

**SENATE BILL No. 180**

By Committee on Judiciary

2-10

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1 AN ACT concerning law enforcement; relating to hiring practices and  
2 consideration of prior employment records.

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

5 Section 1. (a) A hiring agency shall require each candidate  
6 interviewed by such agency for a law enforcement officer position who  
7 has been employed by another state or local law enforcement agency or  
8 governmental agency to execute a written waiver that: (1) Explicitly  
9 authorizes each state or local law enforcement agency or governmental  
10 agency that has employed the candidate to disclose the applicant's files to  
11 the hiring agency; and (2) releases the hiring agency and each state or local  
12 law enforcement agency or governmental agency that employed the  
13 candidate from any liability related to the use and disclosure of the files. A  
14 candidate who refuses to execute the written waiver shall not be  
15 considered for employment by the hiring agency. The hiring agency shall  
16 include the written waiver with each request for information submitted to a  
17 state or local law enforcement agency or governmental agency that has  
18 employed the candidate.

19 (b) Except as provided in subsection (c), a state or local law  
20 enforcement agency or governmental agency that receives a written waiver  
21 described in subsection (a) shall disclose the files to the hiring agency not  
22 more than 21 days after such receipt. Such law enforcement agency or  
23 governmental agency may choose to disclose the applicant's files by either:  
24 (1) Providing copies to the hiring agency; or (2) allowing the hiring  
25 agency to review the files at the law enforcement agency's office or  
26 governmental agency's office.

27 (c) A state or local law enforcement agency or governmental agency  
28 is not required to disclose the files pursuant to subsection (b) if such  
29 agency is prohibited from providing the files pursuant to a binding  
30 nondisclosure agreement to which such agency is a party, and such  
31 agreement was executed before July 1, 2017.

32 (d) A state or local law enforcement agency or governmental agency  
33 shall not be liable for complying with the provisions of this section in good  
34 faith or participating in an official oral interview with an investigator  
35 regarding the candidate.

36 (e) Files obtained pursuant to this section shall not be disclosed by

1 the hiring agency, except as necessary for such agency's internal hiring  
2 processes.

3 (f) Files obtained pursuant to this section shall constitute, for the  
4 purposes of the open records act, a record of the state or local law  
5 enforcement agency or governmental agency that made, maintained or  
6 kept such files. Such files shall not be subject to a request for inspection  
7 and copying under the open records act directed toward the hiring agency  
8 obtaining the files, and shall not be subject to discovery, subpoena or other  
9 process directed toward the hiring agency obtaining the files. The official  
10 custodian of such files, for the purposes of the open records act, shall be  
11 the official custodian of the records of such state or local law enforcement  
12 agency or governmental agency.

13 (g) As used in this section:

14 (1) "Files" means all performance reviews or other files related to job  
15 performance, commendations, administrative files, grievances, previous  
16 personnel applications, personnel-related claims, disciplinary actions,  
17 internal investigation files, suspensions, investigation-related leave,  
18 documents concerning termination or other departure from employment  
19 and all complaints or early warnings. "Files" shall not include  
20 nonperformance documents or data, including, but not limited to, medical  
21 files, schedules, pay and benefit information or similar administrative data  
22 or information.

23 (2) "Governmental agency" means the state or subdivision of the state  
24 with oversight of the state or local law enforcement agency.

25 (3) "Hiring agency" means a law enforcement agency processing an  
26 application for employment, regardless of whether the applicant is  
27 ultimately hired.

28 (4) "State or local law enforcement agency" means any public agency  
29 employing a law enforcement officer as defined in K.S.A. 74-5602, and  
30 amendments thereto.

31 Sec. 2. This act shall take effect and be in force from and after its  
32 publication in the statute book.