
Session of 2017

HOUSE BILL No. 2427

By Committee on Federal and State Affairs

5-12

1 AN ACT concerning adult care homes; relating to licensure; employment;
2 background checks; amending K.S.A. 2016 Supp. 39-970 and repealing
3 the existing section.

4

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

6 Section 1. K.S.A. 2016 Supp. 39-970 is hereby amended to read as
7 follows: 39-970. (a) *As used in this section:*

8 (1) *"Adult care home" means any nursing facility, nursing facility for*
9 *mental health, intermediate care facility for people with intellectual*
10 *disability, assisted living facility, residential health care facility, home*
11 *plus, boarding care home or adult day care facility that is required to be*
12 *licensed to operate by the secretary for aging and disability services.*

13 (2) *"Applicant" means an individual who applies for employment*
14 *with an adult care home or applies to work for an employment agency or*
15 *as an independent contractor who provides staff to an adult care home.*

16 (3) *"Completion of the sentence" means the last day of the entire term*
17 *of incarceration imposed by a sentence, including any term that is*
18 *deferred, suspended or subject to parole, probation, diversion, community*
19 *corrections, fines, fees, restitution or any other imposed sentencing*
20 *requirements.*

21 (4) *"Department" means the Kansas department for aging and*
22 *disability services.*

23 (5) *"Direct access" means work that involves an actual or reasonable*
24 *expectation of one-on-one interaction with a consumer or a consumer's*
25 *property, personally identifiable information, medical records, treatment*
26 *information or financial information.*

27 (6) *"Direct supervision" means that a supervisor is physically present*
28 *within an immediate distance to a supervisee and is available to provide*
29 *constant direction, feedback and assistance to a client and the supervisee.*

30 (7) *"Employment agency" means an organization or entity that has a*
31 *contracted relationship with an adult care home to provide staff with*
32 *direct access to consumers.*

33 (8) *"Independent contractor" means an organization, entity, agency*
34 *or individual that provides contracted workers or services to an adult care*
35 *home.*

36 (9) *"Secretary" means the secretary for aging and disability services.*

[update K.S.A. "Supp." references throughout]

