

SESSION OF 2005

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2128**

As Agreed to March 31, 2005

Brief *

HB 2128 amends the expungement statutes that apply to adults and to juveniles. The bill also authorizes the Secretary of Social and Rehabilitation Services to receive from the Kansas Bureau of Investigation (KBI) criminal history records in order to evaluate the qualifications of job applicants or employees connected with any program administered by the Secretary for the purpose of placement, safety, protection, or treatment of vulnerable children or adults.

The bill provides that all forms of the crime of rape, committed by an adult, could not be expunged. Prior law permitted expungement of this crime unless the victim was under 14 years old. Prior law prohibited the expungement of all sexual battery crimes. Under the bill, sexual battery could be expunged when committed by a juvenile.

In regard to juveniles, the bill adds forcible rape and aggravated sexual battery to the list of crimes which are not subject to expungement.

The bill provides that if a nationwide criminal records search is necessary, the Secretary will submit fingerprints to the KBI and the Federal Bureau of Investigation (FBI) for identification of the applicant or employee and to obtain criminal history record information including arrest and non-conviction data. Fees for the records check would be paid by the Secretary.

Disclosure or use of information received by the Secretary or designee for other than the stated purposes will be a class A misdemeanor and grounds for removal from office or termination

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from employment. Disclosure to the Legislative Post Auditor is permitted.

Conference Committee Action

The Conference Committee agreed to the Senate amendments and further inserted changes to allow for the expungement of sexual battery when committed by a juvenile. The Conference Committee also agreed to provide for a change so that the crime of abuse of a child cannot be expunged.

Background

The Chief Counsel for the Department of Social and Rehabilitation Services testified in support of the original bill.

The Senate Committee added the amendments dealing with expungement and the amendment allowing disclosure of criminal history information received by the Secretary of Social and Rehabilitation Services to the Legislative Post Auditor.

The fiscal note on the original bill indicates that additional costs to obtain the national information would total \$18,700 per year, which SRS stated could be absorbed within current budget resources.