

2014 Kansas Statutes

22-4701. Definitions. As used in this act, unless the context clearly requires otherwise:

(a) "Central repository" means the criminal justice information system central repository created by this act and the juvenile offender information system created pursuant to K.S.A. 2014 Supp. 38-2326, and amendments thereto.

(b) "Criminal history record information" means all data initiated or collected by a criminal justice agency on a person pertaining to a reportable event, and any supporting documentation. Criminal history record information does not include:

(1) Data contained in intelligence or investigatory files or police work-product records used solely for police investigation purposes;

(2) wanted posters, police blotter entries, court records of public judicial proceedings or published court opinions;

(3) data pertaining to violations of the traffic laws of the state or any other traffic law or ordinance, other than vehicular homicide;

(4) presentence investigation and other reports prepared for use by a court in the exercise of criminal jurisdiction or by the governor in the exercise of the power of pardon, reprieve or commutation; or

(5) information regarding the release of defendants from confinement by the department of corrections or a jail.

(c) "Criminal justice agency" means any government agency or subdivision of any such agency which is authorized by law to exercise the power of arrest, detention, prosecution, adjudication, correctional supervision, rehabilitation or release of persons suspected, charged or convicted of a crime and which allocates a substantial portion of its annual budget to any of these functions. The term includes, but is not limited to, the following agencies, when exercising jurisdiction over criminal matters or criminal history record information:

(1) State, county, municipal and railroad police departments, sheriffs' offices and countywide law enforcement agencies, correctional facilities, jails and detention centers;

(2) the offices of the attorney general, county or district attorneys and any other office in which are located persons authorized by law to prosecute persons accused of criminal offenses;

(3) the district courts, the court of appeals, the supreme court, the municipal courts and the offices of the clerks of these courts;

(4) the Kansas sentencing commission;

(5) the prisoner review board; and

(6) the juvenile justice authority.

(d) "Criminal justice information system" means the equipment (including computer hardware and software), facilities, procedures, agreements and personnel used in the collection, processing, preservation and dissemination of criminal history record information.

(e) "Director" means the director of the Kansas bureau of investigation.

(f) "Disseminate" means to transmit criminal history record information in any oral or written form. The term does not include:

(1) The transmittal of such information within a criminal justice agency;

(2) the reporting of such information as required by this act; or

(3) the transmittal of such information between criminal justice agencies in order to permit the initiation of subsequent criminal justice proceedings against a person relating to the same offense.

(g) "Reportable event" means an event specified or provided for in K.S.A. 22-4705, and amendments thereto.

History: L. 1978, ch. 118, § 1; L. 1982, ch. 182, § 125; L. 1983, ch. 140, § 5; L. 1990, ch. 115, § 2; L. 1996, ch. 229, § 27; L. 1997, ch. 156, § 39; L. 2006, ch. 169, § 101; L. 2011, ch. 100, § 11; L. 2012, ch. 16, § 24; L. 2013, ch. 10, § 2; Apr. 11.

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22-4704. Criminal history record information; rules and regulations. (a) In accordance with the provisions of K.S.A. 77-415 et seq., and amendments thereto, the director shall adopt appropriate rules and regulations for agencies in the executive branch of government and for criminal justice agencies other than those that are part of the judicial branch of government to implement the provisions of this act.

(b) The director shall develop procedures to permit and encourage the transfer of criminal history record information among and between courts and affected agencies in the executive branch, and especially between courts and the central repository.

(c) The rules and regulations adopted by the director shall include those: (1) Governing the collection, reporting, and dissemination of criminal history record information by criminal justice agencies;

(2) necessary to insure the security of all criminal history record information reported, collected and disseminated by and through the criminal justice information system;

(3) necessary for the coordination of all criminal justice data and information processing activities as they relate to criminal history record information;

(4) governing the dissemination of criminal history record information;

(5) governing the procedures for inspection and challenging of criminal history record information;

(6) governing the auditing of criminal justice agencies to insure [ensure] that criminal history record information is accurate and complete and that it is collected, reported, and disseminated in accordance with this act;

(7) governing the development and content of agreements between the central repository and criminal justice and noncriminal justice agencies; and

(8) governing the exercise of the rights of inspection and challenge provided in this act.