1 (b) (1) No person shall knowingly operate an adult care home if, in
2 the adult care home, there works any person who has *adverse findings on*
3 *any state or national registry, as defined in rules and regulations adopted*
4 *by the secretary for aging and disability services, or has been convicted of*
5 *or has been adjudicated a juvenile offender because of having committed*
6 *an act—~~which~~ that if done by an adult would constitute the commission of*
7 *capital murder, pursuant to K.S.A. 21-3439, prior to its repeal, or K.S.A.*
8 *2016 Supp. 21-5401, and amendments thereto, first degree murder,*
9 *pursuant to K.S.A. 21-3401, prior to its repeal, or K.S.A. 2016 Supp. 21-*
10 *5402, and amendments thereto, second degree murder, pursuant to K.S.A.*
11 *21-3402(a), prior to its repeal, or K.S.A. 2016 Supp. 21-5403(a), and*
12 *amendments thereto, voluntary manslaughter, pursuant to K.S.A. 21-3403,*
13 *prior to its repeal, or K.S.A. 2016 Supp. 21-5404, and amendments*
14 *thereto, assisting suicide, pursuant to K.S.A. 21-3406, prior to its repeal, or*
15 *K.S.A. 2016 Supp. 21-5407, and amendments thereto, mistreatment of a*
16 *dependent adult or mistreatment of an elder person, pursuant to K.S.A. 21-*
17 *3437, prior to its repeal, or K.S.A. 2016 Supp. 21-5417, and amendments*
18 *thereto, human trafficking, pursuant to K.S.A. 21-3446, prior to its repeal,*
19 *or K.S.A. 2016 Supp. 21-5426(a), and amendments thereto, aggravated*
20 *human trafficking, pursuant to K.S.A. 21-3447, prior to its repeal, or*
21 *K.S.A. 2016 Supp. 21-5426(b), and amendments thereto, rape, pursuant to*
22 *K.S.A. 21-3502, prior to its repeal, or K.S.A. 2016 Supp. 21-5503, and*
23 *amendments thereto, indecent liberties with a child, pursuant to K.S.A. 21-*
24 *3503, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(a), and*
25 *amendments thereto, aggravated indecent liberties with a child, pursuant to*
26 *K.S.A. 21-3504, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(b), and*
27 *amendments thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-*
28 *3506, prior to its repeal, or K.S.A. 2016 Supp. 21-5504(b), and*
29 *amendments thereto, indecent solicitation of a child, pursuant to K.S.A.*
30 *21-3510, prior to its repeal, or K.S.A. 2016 Supp. 21-5508(a), and*
31 *amendments thereto, aggravated indecent solicitation of a child, pursuant*
32 *to K.S.A. 21-3511, prior to its repeal, or K.S.A. 2016 Supp. 21-5508(b),*
33 *and amendments thereto, sexual exploitation of a child, pursuant to K.S.A.*
34 *21-3516, prior to its repeal, or K.S.A. 2016 Supp. 21-5510, and*
35 *amendments thereto, sexual battery, pursuant to K.S.A. 21-3517, prior to*
36 *its repeal, or K.S.A. 2016 Supp. 21-5505(a), and amendments thereto,*
37 *aggravated sexual battery, pursuant to K.S.A. 21-3518, prior to its repeal,*
38 *or K.S.A. 2016 Supp. 21-5505(b), and amendments thereto, commercial*
39 *sexual exploitation of a child, pursuant to K.S.A. 2016 Supp. 21-6422, and*
40 *amendments thereto, an attempt to commit any of the crimes listed in this*
41 *subsection—(a)(1) paragraph, pursuant to K.S.A. 21-3301, prior to its*
42 *repeal, or K.S.A. 2016 Supp. 21-5301, and amendments thereto, a*
43 *conspiracy to commit any of the crimes listed in this—subsection (a)(1)*

1 paragraph, pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2016
 2 Supp. 21-5302, and amendments thereto, or criminal solicitation of any of
 3 the crimes listed in this subsection (a)(1) paragraph, pursuant to K.S.A.
 4 21-3303, prior to its repeal, or K.S.A. 2016 Supp. 21-5303, and
 5 amendments thereto, or similar statutes of other states or the federal
 6 government. The provisions of subsection (a) (b)(2)(C) shall not apply to
 7 any person who is employed by an adult care home on or before July 1,
 8 2010, and while continuously employed by the same adult care home or to
 9 any person during or upon successful completion of a diversion
 10 agreement.

11 ~~An individual who has been disqualified for employment due to~~
 12 ~~conviction or adjudication of an offense listed in this paragraph (1) may~~
 13 ~~apply to the secretary for aging and disability services for a waiver of~~
 14 ~~such disqualification if seven years have elapsed since completion of the~~
 15 ~~sentence for such conviction. The secretary shall consider the following~~
 16 ~~criteria when rendering a decision on such a waiver request: Passage of~~
 17 ~~time; extenuating circumstances; demonstration of rehabilitation; and~~
 18 ~~relevancy of the criminal history information to the position for which the~~
 19 ~~applicant is applying.~~

[stricken material]

