

1 AN ACT relating to background checks.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) As used in this section:

6 (a) "Criminal history records information":

- 7 1. Means information collected by criminal justice agencies on
8 individuals consisting of identifiable descriptions and notations of
9 arrests, indictments, information, or other formal criminal charges,
10 and any disposition arising therefrom, including sentencing,
11 correction supervision, and release;
12 2. Includes information that is sealed pursuant to court order or other
13 law if the records are accessible by criminal justice agencies for the
14 purpose of conducting background checks; and
15 3. Does not include identification information such as fingerprint
16 records to the extent that the information does not indicate
17 involvement of the individual in the criminal justice system;

18 (b) "Criminal justice agency" means:

- 19 1. The Kentucky Court of Justice;
20 2. The Department of Kentucky State Police;
21 3. Sheriffs;
22 4. State and local correctional facilities;
23 5. City, county, urban-county government, charter county government,
24 consolidated local government, and unified local government police
25 departments;
26 6. School resource officer departments;
27 7. Airport safety and security departments;

- 1 8. Any agency or department that employs a state officer, listed in KRS
2 15.420(2)(a)2.; and
- 3 9. Any other state or local agency in the Commonwealth of Kentucky
4 that performs the administration of criminal justice pursuant to a
5 statute, executive order, or other law, and which allocates a majority
6 of its annual budget to the administration of criminal justice; and
- 7 (c) "Requesting agency" means:
- 8 1. The United States Department of Defense;
9 2. The United States Department of State;
10 3. The United States Department of Transportation;
11 4. The United States Office of Personnel Management;
12 5. The Central Intelligence Agency;
13 6. The Federal Bureau of Investigation;
14 7. The United States Department of Homeland Security;
15 8. The Office of the Director of National Intelligence;
16 9. An executive agency of the United States that is:
17 a. Authorized to conduct background investigations under a federal
18 statute; or
19 b. Delegated authority to conduct background investigations in
20 accordance with procedures established by a security executive
21 agent or a suitability executive agent under subsection (b) or
22 (c)(iv) of Section 2.3 of Executive Order 13467, 73 Fed. Reg.
23 38103, or any successor thereto; or
- 24 10. A contractor that conducts a background investigation on behalf of an
25 entity listed in subparagraphs 1. to 9. in this paragraph.
- 26 (2) A criminal justice agency shall provide criminal history records information to a
27 requesting agency when that requesting agency is conducting a basic suitability

1 or fitness assessment for federal or contractor employees under 5 U.S.C. sec.
2 9101 and requests that information from the criminal justice agency.
3 (3) A criminal justice agency may request a fee of twenty-five dollars (\$25) to be paid
4 by the requesting agency for reimbursement of expenses related to providing
5 criminal history records information. Under no circumstances shall an agency of
6 the Commonwealth of Kentucky be responsible for paying this fee.

7 ➔Section 2. KRS 610.340 is amended to read as follows:

- 8 (1) (a) Unless a specific provision of KRS Chapters 600 to 645 specifies otherwise,
9 all juvenile court records of any nature generated pursuant to KRS Chapters
10 600 to 645 by any agency or instrumentality, public or private, shall be
11 deemed to be confidential and shall not be disclosed except to the child,
12 parent, victims, or other persons authorized to attend a juvenile court hearing
13 pursuant to KRS 610.070 unless ordered by the court for good cause.
- 14 (b) Juvenile court records which contain information pertaining to arrests,
15 petitions, adjudications, and dispositions of a child may be disclosed to
16 victims or other persons authorized to attend a juvenile court hearing pursuant
17 to KRS 610.070.
- 18 (c) Release of the child's treatment, medical, mental, or psychological records is
19 prohibited unless presented as evidence in Circuit Court. Any records
20 resulting from the child's prior abuse and neglect under Title IV-E or Title IV-
21 B of the Federal Social Security Act shall not be disclosed to victims or other
22 persons authorized to attend a juvenile court hearing pursuant to KRS
23 610.070.
- 24 (d) Victim access under this subsection to juvenile court records shall include
25 access to records of adjudications that occurred prior to July 15, 1998.
- 26 (2) The provisions of this section shall not apply to public officers or employees
27 engaged in the investigation of and in the prosecution of cases under KRS Chapters

1 600 to 645 or other portions of the Kentucky Revised Statutes. Any record obtained
2 pursuant to this subsection shall be used for official use only, shall not be disclosed
3 publicly, and shall be exempt from disclosure under the Open Records Act, KRS
4 61.870 to 61.884.

