

PUBLIC EMPLOYEE FINGERPRINT-BASED CRIMINAL HISTORY CHECK ACT (EXCERPT)
Act 427 of 2018

***** 15.654.new THIS NEW SECTION IS EFFECTIVE MARCH 20, 2019 *****

15.654.new Request for fingerprint-based criminal history check; offer of employment; department of state police; use of information; automated fingerprint identification system; Federal Bureau of Investigation.

Sec. 4. (1) Upon an offer of initial employment by an agency that is subject to publication 1075 to an individual for any full-time or part-time employment with the agency during which the individual may have access to federal information databases, the agency shall request from the department of state police a fingerprint-based criminal history check on the individual, including a criminal records check through the Federal Bureau of Investigation.

(2) Before assigning an individual to employment during which he or she may have access to federal information databases, the agency shall have received from the department of state police the report described in subsection (5). This subsection does not require an agency to delay hiring an individual until the completion of the fingerprint-based criminal history check required under this section.

(3) An agency shall ensure that an employee who may have access to federal information databases already employed by the agency on the effective date of this act completes the fingerprint-based criminal history check required under this section.

(4) An agency shall make a request to the department of state police for a fingerprint-based criminal history check required under this section on a form and in a manner prescribed by the department of state police.

(5) Within 30 days after receiving a proper request by an agency for a fingerprint-based criminal history check on an individual under this section, the department of state police shall conduct the criminal history check and initiate the criminal records check through the Federal Bureau of Investigation. After the completion of the fingerprint-based criminal history check required under this section, the department of state police shall provide a report of the results of the fingerprint-based criminal history check to the requesting agency. The report must contain any criminal history record information on the individual maintained by the criminal records division of the department of state police and any information obtained from the Federal Bureau of Investigation.

(6) Criminal history record information received from the department of state police under subsection (5) must be used by an agency only for the purpose of evaluating an individual's qualifications for employment. Except as required by federal regulation or rule, an agency or an employee of the agency shall not disclose the report or its contents received under this section to any person who is not directly involved in evaluating the applicant's or employee's qualifications to begin or maintain access to federal information databases. A person who violates this subsection is guilty of a misdemeanor punishable by a fine of not more than \$10,000.00.

(7) If the fingerprint-based criminal history check required under this section has been completed for a particular employee and the results have been reported to an agency as provided under this section, then another fingerprint-based criminal history check is not required under this section for that employee as long as the employee remains employed with no separation from service from the agency. For the purposes of this subsection, an employee is not considered to have a separation from service if the employee is laid off or placed on a leave of absence by the agency and returns to active employment with the agency within 1 year after being laid off or placed on the leave of absence.

(8) The department of state police shall store and retain fingerprints submitted under this section in an automated fingerprint identification system that provides for an automatic notification if subsequent criminal information matches fingerprints previously submitted under this section. Upon a notification under this subsection, the department of state police shall immediately notify the agency that requested the fingerprint-based criminal history check. The fingerprints retained under this act may be searched against future fingerprint submissions, and any relevant results will be shared with submitting and subscribing entities. The searches described under this subsection include latent fingerprint searches.

(9) The department of state police shall forward the fingerprints submitted under this section to the Federal Bureau of Investigation to be retained in the Federal Bureau of Investigation's automated fingerprint identification system that provides for automatic notification if criminal information matches fingerprints previously submitted to the Federal Bureau of Investigation under this subsection. If the department of state police receives a notification from the Federal Bureau of Investigation under this subsection, the department of state police shall immediately inform the agency that requested the fingerprint-based criminal history check. This subsection does not apply unless the department of state police is capable of participating in the

Federal Bureau of Investigation's automated fingerprint notification system.

History: 2018, Act 427, Eff. Mar. 20, 2019.