20 (2) A person operating an adult care home may employ an applicant
 21 who has been convicted of any of the following if ~~five~~ or more years have
 22 elapsed since ~~the applicant satisfied completion of~~ the sentence imposed or
 23 the applicant was discharged from probation, a community correctional
 24 services program, parole, postrelease supervision, conditional release or a
 25 suspended sentence; ~~or if five~~ or more years have elapsed since the
 26 applicant has been finally discharged from the custody of the
 27 commissioner of juvenile justice or from probation or has been adjudicated
 28 a juvenile offender, whichever time is longer; ~~or if the applicant has been~~
 29 ~~granted a waiver of such five-year disqualification:~~ A felony conviction
 30 for a crime ~~which~~ that is described in: (A) Article 34 of chapter 21 of the
 31 Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21
 32 of the Kansas Statutes Annotated, ~~or K.S.A. 2016 Supp. 21-6104, 21-6325,~~
 33 ~~21-6326 or 21-6418,~~ and amendments thereto, except those crimes listed
 34 in subsection (a) (b)(1), ~~or sexual battery, pursuant to K.S.A. 21-3517,~~
 35 ~~prior to its repeal, or K.S.A. 2016 Supp. 21-5505(a), and amendments~~
 36 ~~thereto;~~ (B) articles 35 or 36 of chapter 21 of the Kansas Statutes
 37 Annotated, prior to their repeal, or article 55 or 56 of chapter 21 of the
 38 Kansas Statutes Annotated, ~~or K.S.A. 2016 Supp. 21-6419 through 21-~~
 39 ~~6421 21-6420,~~ and amendments thereto, except those crimes listed in
 40 subsection (a) (b)(1) and K.S.A. 21-3605, prior to its repeal, or K.S.A.
 41 2016 Supp. 21-5606, and amendments thereto; (C) K.S.A. 21-3701, prior
 42 to its repeal, or K.S.A. 2016 Supp. 21-5801, and amendments thereto; (D)
 43 an attempt to commit any of the crimes listed in this subsection (a)(2)

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six

six-year

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1 paragraph, pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 2016
 2 Supp. 21-5301, and amendments thereto; (E) a conspiracy to commit any
 3 of the crimes listed in ~~subsection (a)(2) this paragraph~~, pursuant to K.S.A.
 4 21-3302, prior to its repeal, or K.S.A. 2016 Supp. 21-5302, and
 5 amendments thereto; (F) criminal solicitation of any of the crimes listed in
 6 ~~subsection (a)(2) this paragraph~~, pursuant to K.S.A. 21-3303, prior to its
 7 repeal, or K.S.A. 2016 Supp. 21-5303, and amendments thereto; or (G)
 8 similar statutes of other states or the federal government.

9 An individual who has been disqualified for employment due to
 10 conviction or adjudication of an offense listed in this paragraph (2) may
 11 apply to the secretary for aging and disability services for a waiver of
 12 such disqualification if ~~three~~ years have elapsed since completion of the
 13 sentence for such conviction. ~~The secretary shall consider the following~~
 14 ~~criteria when rendering a decision on such a waiver request: Passage of~~
 15 ~~time; extenuating circumstances; demonstration of rehabilitation; and~~
 16 ~~relevancy of the criminal history information to the position for which the~~
 17 ~~applicant is applying.~~

five

adopt rules and regulations establishing the waiver process and criteria to
 be considered by the secretary in evaluating any such waiver request

18 (3) A person operating an adult care home may employ an applicant
 19 who has been convicted of any of the following if ~~five~~ or more years have
 20 elapsed since completion of the sentence imposed or the applicant was
 21 discharged from probation, a community correctional services program,
 22 parole, postrelease supervision, conditional release or a suspended
 23 sentence; if ~~five~~ or more years have elapsed since the applicant has been
 24 finally discharged from the custody of the commissioner of juvenile justice
 25 or from probation or has been adjudicated a juvenile offender, whichever
 26 time is longer; or if the applicant has been granted a waiver of such ~~five-~~
 27 ~~year~~ disqualification. ⁽ⁱ⁾ Interference with custody of a committed person

six

six

(i)