(d) The rules and regulations adopted by the director shall not include any provision that allows the charging of a fee for information requests for the purpose of participating in a block parent program, including, but not limited to, the McGruff house program.

(e) Rules and regulations adopted by the director may not be inconsistent with the provisions of this act.

(f) On or before July 1, 2014, the director shall adopt rules and regulations requiring district courts to electronically report all case filings and dispositions for violations of K.S.A. 8-1567 or K.S.A. 2014 Supp. 8-1025, 21-5426, 21-6419, 21-6420, 21-6421 or 21-6422, and amendments thereto, to the central repository.

History: L. 1978, ch. 118, § 4; L. 1979, ch. 102, § 1; L. 1993, ch. 208, § 1; L. 2011, ch. 105, § 27; L. 2012, ch. 172, § 35; L. 2013, ch. 10, § 3; L. 2014, ch. 28, § 6; July 1.

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22-4705. Reportable events; establishment of criminal justice information system central repository; reports; method of reporting. (a) The following events are reportable events under this act:

- (1) Issuance of an arrest warrant;
- (2) an arrest;
- (3) release of a person after arrest without the filing of a charge;
- (4) the filing of a charge;
- (5) dismissal or quashing of an indictment or criminal information;
- (6) an acquittal, conviction or other disposition at or following trial, including a finding of probation before judgment;
- (7) imposition of a sentence;
- (8) commitment to a correctional facility, whether state or locally operated;
- (9) release from detention or confinement;
- (10) an escape from confinement;
- (11) a pardon, reprieve, commutation of sentence or other change in a sentence, including a change ordered by a court;
- (12) judgment of an appellate court that modifies or reverses the lower court decision;
- (13) order of a court in a collateral proceeding that affects a person's conviction, sentence or confinement, including any expungement or annulment of arrests or convictions pursuant to state statute; and
- (14) any other event arising out of or occurring during the course of criminal justice proceedings declared to be reportable by rule or regulation of the director.

(b) There is hereby established a criminal justice information system central repository for the collection, storage, and dissemination of criminal history record information. The central repository shall be operated by the Kansas bureau of investigation under the administrative control of the director.

(c) Except as otherwise provided by this subsection, every criminal justice agency shall report criminal history record information, whether collected manually or by means of an automated system, to the central repository, in accordance with rules and regulations adopted pursuant to this act. A criminal justice agency shall report to the central repository those reportable events involving a violation of a county resolution or city ordinance only when required by rules and regulations adopted by the director.

(d) Reporting methods may include:

- (1) Submittal of criminal history record information by a criminal justice agency directly to the central repository;
- (2) if the information can readily be collected and reported through the court system, submittal to the central repository by the administrative office of the courts; or
- (3) if the information can readily be collected and reported through criminal justice agencies that are part of a geographically based information system, submittal to the central repository by the agencies.

(e) Nothing in this section shall prevent a criminal justice agency from maintaining more detailed information than is required to be reported to the central repository. However, the dissemination of that criminal history record information is governed by the provisions of this act.

(f) The director may determine, by rule and regulation, the reportable events to be reported by each criminal justice agency, in order to avoid duplication in reporting.

(g) Except as otherwise provided in this subsection, no court or criminal justice agency may assess fees or charges against the central repository for providing criminal history record information created prior to, on or after July 1, 2011. A court or criminal justice agency may assess a fee or charge against the central repository for providing criminal history record information if such court or criminal justice agency has previously provided such criminal history record information as required by law.

History: L. 1978, ch. 118, § 5; L. 1982, ch. 151, § 1; L. 2011, ch. 100, § 12; L. 2012, ch. 166, § 6; July 1.

Section was amended twice in the 2011 session, see also 22-4705a.

