

JUSTICE AND PUBLIC SAFETY CABINET
Department of State Police
(Amendment)

502 KAR 14:010. Provision and maintenance of automated fingerprint identification system equipment and programs in detention centers. Submission of fingerprints by jailers to the Kentucky State Police.

RELATES TO: KRS 17.180, 441.046

STATUTORY AUTHORITY: KRS 17.180, 441.046

NECESSITY, FUNCTION, AND CONFORMITY: KRS 17.180 authorizes the Department of Kentucky State Police to promulgate administrative regulations concerning the automated fingerprint identification system equipment and programs to be required at every detention center in the Commonwealth. KRS 441.046 requires jailers in the Commonwealth to submit fingerprints to the Department of Kentucky State Police in the manner and time required by the department through administrative regulation.

Section 1. Definitions. (1) "AFIS" means the Automated Fingerprint Identification System which is a computer- based array of systems maintained by the Kentucky State Police that is designed to capture, search, and store fingerprint images and arrest data.

(2) "Fingerprints" mean graphical representations of the friction ridge skin found on the fingers between the first joint and the fingertip.

(3) "Fingerprint card" means the ink and paper criminal fingerprint records on standard FBI fingerprint cards (FBI form FD-249) or the KSP-22 fingerprint card.

(4) "LiveScan fingerprint capture devices" means computer-based devices designed for the electronic capture and transmission of criminal arrest data and fingerprints of subjects taken into custody for criminal offenses.

(5) "Mug shot" means a photograph of an individual taken as part of the arrest and booking process.

(6) "Rolled fingerprints" means all friction ridge skin captured from the first joint of the finger to the end of each digit from fingernail to fingernail for all ten (10) fingers of the subject, containing as much of the geographical surface area of the area described above by rolling the finger from fingernail to fingernail.

(7) "Palm print" means the friction ridge skin found from the base of the fingers to the wrist, including the edge of the palm.

Section 2. (1) The Department of Kentucky State Police shall provide and maintain LiveScan fingerprint capture devices in every detention center in the Commonwealth.

(2) All communication equipment associated with LiveScan fingerprint capture devices (including routers, Channel Service Units, Data Service Units, and telecommunication lines) deemed necessary to transmit criminal arrest fingerprint records to the Department of Kentucky State Police repository shall be supplied by the department.

(3) Depending on factors such as cost, volume, and site environmental issues, the Department of Kentucky State Police may equip certain LiveScan fingerprint capture devices with laser printers, palm print scanners, digital mug shot cameras, and associated lighting and backdrops to ensure National Institute of Science and Technology (NIST) compliant mug shot packet collection during the booking process.

Section 3. (1) The following required data elements shall be entered into the LiveScan fingerprint capture devices during the booking process:

- (a) First name;
- (b) Last name;
- (c) Date of birth;
- (d) Sex;
- (e) Race;
- (f) Height;
- (g) Weight;
- (h) Place of birth;
- (i) Skin tone;
- (j) Arresting officer name;
- (k) Arresting officer badge or unit number;
- (l) Arresting agency Originating Agency Identifier (ORI);
- (m) Fingerprinting agency Originating Agency Identifier (ORI);
- (n) Date of arrest;
- (o) Whether mug shot was taken;
- (p) Whether DNA was taken;
- (q) Whether palm prints were taken;
- (r) Violation (UOR) code;
- (s) KRS citation of offense;
- (t) Citation number; and
- (u) Date of offense.

(2) The fourteen (14) fingerprint images shall consist of:

- (a) Rolled fingerprints;
- (b) Simultaneous impressions of the left and right hand four fingers (index, middle, ring, and little) taken in a "straight down" or "flat" method; and
- (c) Simultaneous impressions of the right and left thumbs taken in a "straight down" or "flat" method.

(3) Image specifications shall be in compliance with the Federal Bureau of Investigation's electronic fingerprint transmission specifications, "Electronic Biometric Transmission Specification (EBTS), Version 10.0.8~~[8.0]~~."

Section 4. Jailers shall electronically submit the fingerprints taken pursuant to KRS 441.046 to the Department of Kentucky State Police via a LiveScan fingerprint capture device. If the LiveScan fingerprint capture device is not functioning due to damage, power failure, or other circumstance beyond the control of the jailer, fingerprints shall be placed on a fingerprint card and sent, [~~postage prepaid,~~] via U.S. mail, to: AFIS Section, Criminal Identification and Records Branch, Kentucky State Police, 1266~~[4250]~~ Louisville Road, Frankfort, Kentucky 40601.