six-year

28 pursuant to K.S.A. 21-3423, prior to its repeal, or K.S.A. 2016 Supp. 21-
 29 5410, and amendments thereto; mistreatment of a confined person
 30 pursuant to K.S.A. 21-3425, prior to its repeal, or K.S.A. 2016 Supp. 21-
 31 5416, and amendments thereto; unlawful administration of a substance
 32 pursuant to K.S.A. 21-3445, prior to its repeal, or K.S.A. 2016 Supp. 21-
 33 5425, and amendments thereto; ~~unlawful manufacture of a controlled~~
 34 ~~substance pursuant to K.S.A. 2010 Supp. 21-36a03, prior to its repeal, or~~
 35 ~~K.S.A. 2016 Supp. 21-5703, and amendments thereto; unlawful cultivation~~
 36 ~~or distribution of a controlled substance pursuant to K.S.A. 2010 Supp.~~
 37 ~~21-36a05, prior to its repeal, or K.S.A. 2016 Supp. 21-5705, and~~
 38 ~~amendments thereto; unlawful manufacture, distribution, cultivation or~~
 39 ~~possession of a controlled substance using a communication facility~~
 40 ~~pursuant to K.S.A. 2010 Supp. 21-36a07, prior to its repeal, or K.S.A.~~
 41 ~~2016 Supp. 21-5707, and amendments thereto; unlawful obtainment or~~
 42 ~~sale of a prescription-only drug pursuant to K.S.A. 2010 Supp. 21-36a08,~~
 43 ~~prior to its repeal, or K.S.A. 2016 Supp. 21-5708, and amendments~~

violation of a protective order pursuant to K.S.A. 21-3843, prior to its
 repeal, or K.S.A. 2017 Supp. 21-5924; promoting obscenity or promoting
 obscenity to minors pursuant to K.S.A. 21-4301 or 21-4301a, prior to their
 repeal, or K.S.A. 2017 Supp. 21-6401, and amendments thereto; or cruelty
 to animals pursuant to K.S.A. 21-3727, 21-4310 or 21-4311, prior to their
 repeal, or K.S.A. 2017 Supp. 21-6412, and amendments thereto; or
 (ii) any felony conviction of:

1 thereto; unlawful distribution of drug precursors or drug paraphernalia
 2 pursuant to K.S.A. 2010 Supp. 21-36a10, prior to its repeal, or K.S.A.
 3 2016 Supp. 21-5710, and amendments thereto; unlawful distribution or
 4 possession of a simulated controlled substance pursuant to K.S.A. 2010
 5 Supp. 21-36a13, prior to its repeal, or K.S.A. 2016 Supp. 21-5713, and
 6 amendments thereto; forgery pursuant to K.S.A. 21-3710, prior to its
 7 repeal, or K.S.A. 2016 Supp. 21-5823, and amendments thereto; criminal
 8 use of a financial card pursuant to K.S.A. 21-3729, prior to its repeal, or
 9 K.S.A. 2016 Supp. 21-5828, and amendments thereto; ~~violation of a~~
 10 ~~protective order pursuant to K.S.A. 2010 Supp. 21-3843, prior to its~~
 11 ~~repeal, or K.S.A. 2016 Supp. 21-5924, and amendments thereto;~~ any
 12 violation of the Kansas medicaid fraud control act pursuant to K.S.A. 21-
 13 3844 et seq., prior to their repeal, or K.S.A. 2016 Supp. 21-5925 et seq.,
 14 and amendments thereto; making a false claim, statement or
 15 representation to the medicaid program pursuant to K.S.A. 21-3846, prior
 16 to its repeal, or K.S.A. 2016 Supp. 21-5927, and amendments thereto;
 17 unlawful acts relating to the medicaid program pursuant to K.S.A. 21-
 18 3847, prior to its repeal, or K.S.A. 2016 Supp. 21-5928, and amendments
 19 thereto; obstruction of a medicaid fraud investigation pursuant to K.S.A.
 20 21-3856, prior to its repeal, or K.S.A. 2016 Supp. 21-5929, and
 21 amendments thereto; identity theft or identity fraud pursuant to K.S.A.
 22 2010 Supp. 21-4018, prior to its repeal, or K.S.A. 2016 Supp. 21-6107,
 23 and amendments thereto; ~~cruelty to animals pursuant to K.S.A. 21-3727 or~~
 24 ~~K.S.A. 2010 Supp. 21-4310 or 21-4311, prior to their repeal, or K.S.A.~~
 25 ~~2016 Supp. 21-6412, and amendments thereto; commercial sexual~~
 26 ~~exploitation of a child pursuant to K.S.A. 2016 Supp. 21-6422, and~~
 27 ~~amendments thereto;~~ or social welfare fraud pursuant to K.S.A. 39-720,
 28 and amendments thereto. The provisions of this paragraph shall not apply
 29 to any person who is employed by an adult care home on or before July 1,
 30 2017, and is continuously employed by the same adult care home or to any
 31 person during or upon successful completion of a diversion agreement.

