

As Amended by House Committee

Session of 2019

HOUSE BILL No. 2360

By Committee on Children and Seniors

2-15

1 AN ACT concerning criminal history record checks; relating to entities
2 providing care to children, the elderly or individuals with disabilities;
3 the Kansas bureau of investigation.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. (a) As used in this section:

7 (1) "Care" means the provision of treatment, education, training,
8 instruction, supervision or recreation to children, the elderly or individuals
9 with disabilities.

10 (2) "Provider" means a person who:

11 (A) Is employed by a qualified entity and has, seeks to have, or may
12 have **supervised or** unsupervised access to children, the elderly or
13 individuals with disabilities to whom the qualified entity provides care;

14 (B) is a volunteer of a qualified entity and has, seeks to have, or may
15 have **supervised or** unsupervised access to children, the elderly or
16 individuals with disabilities to whom the qualified entity provides care; or

17 (C) owns, operates or seeks to own or operate a qualified entity.

18 (3) "Qualified entity" means a business or organization that provides
19 care to children, the elderly or individuals with disabilities that is private,
20 for profit, not-for-profit or voluntary, except **such businesses or**
21 ~~organizations required to be licensed pursuant to K.S.A.~~ **that are subject**
22 **to the provisions of K.S.A. 39-970, 65-516 or 65-5117, and amendments**
23 **thereto, or K.S.A. 2018 Supp. 39-2009 or 75-53,105, and amendments**
24 **thereto.**

25 (b) A qualified entity may request the Kansas bureau of investigation
26 to conduct a state and national criminal history record check on any person
27 who will serve as a provider, or is currently a provider with such entity.
28 The qualified entity may request a state and national criminal history
29 record check by submitting the following:

30 (1) The person's fingerprints; and

31 (2) a copy of a completed and signed statement furnished by the
32 qualified entity that includes:

33 (A) A waiver permitting the qualified entity to request and receive a
34 criminal history record check for the purpose of determining the person's
35 qualification and fitness to serve as a provider;

36 (B) the name, address and date of birth of the person as it appears on

1 a valid identification document;

2 (C) a disclosure of whether or not the person has ever been convicted
3 of or is the subject of pending charges for a criminal offense and, if
4 convicted, a description of the crime and the result of the conviction; and

5 (D) a notice to the person that they are entitled to obtain a copy of the
6 criminal history record check to challenge the accuracy and completeness
7 of any information contained in any such report before any final
8 determination is made by the qualified entity.

9 (c) A qualified entity is authorized **to** require a person to be
10 fingerprinted and to submit the fingerprints to the Kansas bureau of
11 investigation and the federal bureau of investigation for a state and
12 national criminal history record check. The qualified entity shall use the
13 fingerprints to identify the person and to determine whether the person has
14 a record of criminal history in this state or other jurisdictions or countries.
15 The qualified entity may use the information obtained from the
16 fingerprints and such state and national criminal history record checks in
17 the official determination of the qualifications and fitness of the person to
18 be permitted to serve as a provider.

19 (d) Local and state law enforcement officers and agencies shall assist
20 the qualified entity in taking and processing a person's fingerprints as
21 authorized by this section.

22 (e) The Kansas bureau of investigation shall release all records of the
23 person's adult convictions and diversions, and adult convictions and
24 diversions from another state, jurisdiction or country, to the qualified entity
25 to make a final determination of the qualification of such person to serve
26 as a provider.

27 (f) A qualified entity shall be solely responsible for making any
28 determination that a person's criminal history record shows that such
29 person has been convicted of a crime that bears upon the fitness of such
30 person to serve as a provider. This section does not require the Kansas
31 bureau of investigation to make such a determination on behalf of any
32 qualified entity.

33 Sec. 2. This act shall take effect and be in force from and after its
34 publication in the Kansas register.