to receive criminal history record check information from the FBI. The bill would also include criminal history record check provisions to assist the OSBC in its background check process. The representative noted the bill would have a neutral fiscal effect.

Neutral testimony was provided by the Executive Officer of the KBI. The KBI official provided background information regarding the KBI's responsibility to maintain the state's criminal history records. The KBI official also noted there are an estimated 77 state statutes that authorize criminal history record checks for non-criminal justice entities. The KBI official stated the agency is working to change the structure of the civil fingerprint background check statutes to a single statute and it hopes to introduce a bill soon.

### **Fiscal Information**

According to the fiscal note prepared by the Division of the Budget on the bill, the OSBC indicates any fiscal effect associated with the bill could be absorbed within the agency's existing resources. The KBI indicates that any revenue it receives from criminal history record check requests would be offset by operating expenditures relating to staffing and maintenance of the repository system that generates the criminal history check. The Kansas Legislature indicates the bill would have no fiscal effect. Any fiscal effect associated with the bill is not reflected in *The FY 2024 Governor's Budget Report*.

Fiduciary financial institutions; TEFFI Act; State Bank Commissioner; State Banking Board; fingerprinting; private entities; confidential information