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2018

32 An individual who has been disqualified for employment due to
 33 conviction or adjudication of an offense listed in this paragraph (3) may
 34 apply to the secretary for aging and disability services for a waiver of
 35 such disqualification if ~~three~~ years have elapsed since completion of the
 36 sentence for such conviction. The secretary shall ~~consider the following~~
 37 ~~criteria when rendering a decision on such a waiver request: Passage of~~
 38 ~~time; extenuating circumstances; demonstration of rehabilitation; and~~
 39 ~~relevancy of the criminal history information to the position for which the~~
 40 ~~applicant is applying.~~

five

adopt rules and regulations establishing the waiver process and criteria to be considered by the secretary in evaluating any such waiver request

41 (b)(c) No person shall operate an adult care home if such person has
 42 been found to be in need of a guardian or conservator, or both as provided
 43 in K.S.A. 59-3050 through 59-3095, and amendments thereto the act for

1 *obtaining a guardian or a conservator, or both.* The provisions of this
2 subsection shall not apply to *an individual who, as a minor, was found to*
3 *be in need of a guardian or conservator for reasons other than impairment.*

4 ~~(e) The secretary for aging and disability services shall have access to~~
5 ~~any criminal history record information in the possession of the Kansas~~
6 ~~bureau of investigation regarding any criminal history information,~~
7 ~~convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their~~
8 ~~repeal, or K.S.A. 2016 Supp. 21-5417, 21-5505(a) and 21-5801, and~~
9 ~~amendments thereto, adjudications of a juvenile offender which if~~
10 ~~committed by an adult would have been a felony conviction, and~~
11 ~~adjudications of a juvenile offender for an offense described in K.S.A. 21-~~
12 ~~3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2016 Supp. 21-~~
13 ~~5417, 21-5505(a) and 21-5801, and amendments thereto, concerning~~
14 ~~persons working in an adult care home.~~

15 (d) (1) *The Kansas bureau of investigation shall release all records of*
16 *adult and juvenile convictions, adjudications and nonconvictions and*
17 *adult and juvenile convictions and adjudications of any other state or*
18 *country concerning persons working in an adult care home to the*
19 *secretary for aging and disability services.* ~~The secretary shall have access~~
20 ~~to these records for the purpose of determining whether or not the adult~~
21 ~~care home meets the requirements of this section.~~ The Kansas bureau of
22 investigation may charge to the Kansas department for aging and disability
23 services a reasonable fee for providing criminal history record information
24 under this subsection.

and

[stricken material]

25 (2) *The department shall require an applicant to be fingerprinted and*
26 *to submit to a state and national criminal history record check. The*
27 *fingerprints shall be used to identify the individual and to determine*
28 *whether the individual has a record of criminal history in this state or*
29 *other jurisdiction. The department is authorized to submit the fingerprints*
30 *to the Kansas bureau of investigation and the federal bureau of*
31 *investigation for a state and national criminal history record check. The*
32 *department may use the information obtained from fingerprinting and the*
33 *criminal history record check for purposes of verifying the identification of*
34 *the person and for making an official determination of the qualifications*
35 *and fitness of the person to work in the adult care home.*

[stricken material]

36 ~~(3) Local and state law enforcement officers, agencies and approved~~
37 ~~vendors shall assist the department in taking and processing fingerprints~~
38 ~~of applicants to work in an adult care home in this state and shall release~~
39 ~~all records of adult and juvenile convictions, adjudications and~~
40 ~~nonconvictions and adult convictions or adjudications of any other state~~
41 ~~or country to the department.~~

42 (4) *An applicant for employment in an adult care home shall have 20*
43 *calendar days after receipt of authorization to submit the applicant's*

1 fingerprints through an authorized collection site in order to be eligible
2 for provisional employment or the applicant's application shall be deemed
3 withdrawn.

