



Kansas Bureau of Investigation

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Testimony in Support of House Bill 2360 Before the Senate Judiciary Committee

**Katie Whisman, Executive Officer
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Chairman Wilborn and Members of the Committee:

My name is Katie Whisman and I serve as the Executive Officer for the Kansas Bureau of Investigation. Thank you for the opportunity to testify in support of House Bill 2360, which was introduced at the request of the KBI.

Since 1998, the National Child Protection Act/Volunteers for Children Act (NCPA/VCA) has authorized qualified entities to contact the KBI and request national criminal fingerprint background checks be performed on people working or volunteering with children, elderly, or disabled individuals in an unsupervised capacity. Because no state law was required under NCPA/VCA, it was under the national law that these checks were performed.

For several years, the KBI has been performing state and national criminal history record checks for a number of nongovernmental businesses and organizations, which include Court Appointed Special Advocates (CASA), Jobs for America's Graduates – Kansas (JAG-K), and private adoption agencies, to name just a few. We currently have 77 organizations that voluntarily request a state and national background check for the purpose of determining whether an individual has been convicted of a crime that bears upon their fitness to have responsibility for the safety and well-being of children, the elderly, or individuals with disabilities. In 2018, the KBI conducted approximately 440 fingerprint-based criminal history record checks on employees and 750 fingerprint-based record checks on volunteers.

The National Child Protection Improvements Act (CPIA) was enacted in March of 2018, and amended the NCPA/VCA. The CPIA now requires states to have procedures, established by state statute or regulation, which require qualified entities to contact an agency authorized by the state (i.e. the KBI) and request the background check. *Beginning in March of 2019, in the absence state legislation the KBI will no longer be able to perform state and national criminal history record checks for these entities.*

While the CPIA now allows qualified entities to submit fingerprints directly to the Federal Bureau of Investigation (FBI) through an entity designated by the United States Attorney General, this first requires that the FBI and the United States Department of Justice establish a CPIA Program. We have not received any information to suggest that the CPIA Program has been established, nor has a designated entity been identified. We fear that in the absence of a national program or state legislation, qualified entities will be faced with quickly trying to determine how to continue screening applicants through fingerprint-based criminal history record checks. The consequence may be a gap in service that may ultimately place our children, seniors, and disabled individuals at risk of harm.

HB 2360, which uses much of the same federal language, is the mechanism required to continue allowing non-governmental entities to request that the KBI perform fingerprint based state and national criminal history record checks on employees and volunteers. The KBI will then release an individual's adult conviction and diversion records to the qualified entity so the entity can make a final determination of the individual's fitness for working or volunteering with some of our most vulnerable citizens.

HB 2360 was amended by the House Committee at the request of the KBI to broaden the definition of "provider" for consistency with what the federal government allows, and to include an exemption for entities who have more restrictive statutory requirements, thus avoiding conflicting statutes.

We very strongly believe that this is an extremely time sensitive issue that needs to be addressed by the passage of state legislation, thereby ensuring qualified entities do not experience a gap in service but continue to have the ability to perform state and national criminal history record checks as they always have.

It is very much in line with the mission of the KBI to advocate for this statutory enhancement with the goal of preventing the victimization of Kansas citizens, particularly those that are among the most vulnerable within our society. I respectfully ask that the Committee consider HB 2360, as amended by the House Committee on Children and Seniors favorably for passage.

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