

Criminal History Record Checks for Certain State Employees and Authorized Release of Certain Criminal History Records; HB 2342

HB 2342 authorizes the Secretary of Commerce to request the Kansas Bureau of Investigation (KBI) conduct a state and national criminal history record check on any final applicant for, or an employee in, a sensitive position within the Department of Commerce and requires the Secretary of Labor to conduct state and national criminal history record checks on employees who have access to federal tax information received directly from the Internal Revenue Service (IRS).

The bill also amends law in the Kansas Code of Criminal Procedure concerning how non-criminal justice agencies may conduct state and national criminal history record checks and what criminal history record information (CHRI) must be released to such agencies with respect to certain employees and applicants for employment, licensure, or certification.

Criminal History Record Checks

Secretary of Commerce

The Secretary of Commerce is authorized to use information from a background check in the determination of applicants for, or employees in, sensitive positions. This determination is required to be in the Secretary's discretion except for a minimum standard requiring that a person in such a position have no misdemeanor conviction for any crime involving theft, fraud, forgery, or other financial crime or any felony conviction.

The bill defines "final applicant" to mean an applicant for a sensitive position with the Department of Commerce that the Secretary has determined is among a select group of applicants most qualified for the sensitive position and to whom the Secretary intends to give final consideration for an employment offer.

The bill also defines "sensitive position" to mean an employee in:

- The positions of division director, assistant secretary, deputy secretary, information technology manager, and chief counsel;
- Grant or loan program manager positions directly involved with accounting or disbursement of funds; and
- Any position determined by the Secretary of Commerce to involve significant financial management responsibilities; the collection or maintenance of, or access to, confidential personal or business information; or a significant risk of fraud or financial liability to the Department of Commerce.

Secretary of Labor

The bill requires the Secretary of Labor to conduct state and national criminal history record checks on employees who have access to federal tax information received directly from the IRS. Such criminal record checks require fingerprinting of the employee.

Criminal History Record Information to be Released to Certain Agencies

The bill directs the KBI to release certain types of CHRI of applicants and employees associated with the agencies specified below.

Office of Attorney General

The bill requires the KBI to release CHRI related to adult convictions, adult non-convictions, adult diversions, adult expunged records, juvenile adjudications, juvenile non-adjudications, juvenile diversions, and juvenile expunged records to the Attorney General for the following persons applying to become licensed or certified in Kansas:

- Persons applying for a private detective or private detective agency [*Note: Prior law required adult convictions, adult non-convictions, adult diversions, and adult expunged records to be released for these persons*];
- Persons applying for a license to carry a concealed handgun [*Note: Prior law required adult convictions, adult non-convictions, adult diversions, adult expunged records, juvenile adjudications, juvenile non-adjudications, and juvenile diversions to be released for these persons*];
- Persons applying to become certified to train private detectives in the handling of firearms and the lawful use of force [*Note: Prior law required adult convictions, adult non-convictions, adult diversions, and adult expunged records to be released for these persons*]; and
- Persons applying for a bail enforcement agent license [*Note: Prior law required adult convictions to be released for these persons*].

State Gaming Agency

The bill requires the KBI to release CHRI related to adult convictions, adult non-convictions, adult diversions, adult expunged records, juvenile adjudications, juvenile non-adjudications, and juvenile diversions to the State Gaming Agency (SGA) for candidates for employment with the SGA or persons applying for tribal gaming licensure pursuant to a tribal-state gaming compact. Under prior law, the SGA was authorized to receive CHRI related only to adult convictions, non-convictions, diversions, and expunged records.

Department of Labor

The bill requires the KBI to release CHRI related to adult convictions, adult non-convictions, adult diversions, and juvenile adjudications to the Secretary of Labor for employees who have been or will be granted access to federal tax information received directly from the IRS.

Department of Commerce

The bill requires the KBI to release CHRI related to adult convictions, adult non-convictions, adult diversions, and adult expunged records to the Secretary of Commerce for final applicants for, or employees in, a sensitive position.

Office of the State Bank Commissioner

The bill makes conforming amendments to law to reflect the type of CHRI that must be released by the KBI with respect to certain employees and applicants associated with the State Bank Commissioner under continuing law.