4 ~~(5) The current or prospective employer of an applicant shall pay a~~
5 ~~fee not to exceed \$19 to the department for each applicant submitted for~~
6 ~~criminal history record check monitoring. The prospective employer,~~
7 ~~employee or independent contractor shall pay the fingerprinting fee at the~~
8 ~~time of fingerprinting to the authorized collection site.~~

9 (6) If an applicant disputes the contents of a criminal history record
10 check, then the applicant may file an appeal with the Kansas bureau of
11 investigation. ~~The applicant may be required to submit fingerprints to the~~
12 ~~Kansas bureau of investigation for comparison against the fingerprints~~
13 ~~that support the record at the central repository. The department shall~~
14 ~~adopt rules and regulations specifying the process to file an appeal.~~

15 (7) Individuals who have been disqualified for employment by reason
16 of their criminal history records and who have met the requirements of this
17 subsection may apply for a waiver with the department within 30 days of
18 the receipt of the notice of employment prohibition.

19 (8) The department shall adopt rules and regulations specifying the
20 criteria for issuing a waiver of the employment prohibition. The secretary
21 shall consider the following criteria when rendering a decision on such a
22 waiver request: Passage of time; extenuating circumstances;
23 demonstration of rehabilitation; and relevancy of the criminal history
24 record information to the position for which the applicant is applying. Any
25 employment prohibition issued shall remain in effect unless or until a
26 waiver is granted.

27 ~~(d)(e)~~ For the purpose of complying with this section, the operator of
28 an adult care home shall request from the Kansas department for aging and
29 disability services information regarding any criminal history information,
30 convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their
31 repeal, or K.S.A. 2016 Supp. 21-5417, 21-5505(a) and 21-5801, and
32 amendments thereto, adjudications of a juvenile offender which if
33 committed by an adult would have been a felony conviction, and
34 adjudications of a juvenile offender for an offense described in K.S.A. 21-
35 3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2016 Supp. 21-
36 5417, 21-5505(a) and 21-5801, and amendments thereto, and which relates
37 to a person who works in the adult care home, or is being considered for
38 employment by the adult care home, for the purpose of determining
39 whether such person is subject to the provision of this section ~~an eligibility~~
40 ~~determination regarding adult and juvenile convictions and adjudications.~~
41 For the purpose of complying with this section, the operator of an adult
42 care home shall receive from any employment agency ~~which or~~
43 ~~independent contractor that provides employees to work in the adult care~~

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly

(A) The current or prospective employer of an applicant shall pay a fee not to exceed \$19 of the total cost for criminal history record information to the department for each applicant submitted.

(B) The prospective employer, employee or independent contractor shall pay the fingerprint collection fee at the time of fingerprinting to the authorized collection site.

[stricken material]

and procedure

1 home written certification that such employees are not prohibited from
2 working in the adult care home under this section. ~~For the purpose of~~
3 ~~complying with this section, information relating to convictions and~~
4 ~~adjudications by the federal government or to convictions and~~
5 ~~adjudications in states other than Kansas shall not be required until such~~
6 ~~time as the secretary for aging and disability services determines the~~
7 ~~search for such information could reasonably be performed and the~~
8 ~~information obtained within a two-week period.~~ For the purpose of
9 complying with this section, a person who operates an adult care home
10 may hire an applicant for *provisional* employment on a ~~conditional one-~~
11 ~~time basis of 60 calendar days~~ pending the results from the Kansas
12 department for aging and disability services of a request for information
13 under this subsection. *A provisional employee may only be supervised by*
14 *an employee that has completed all training required by federal*
15 *regulations, rules and regulations of the department and the adult care*
16 *home's policies and procedures.* No adult care home, the operator or
17 employees of an adult care home or an employment agency, ~~or the~~
18 ~~operator or employees of an employment agency, or an independent~~
19 ~~contractor~~ shall be liable for civil damages resulting from any decision to
20 employ, to refuse to employ or to discharge from employment any person
21 based on such adult care home's compliance with the provisions of this
22 section if such adult care home or employment agency acts in good faith to
23 comply with this section.