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22-4706. Agreements between central repository and criminal justice agencies. The director, pursuant to the rules and regulations adopted, shall develop agreements between the central repository and criminal justice agencies pertaining to:

- (a) The method by which the agency will report information, including the method of identifying an offender in a manner that permits other criminal justice agencies to locate the offender at any stage in the criminal justice system, the time of reporting, the specific data to be reported by the agency, and the place of reporting;
- (b) the services to be provided to the agency by the central repository;
- (c) the conditions and limitations upon the dissemination of criminal history record information by the agency;
- (d) the maintenance of security in all transactions between the central repository and the agency;
- (e) the method of complying with the right of a person to inspect, challenge, and correct criminal history record information maintained by the agency;
- (f) audit requirements to ensure the accuracy of all information reported or disseminated;
- (g) the timetable for the implementation of the agreement;
- (h) sanctions for failure of the agency to comply with any of the provisions of this act, including the revocation of any agreement between the agency and the central repository and appropriate judicial or administrative proceedings to enforce compliance; and
- (i) other provisions that the director may deem necessary.

History: L. 1978, ch. 118, § 6; March 1.

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22-4707. Restrictions on dissemination of criminal history record information; penalties. (a) A criminal justice agency and the central repository may not disseminate criminal history record information except in strict accordance with laws including applicable rules and regulations adopted pursuant to this act. A criminal justice agency may not request such information from the central repository or another criminal justice agency unless it has a legitimate need for the information.

(b) Noncriminal justice persons and agencies may receive criminal history record information for such purposes and under such conditions as may be authorized by law, including rules and regulations adopted pursuant to this act.

(c) In addition to any other remedy or penalty authorized by law, any individual violating or causing a violation of the provisions of this section shall be deemed guilty of a class A nonperson misdemeanor. If the person is employed or licensed by a state or local government agency, a conviction shall constitute good cause to terminate employment or to revoke or suspend a license.

History: L. 1978, ch. 118, § 7; L. 1995, ch. 251, § 18; July 1.

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22-4708. Disclosure of status of pending investigations and proceedings. Notwithstanding the provisions of the preceding section, a criminal justice agency may disclose the status of a pending investigation of a named person, or the status of a pending proceeding in the criminal justice system, if the request for information is reasonably contemporaneous with the event to which the information relates and the disclosure is otherwise appropriate.

History: L. 1978, ch. 118, § 8; March 1.

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22-4709. Inspection of record information on individuals. (a) Subject to the provisions of this act and rules and regulations adopted pursuant thereto, any person may inspect and challenge criminal history record information maintained by a criminal justice agency concerning themselves. A person's attorney may inspect such information if such attorney satisfactorily establishes his or her identity and presents a written authorization from his or her client.

(b) Nothing in this section requires a criminal justice agency to make a copy of any information or allows a person to remove any document for the purpose of making a copy of it. A person having the right of inspection may make notes of the information.

History: L. 1978, ch. 118, § 9; March 1.

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22-4710. Unlawful for employers to require certain acts; exceptions; penalties. (a) It is unlawful for any employer or prospective employer to require a person to inspect or challenge any criminal history record information relating to that person for the purpose of obtaining a copy of the person's record in order to qualify for employment.

(b) Any person violating the provisions of this section shall be deemed guilty of a class A misdemeanor.

(c) Notwithstanding the provisions of subsection (a) or any other provision of this act, an employer may require a job applicant or a prospective independent contractor to sign a release allowing the employer to access the applicant's or independent contractor's criminal history record information for purposes of determining the applicant's fitness for employment.

(d) The bureau may charge an employer a reasonable fee for the preparation of a report detailing such criminal history record information, and pursuant to rules and regulations may establish a fee schedule or charge varying rates depending upon the quantity of information provided.

(e) The bureau shall be immune from any and all claims or causes of action arising from the release of criminal history record information provided to an employer pursuant to a release signed by a job applicant.

(f) No employer shall be liable for any employment decision or decision to enter into a contract with an independent contractor based upon knowledge of such criminal history record information, provided the information that led to the employment or contracting decision reasonably bears upon the independent contractor's, applicant's or employee's trustworthiness, or the safety or well-being of the employer's employees or customers.

History: L. 1978, ch. 118, § 10; L. 1996, ch. 232, § 1; L. 1997, ch. 76, § 1; July 1.

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22-4711. Prior record information; rights and duties. Criminal history record information which was recorded prior to the effective date of this act is subject to the right of access and challenge in accordance with this act. However, the duty of a criminal justice agency is to make a reasonable search for such information. There is no duty to provide access to criminal history record information that cannot be located after a reasonable search.

History: L. 1978, ch. 118, § 11; March 1.