

SENATE BILL No. 492

By Committee on Judiciary

2-5

1 AN ACT concerning law enforcement; relating to file sharing by law
2 enforcement agencies; requiring law enforcement agencies to share
3 information about law enforcement officers related to criminal conduct
4 or conduct giving rise to licensing or certification sanctions; amending
5 K.S.A. 2025 Supp. 75-4379 and repealing the existing section.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 2025 Supp. 75-4379 is hereby amended to read as
9 follows: 75-4379. (a) (1) A hiring agency shall require each applicant
10 interviewed by such agency for a law enforcement officer position who
11 has submitted an application for a law enforcement officer position with or
12 been employed in a law enforcement position by another state or local law
13 enforcement agency or governmental agency to execute a written waiver
14 that:

15 (A) Explicitly authorizes each state or local law enforcement agency
16 or governmental agency that has employed the applicant in a law
17 enforcement position, received an application from the applicant for a law
18 enforcement position or conducted an employment background
19 investigation on the applicant to disclose the applicant's files to the hiring
20 agency; and

21 (B) releases the hiring agency and each state or local law enforcement
22 agency or governmental agency described in subparagraph (A), *or an*
23 *employee or contractor of such agency conducting background*
24 *investigations*, from any liability related to the use and disclosure of the
25 applicant's files.

26 (2) An applicant who refuses to execute the written waiver shall not
27 be considered for employment by the hiring agency.

28 (3) The hiring agency shall include the written waiver with each
29 request for information submitted to a state or local law enforcement
30 agency or governmental agency.

31 (b) Except as provided in subsection (c), a state or local law
32 enforcement agency or governmental agency that receives a written waiver
33 described in subsection (a) shall disclose the applicant's files to the hiring
34 agency not more than 21 days after such receipt. Such law enforcement
35 agency or governmental agency may choose to disclose the applicant's
36 files by either:

1 (1) Providing copies to the hiring agency; or

2 (2) allowing the hiring agency to review the files at the law
3 enforcement agency's office or governmental agency's office.

4 (c) (1) A state or local law enforcement agency or governmental
5 agency is not required to disclose the applicant's files pursuant to
6 subsection (b) if such agency is prohibited from providing the files
7 pursuant to a binding nondisclosure agreement to which such agency is a
8 party, and such agreement was executed before July 1, 2018.

9 (2) A state or local law enforcement agency or governmental agency
10 is required to disclose the applicant's files pursuant to subsection (b) if
11 such files are subject to a binding nondisclosure agreement to which such
12 agency is a party, and such agreement was executed on or after July 1,
13 2018, but the disclosure shall be limited to files necessary to determine the
14 qualifications and fitness of the applicant for performance of duties in a
15 law enforcement officer position.

16 (3) A state or local law enforcement agency or governmental agency
17 may redact personally identifiable information of persons other than the
18 applicant in files disclosed to the hiring agency.

19 (d) A state or local law enforcement agency or governmental agency,
20 *or an employee or contractor of such agency conducting background*
21 *investigations*, shall not be liable for complying with the provisions of this
22 section in good faith or participating in an official oral interview with an
23 investigator regarding the applicant.

24 (e) Except as provided in ~~subsection~~ subsections (f) and (g), or except
25 as necessary for such agency's internal hiring processes, files obtained
26 pursuant to this section shall not be disclosed by the hiring agency.

27 (f) Files obtained pursuant to this section shall constitute, for the
28 purposes of the open records act, a record of the state or local law
29 enforcement agency or governmental agency that made, maintained or
30 kept such files. Such files shall not be subject to a request for inspection
31 and copying under the open records act directed toward the hiring agency
32 obtaining the files. The official custodian of such files, for the purposes of
33 the open records act, shall be the official custodian of the records of such
34 state or local law enforcement agency or governmental agency. Except in a
35 civil action involving negligent hiring, such files shall not be subject to
36 discovery, subpoena or other process directed toward the hiring agency
37 obtaining the files.

38 (g) (1) *Any information acquired during the hiring process that*
39 *would cause a reasonable person to believe that the applicant has*
40 *committed a crime shall be provided to a state or local law enforcement*
41 *agency with jurisdiction where the crime is alleged to have occurred.*

42 (2) *If an applicant is a currently licensed or certified law enforcement*
43 *officer in any jurisdiction or currently employed as a law enforcement*

1 *officer, any information acquired during the hiring process that would*
2 *cause a reasonable person to believe that the applicant has committed a*
3 *crime or engaged in conduct that would result in a licensing or*
4 *certification sanction shall be provided to the following agencies:*

5 (A) *The licensing or certifying authority;*

6 (B) *the state or local law enforcement agency where the applicant*
7 *was employed at the time of the conduct; or*

8 (C) *the state or local law enforcement agency where the applicant is*
9 *currently employed.*

10 (h) As used in this section:

11 (1) (A) "Files" means:

12 (i) All performance reviews or other files related to job performance,
13 commendations, administrative files, grievances, previous personnel
14 applications, personnel-related claims, disciplinary actions, internal
15 investigation files, suspensions, investigation-related leave, documents
16 concerning termination or other departure from employment, all
17 complaints and all early warning information; and

18 (ii) regardless of whether the applicant was ultimately hired, the
19 employment application, background investigations, polygraph or voice
20 stress analysis examination results and law enforcement-related
21 psychological evaluation reports connected to the application process.

22 (B) "Files" does not include nonperformance documents or data,
23 including, but not limited to, medical files, psychological examination
24 reports not directly related to the applicant's suitability for law
25 enforcement employment or certification, schedules, pay and benefit
26 information or similar administrative data or information.

27 (2) "Early warning information" means information from a database
28 management tool designed to identify officers who may be exhibiting
29 precursors of problems on the job that can result in providing those
30 officers with counseling or training to divert them away from conduct that
31 may become a disciplinary matter.

32 (3) "Governmental agency" means the state or subdivision of the state
33 with oversight of the state or local law enforcement agency.

34 (4) "Hiring agency" means a state or local law enforcement agency
35 processing an application for employment, regardless of whether the
36 applicant is ultimately hired.

37 (5) "State or local law enforcement agency" means any public agency
38 employing a law enforcement officer as defined in K.S.A. 74-5602, and
39 amendments thereto.

40 Sec. 2. K.S.A. 2025 Supp. 75-4379 is hereby repealed.

41 Sec. 3. This act shall take effect and be in force from and after its
42 publication in the statute book.