24 ~~(e) The secretary for aging and disability services shall charge each~~
25 ~~person requesting information under this section a fee equal to cost, not to~~
26 ~~exceed \$10, for each name about which an information request has been~~
27 ~~submitted to the department under this section.~~

28 ~~(f)(1) The secretary for aging and disability services shall provide~~
29 ~~each operator requesting information under this section with the criminal~~
30 ~~history record information concerning a pass or fail determination after~~
31 ~~review of any criminal history record information and convictions under~~
32 ~~K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A.~~
33 ~~2016 Supp. 21-5417, 21-5505(a) and 21-5801, and amendments thereto, in~~
34 ~~writing and within three working days of receipt of such information from~~
35 ~~the Kansas bureau of investigation or the federal bureau of investigation.~~
36 ~~The criminal history record information shall be provided regardless of~~
37 ~~whether the information discloses that the subject of the request has been~~
38 ~~convicted of an offense enumerated in subsection (a).~~

39 ~~(2) When an offense enumerated in subsection (a) exists in the~~
40 ~~criminal history record information, and when further confirmation~~
41 ~~regarding criminal history record information is required from the~~
42 ~~appropriate court of jurisdiction or Kansas department of corrections, the~~
43 ~~secretary shall notify each operator that requests information under this~~

1 section in writing and within three working days of receipt from the
2 Kansas bureau of investigation that further confirmation is required. The
3 secretary shall provide to the operator requesting information under this
4 section information in writing and within three working days of receipt of
5 such information from the appropriate court of jurisdiction or Kansas
6 department of corrections regarding confirmation regarding the criminal
7 history record information.

8 (3) ~~Whenever the criminal history record information reveals that the~~
9 ~~subject of the request has no criminal history on record, the secretary shall~~
10 ~~provide notice to each operator requesting information under this section,~~
11 ~~in writing and within three working days after receipt of such information~~
12 ~~from the Kansas bureau of investigation.~~

13 (4) ~~The secretary for aging and disability services shall not provide~~
14 ~~each operator requesting information under this section with the juvenile~~
15 ~~criminal history record information which relates to a person subject to a~~
16 ~~background check as is provided by K.S.A. 2016 Supp. 38-2326, and~~
17 ~~amendments thereto, except for adjudications of a juvenile offender for an~~
18 ~~offense described in K.S.A. 21-3701, prior to its repeal, or K.S.A. 2016~~
19 ~~Supp. 21-5801, and amendments thereto. The secretary shall notify the~~
20 ~~operator that requested the information, in writing and within three~~
21 ~~working days of receipt of such information from the Kansas bureau of~~
22 ~~investigation, whether juvenile criminal history record information~~
23 ~~received pursuant to this section reveals that the operator would or would~~
24 ~~not be prohibited by this section from employing the subject of the request~~
25 ~~for information and whether such information contains adjudications of a~~
26 ~~juvenile offender for an offense described in K.S.A. 21-3701, prior to its~~
27 ~~repeal, or K.S.A. 2016 Supp. 21-5801, and amendments thereto.~~

28 (5) ~~An operator who receives criminal history record information~~
29 ~~under this subsection shall keep such information confidential, except that~~
30 ~~the operator may disclose such information to the person who is the~~
31 ~~subject of the request for information. A violation of this paragraph shall~~
32 ~~be an unclassified misdemeanor punishable by a fine of \$100.~~

33 (g) ~~No person who works for an adult care home and who is currently~~
34 ~~licensed or registered by an agency of this state to provide professional~~
35 ~~services in the state and who provides such services as part of the work~~
36 ~~which such person performs for the adult care home shall be subject to the~~
37 ~~provisions of this section.~~

38 (h)(g) ~~A person who volunteers in an adult care home shall not be~~
39 ~~subject to the provisions of this section because of such volunteer activity~~
40 ~~unless the volunteer performs equivalent functions to those performed by~~
41 ~~direct access employees.~~

42 (i) ~~An operator may request from the Kansas department for aging~~
43 ~~and disability services criminal history information on persons employed~~

1 ~~under subsections (g) and (h):~~

2 ~~(j)(h)~~ No person who has been *continuously* employed by the same
3 adult care home since July 1, 1992, shall be subject to the provisions of
4 this section while employed by such adult care home.