Section 5. Fingerprints and criminal arrest data shall be sent to the Department of Kentucky State Police as soon as feasible after the arrest. Fingerprints on a LiveScan fingerprint capture device shall be completed and submitted prior to the subject's release from incarceration. Fingerprints on fingerprint cards may be mailed to the Department of Kentucky State Police on a weekly or semiweekly basis, except the jailer shall not retain fingerprint cards more than thirty (30) days prior to mailing.

Section 6. LiveScan fingerprint capture devices shall be kept in a climate controlled area in a standard office environment that minimizes exposure to foreign substances such as dust,

smoke, and dirt. Electrical circuits for LiveScan fingerprint capture devices shall not have any large ampere draw equipment such as air conditioners, refrigerators, copy machines, or laser printers on the same circuit. LiveScan fingerprint capture devices shall not be located in an area exposed to weather elements. Users of LiveScan fingerprint capture devices shall report system problems immediately to the Department of Kentucky State Police.

Section 7. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "Federal Bureau of Investigation fingerprint card", FD-249, 5/11/99;
- (b) KSP Form 22, "Kentucky State Police fingerprint card" [~~KSP-22, 1/87~~]; and
- (c) "Federal Bureau of Investigation Electronic Biometric Transmission Specification (EBTS)", Version 10.0.8 [~~8.0~~], September 30 [~~24~~], 2017 [~~2007~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

COL. PHILLIP J. BURNETT, JR., Commissioner

APPROVED BY AGENCY: August 24, 2021

FILED WITH LRC: August 26, 2021 at 4:30 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on 1:00 p.m. on November 22, 2021 at 4449 Kit Carson Drive, Funderburk Building, Richmond, Kentucky 40475. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 p.m. on November 30, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Amy Barker, Assistant General Counsel, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8207, fax (502) 564-6686, email amy.barker@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation mandates the equipment and programs concerning fingerprint identification to be required at every detention center in the Commonwealth, while also listing technology that might be employed depending on factors such as cost, volume, and site environmental issues.

(b) The necessity of this administrative regulation: This regulation defines technologies and procedures employed throughout the Commonwealth concerning fingerprint identification and lists the required data elements that shall be entered by jailers during the booking process.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation provides the procedure for jailers to follow, pursuant to KRS 441.046, in addition to clarifying the automated fingerprint identification system.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes the procedures to be followed by the detention center in regard to fingerprints and criminal arrest data, and explains the process to be implemented once the data is retrieved.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment includes palm print scanners to the list of optional equipment that might be employed by the Department, depending on factors such as cost, volume, and site environmental issues.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary in order to more fully define what equipment or technology might be employed by the Department in order to more efficiently comply with the authorizing statutes.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment clarifies the acceptable technology used by the Department by including a newer measure, palm print scanners, to the list of optional technological devices.

(d) How the amendment will assist in the effective administration of the statutes: The amendment brings the regulation up-to-date as it now reflects current, optional equipment that might be used.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Department of Kentucky State Police, detention centers throughout the Commonwealth who opt to use the referenced technology, individuals who must submit their fingerprints, or other criminal arrest data, to the Department of Kentucky State Police.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: The amendment references technology that a detention center might opt to use; however, the technology is not mandated and dependent on other factors such as cost. Thus, no additional action is necessary on the part the Department or the detention centers.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: Nothing.

(c) As a result of compliance, what benefits will accrue to the entities: The amended regulation now clearly defines what technology is available to the detention centers across the Commonwealth, in effort to remove any confusion.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: None.

(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Not applicable.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase is necessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: The amendment of this regulation does not establish any new fees, nor does it directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Kentucky State Police, detention centers throughout the Commonwealth who opt to use the referenced technology, individuals who must submit their fingerprints, or other criminal arrest data, to the Department of Kentucky State Police.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 17.180, 441.046

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? Nothing.

(d) How much will it cost to administer this program for subsequent years? Nothing.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): None.

Expenditures (+/-): None.

Other Explanation: None.