



Kansas Bureau of Investigation

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Proponent Testimony on House Bill 2508
Presented to the House Judiciary Committee
By Robert Jacobs, Executive Officer
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Representative Patton and Members of the Committee:

House Bill 2508 clarifies in statute the retention of civil fingerprints collected for the purpose of a criminal history record check. Additionally, the bill requires authorized entities to notify applicants, employees, or volunteers when his or her fingerprints will be enrolled in the Rap Back program.

In 1978 the Kansas Bureau of Investigation (KBI) was statutorily conferred the responsibility of maintaining the state's criminal history records through K.S.A. 22-4705. Per K.S.A. 21-2501, fingerprint and palm prints are to be taken by local law enforcement agencies if a person is wanted for the commission of a felony or a class A or B misdemeanor or assault as defined in K.S.A. 21-3408. Those fingerprint and palm prints are to be provided to and maintained by the KBI. The KBI shall forward one set of the fingerprints to the Federal Bureau of Investigation (FBI).

The KBI offers criminal history record checks to both *criminal justice* and *non-criminal justice* entities. Presently, there are approximately fifty-eight state statutes that authorize criminal history record checks for non-criminal justice entities. Some examples of non-criminal justice entities who are authorized to receive criminal history record checks are: State Bank Commissioner, Kansas Department of Aging and Disability Services (KDADS), Kansas Real Estate Commission, State Board of Nursing, Department of Education, Kansas Department of Health and Environment, and Kansas Department of Children and Families (DCF). Many of these entities request criminal history record checks on applicants, employees, and volunteers who work in positions of trust; to include working with vulnerable populations such as children, the elderly, and disabled individuals.

To complete a criminal history record check, the applicant must submit their name, date of birth and a set of fingerprints. The individual's fingerprints are searched against known criminal fingerprints in a system called the Automated Fingerprint Identification System (AFIS), to determine if a criminal history record exists. If the individual's fingerprints "hit" to a criminal fingerprint, then a criminal history record, known as a "rapsheet" is provided to the requesting authorized entity. The rapsheet is a "snapshot" of an individual's criminal record at the time of request. Additionally, the individual's fingerprints are searched against fingerprints which have been entered into the unsolved latent fingerprint file. The unsolved latent fingerprint file includes

latent prints that have been recovered from a crime scene, but have not yet been identified to any known fingerprint/individual.

Rap Back is a program utilized by the KBI to continuously monitor an individual's criminal record after the initial request of a fingerprint criminal record check. The Rap Back program will make notification to the authorized entity when a change to the individual's record occurs. Once an authorized entity has submitted an individual's fingerprints for a criminal history record check and received the criminal history check, the authorized entity can subscribe the individual in the Rap Back program.

Currently, the KBI is only able to subscribe individuals in the *Kansas* Rap Back program. Kansas Rap Back only searches for changes to an individual's record based on arrests or convictions, occurring within the State of Kansas.

In 2020, the KBI received funding to purchase and implement a replacement to the Kansas AFIS. The current AFIS system has limited capability. As a result, the AFIS is unable to participate in the national Rap Back program. In 2023, the KBI will begin utilizing the new Kansas Automated Biometric Identification System (ABIS). Once operational, the new ABIS system will have the ability to participate in the FBI's Rap Back program.

Much like the Kansas Rap Back program, the FBI Rap Back program allows authorized agencies to receive notification of activity on individuals who hold positions of trust (e.g. school teachers, daycare workers) or who are under criminal justice supervision or investigation, thus eliminating the need for repeated background checks on a person from the same applicant agency (authorized entity).

With Rap Back, authorized entities can receive on-going status notifications of any criminal history reported to the FBI after the initial processing and retention of criminal or civil transactions. By using fingerprint identification to identify persons arrested and prosecuted for crimes, Rap Back provides a nationwide notice to both criminal justice and non-criminal justice authorities regarding subsequent actions¹. There is no cost to participate in the FBI Rap Back program.

Authorized entities are required to notify the KBI once they are no longer entitled to receive criminal history record information relating to a particular person enrolled in Rap Back. At which time, the KBI will cancel the enrollment of the individual in Rap Back and the authorized entity will no longer receive updates to criminal history record information for that individual.

The KBI began utilizing the state Rap Back program in 2009. The cost of this program is \$3.00 per subscribed individual. Currently, twenty-one authorized agencies participate in the Kansas Rap Back program with over 265,000 subscribed records enrolled in the state Rap Back program. Once the FBI Rap Back program is operational the KBI anticipates eliminating the \$3.00 charge for participation in the Kansas Rap Back program.

The cost of a civil fingerprint criminal history record check is \$47.00. This includes \$35.00 for the state portion of the record check and \$12.00 for the federal portion of the record check. Many

¹ Federal Bureau of Investigation Criminal Justice Information Services Next Generation Identification: [Next Generation Identification \(NGI\) — FBI](#)

of the authorized entities require their applicants, employees, and volunteers to re-submit fingerprints for a new criminal history record check once every three to five years (depending on licensing/certification requirements). Authorized entities who enroll in the FBI Rap Back program will eliminate the need for employees and volunteers to re-submit their fingerprints every three to five years. *This will result in a cost savings to the employee or volunteer.*

Civil fingerprints submitted for a criminal history record check may only be used by the authorized entity for the purpose of which the record check was made (i.e. for employment with the Department of Education or for a concealed carry permit). If an additional criminal history record check is requested for a separate authorized entity; a new set of fingerprints must be submitted.

HB 2508 clarifies in statute the KBI's current practice of retaining fingerprints for use in the Kansas Rap Back program. The bill will require authorized entities to notify applicants, employees, and volunteers the KBI will be retaining his or her fingerprints. Furthermore, HB 2508 requires the authorized entity to notify the applicant, employee or volunteer if the authorized entity subscribes the applicant, employee or volunteer to the Rap Back program. Fingerprints retained by the KBI may be used for the Rap Back program and for criminal justice purposes. Finally, the bill requires authorized entities to notify the KBI once they are no longer entitled to criminal history record information on an individual.

The KBI encourages the committee to consider this bill favorable and pass the bill out of committee. Thank you for your consideration of HB 2508.

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