

SENATE BILL No. 180

By Committee on Judiciary

2-10

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.