5 (3) The provisions of this section shall not apply to any peace officer, as defined in
6 KRS 446.010, who is engaged in the investigation or prosecution of cases under
7 KRS Chapters 600 to 645 or other portions of the Kentucky Revised Statutes. Any
8 record obtained pursuant to this subsection shall be used for official use only, shall
9 not be disclosed publicly, and shall be exempt from disclosure under the Open
10 Records Act, KRS 61.870 to 61.884.

11 (4) The provisions of this section shall not apply to employees of the Department of
12 Juvenile Justice or cabinet or its designees responsible for any services under KRS
13 Chapters 600 to 645 or to attorneys for parties involved in actions relating to KRS
14 Chapters 600 to 645 or other prosecutions authorized by the Kentucky Revised
15 Statutes.

16 (5) The provisions of this section shall not apply to records disclosed pursuant to KRS
17 610.320 or to public or private elementary and secondary school administrative,
18 transportation, and counseling personnel, to any teacher or school employee with
19 whom the student may come in contact, or to persons entitled to have juvenile
20 records under KRS 610.345, if the possession and use of the records is in
21 compliance with the provisions of KRS 610.345 and this section.

22 (6) The provisions of this section shall not apply to employees of local law
23 enforcement agencies, the Department of Kentucky State Police, or the Federal
24 Bureau of Investigation engaged in conducting background checks for the sole
25 purpose of identifying and providing potentially disqualifying juvenile public
26 offense records to the National Instant Criminal Background Check System
27 pursuant to Div. A, Title II, Sec. 12001(a) of the Bipartisan Safer Communities Act,

1 Pub. L. No. 117-159. Notwithstanding KRS 635.040, an adjudication for a public
2 offense is a conviction of a crime for purposes of 18 U.S.C. sec. 922(d)(1), (3), or
3 (9). Any public offense record obtained pursuant to this subsection shall be used for
4 official use only, not be disclosed publicly, and be exempt from disclosure under
5 the Open Records Act, KRS 61.870 to 61.884.

6 (7) *The provisions of this section shall not apply to criminal justice agencies*
7 *conducting a basic suitability or fitness assessment for federal or contractor*
8 *employees under 5 U.S.C. sec. 9101 in accordance with Section 1 of this Act.*

9 (8) (a) The provisions of this section shall not apply to records or proceedings in any
10 case in which a child has made an admission to or been adjudicated for a
11 violent felony offense as defined in KRS 532.200 until the expiration of a
12 three (3) year period from the date of admission or adjudication.

13 (b) If the child has not received any additional public offense convictions during
14 the three (3) year period from the date of admission or adjudication, all
15 records in the case shall be automatically sealed and shall not be disclosed
16 consistent with the provisions of this section.

17 (c) As used in this subsection, "admission" means a formal admission in a case,
18 on the record, upon the waiving of an adjudication hearing.

19 ~~(9)~~~~(8)~~ ~~A~~~~No~~ person, including school personnel, shall ***not*** disclose any confidential
20 record or any information contained therein except as permitted by this section or
21 other specific section of KRS Chapters 600 to 645, or except as permitted by
22 specific order of the court.

23 ~~(10)~~~~(9)~~ ~~A~~~~No~~ person, including school personnel, authorized to obtain records
24 pursuant to KRS Chapters 600 to 645 shall ***not*** obtain or attempt to obtain
25 confidential records to which he or she is not entitled or for purposes for which he
26 or she is not permitted to obtain them pursuant to KRS Chapters 600 to 645.

27 ~~(11)~~~~(10)~~ ~~A~~~~No~~ person, including school personnel, not authorized to obtain records

1 pursuant to KRS Chapters 600 to 645 shall not obtain or attempt to obtain records
2 which are made confidential pursuant to KRS Chapters 600 to 645 except upon
3 proper motion to a court of competent jurisdiction.

4 ~~(12)~~~~[(11)]~~ ~~A~~~~[No]~~ person shall not destroy or attempt to destroy any record required to be
5 kept pursuant to KRS Chapters 600 to 645 unless the destruction is permitted
6 pursuant to KRS Chapters 600 to 645 and is authorized by the court upon proper
7 motion and good cause for the destruction being shown.

8 ~~(13)~~~~[(12)]~~ As used in this section the term "KRS Chapters 600 to 645" includes any
9 administrative regulations which are lawfully promulgated pursuant to KRS
10 Chapters 600 to 645.

11 ~~(14)~~~~[(13)]~~ Nothing in this section shall be construed to prohibit a crime victim from
12 speaking publicly after the adjudication about his or her case on matters within his
13 or her knowledge or on matters disclosed to the victim during any aspect of a
14 juvenile court proceeding.