5 ~~(k)(i)~~ The operator of an adult care home shall not be required under
6 this section to conduct a ~~background~~ *criminal history record* check on an
7 applicant for employment with the adult care home if the applicant has
8 been the subject of a ~~background~~ *criminal history record* check under this
9 act within one year prior to the application for employment with the adult
10 care home. ~~The operator of an adult care home where the applicant was the~~
11 ~~subject of such background check may release a copy of such background~~
12 ~~check to the operator of an adult care home where the applicant is~~
13 ~~currently applying.~~

14 ~~(j)(j)~~ No person who is in the custody of the secretary of corrections
15 and who provides services, under direct supervision in nonpatient areas, on
16 the grounds or other areas designated by the superintendent of the Kansas
17 soldiers' home or the Kansas veterans' home shall be subject to the
18 provisions of this section while providing such services.

19 ~~(m)~~ ~~For purposes of this section, the Kansas bureau of investigation~~
20 ~~shall report any criminal history information, convictions under K.S.A. 21-~~
21 ~~3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2016 Supp. 21-~~
22 ~~5417, 21-5505(a) and 21-5801, and amendments thereto, adjudications of~~
23 ~~a juvenile offender which if committed by an adult would have been a~~
24 ~~felony conviction, and adjudications of a juvenile offender for an offense~~
25 ~~described in K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal,~~
26 ~~or K.S.A. 2016 Supp. 21-5417, 21-5505(a) and 21-5801, and amendments~~
27 ~~thereto, to the secretary for aging and disability services when a~~
28 ~~background check is requested.~~

29 ~~(k) (1)~~ *All fees charged by the secretary for criminal history record*
30 *checks conducted pursuant to this section shall be established by rules and*
31 *regulations of the secretary.*

32 ~~(2)~~ *All moneys collected and remitted to the Kansas department for*
33 *aging and disability services for fees charged for criminal history record*
34 *checks conducted pursuant to this section shall be remitted to the state*
35 *treasurer in accordance with K.S.A. 75-4215, and amendments thereto.*
36 *Upon receipt of each such remittance, the state treasurer shall deposit the*
37 *entire amount into the state treasury to the credit of the state licensure fee*
38 *fund created by K.S.A. 39-930, and amendments thereto.*

39 ~~(l)~~ *The Kansas department for aging and disability services may*
40 *implement the amendments made to this section by this act in phases for*
41 *different categories of employers. The department shall adopt rules and*
42 *regulations establishing dates and procedures for the implementation of*
43 *the criminal history record checks required by this section, and such dates*

1 may be staggered to facilitate implementation of the criminal history
2 record checks required by this section.

3 (m) Upon authorization by the secretary for aging and disability
4 services, other state agencies may ~~submit fingerprints for state and~~
5 ~~national criminal history record checks and review resulting criminal~~
6 ~~history results and records as part of the screening process for current or~~
7 ~~prospective employees. Authorized agencies and providers shall submit~~
8 ~~requests for and access criminal history information using an internet-~~
9 ~~based application portal operated and maintained by the Kansas~~
10 ~~department for aging and disability services.~~ The secretary for aging and
11 disability services may charge an authorized agency the amount of \$1 per
12 request made pursuant to this subsection.

13 (n) This section shall be part of and supplemental to the adult care
14 home licensure act.

15 Sec. 2. K.S.A. 2016 Supp. 39-970 is hereby repealed.

16 Sec. 3. This act shall take effect and be in force from and after its
17 publication in the statute book.

access an internet-based application portal that is operated and maintained by the Kansas department for aging and disability services for purposes of processing criminal history record information requests in accordance with this section. Agencies may not share criminal history record information or the resulting pass or fail determinations with any other agency