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H.741

Introduced by Representative Shaw of Pittsford

Referred to Committee on

Date:

Subject: State Buildings; Vermont Crime Information Center; criminal  
records; contractors

Statement of purpose of bill as introduced: This bill proposes to allow the  
Department of Buildings and General Services to conduct criminal records  
checks on contract employees working in State-owned or -leased facilities.

An act relating to criminal record checks on contractors working in State-  
owned or -leased facilities

It is hereby enacted by the General Assembly of the State of Vermont:

~~Sec. 1. 20 V.S.A. § 2056e is amended to read:~~

~~§ 2056e. DISSEMINATION OF CRIMINAL HISTORY RECORDS TO THE  
DEPARTMENT OF BUILDINGS AND GENERAL SERVICES;  
SECURITY PERSONNEL~~

~~\* \* \*~~

Sec. 2. 20 V.S.A. § 2056i is added to read:

~~§ 2056i. DISSEMINATION OF CRIMINAL HISTORY RECORDS TO THE  
DEPARTMENT OF BUILDINGS AND GENERAL SERVICES;  
PRIVATE CONTRACTORS~~

1 (a) As used in this section:

2 (1) "Criminal record" means the record of:

3 (A) convictions in Vermont, including whether any of the convictions  
4 is an offense listed in 13 V.S.A. § 5401(10); or

5 (B) convictions in other jurisdictions recorded in other state  
6 repositories or by the Federal Bureau of Investigation (FBI).

7 (2) "Private contractor" includes an individual who is employed  
8 by a business that is performing specific services or functions on State-owned  
9 or -leased property pursuant to a contract with the State or a subcontract with a  
10 person who has contracted with the State.

11 (b) Authority. The Department of Buildings and General Services shall  
12 obtain from the Vermont Crime Information Center a Vermont criminal record,  
13 an out-of-state criminal record, and a record from the Federal Bureau of  
14 Investigation for any applicant for a private contractor position who has given  
15 written authorization, on a release form prescribed by the Center, pursuant to  
16 the provisions of this subchapter and the user's agreement filed by the  
17 Commissioner of Buildings and General Services with the Center. The user's  
18 agreement shall require the Department to comply with all federal and State  
19 statutes, rules, regulations, and policies regulating the release of criminal  
20 history records and the protection of individual privacy. The user's agreement  
21 shall be signed and kept current by the Commissioner. Release of interstate

1 ~~and Federal Bureau of Investigation criminal history records is subject to the~~  
2 rules and regulations of the Federal Bureau of Investigation's National Crime  
3 Information Center.

4 (c) Request process and fee. A request made under this section shall be  
5 accompanied by a set of the person's fingerprints and a fee established by the  
6 Vermont Crime Information Center that shall reflect the cost of obtaining the  
7 record from the FBI. The fee shall be paid in accordance with the  
8 Department's adopted policy.

9 (d) Notice of records. Upon completion of a criminal record check, the  
10 Vermont Crime Information Center shall send to the Commissioner:

11 (1) a notice that no record exists or, if a record exists, a copy of any  
12 criminal record; and

13 (2) a notice of any criminal record that is located in either another state  
14 repository or FBI records, but not a record of the specific convictions.

15 (e) Process for sending information. Information received by the  
16 Commissioner of Buildings and General Services under subsection (d) of this  
17 section shall be forwarded as follows:

18 (1) In the case of a request other than one made on behalf of a  
19 contractor, the Commissioner shall forward a copy of the information to the  
20 person about whom the request was made.

1 ~~(2) In the case of a request made on behalf of a contractor, the~~  
2 Commissioner shall inform the contractor in writing either that no record  
3 exists or that a record does exist but shall not reveal the content of the record  
4 to the contractor. The contractor shall then forward a copy of the information  
5 received to the person about whom the request was made.

6 (f) Notice of rights. Information sent to a person by the Commissioner of  
7 Buildings and General Services under subsection (e) of this section shall be  
8 accompanied by a written notice of the person's rights under subsection (g) of  
9 this section, a description of the policy regarding maintenance and destruction  
10 of records, and the person's right to request that the notice of no record or  
11 record be maintained for purposes of using it to comply with future criminal  
12 record check requests pursuant to subsection (i) of this section.

13 (g) Appeal. Any person subject to a criminal record check pursuant to this  
14 section may challenge the accuracy of the record by appealing to the Vermont  
15 Crime Information Center pursuant to rules adopted by the Commissioner of  
16 Public Safety.

17 (h) Confidentiality. Criminal records and criminal record information  
18 received under this section are designated confidential unless, under State or  
19 federal law or regulation, the record or information may be disclosed to  
20 specifically designated persons.

21 ~~(i) Continued validity of records.~~

1 (1) Anyone required to request a criminal record check under this  
2 section about a person who previously has undergone a check shall comply  
3 with that requirement by acquiring the results of the previous criminal record  
4 check unless:

5 (A) the person refuses to authorize release of the information;

6 (B) the record no longer exists;

7 (C) since the record check, there has been a period of three years or  
8 more during which the person has not provided services to the State of  
9 Vermont; or

10 (D) as otherwise required by law.

11 (2) Anyone required to request a criminal record check under this  
12 section about a person who has previously undergone a check may request a  
13 name and date of birth or fingerprint-supported recheck of the criminal record  
14 at any time during the course of the record subject's employment in the  
15 capacity for which the original check was required. Rechecking criminal  
16 records may be accomplished through a subscription service.

17 (j) Maintenance of records. The Commissioner shall maintain the record  
18 or information pursuant to the user agreement for maintenance of records. At  
19 the end of the time required by the user agreement for maintenance of the  
20 information, the Commissioner shall destroy the information in accordance  
21 with the user agreement.

1 ~~Sec. 3. EFFECTIVE DATE~~

2 ~~This act shall take effect on July 1, 2020.~~

*Sec. 1. 20 V.S.A. § 2056e is redesignated to read:*

*§ 2056e. DISSEMINATION OF CRIMINAL HISTORY RECORDS TO THE  
DEPARTMENT OF BUILDINGS AND GENERAL SERVICES;  
SECURITY PERSONNEL*

*Sec. 2. 20 V.S.A. § 2056i is added to read:*

*§ 2056i. DISSEMINATION OF CRIMINAL HISTORY RECORDS TO THE  
DEPARTMENT OF BUILDINGS AND GENERAL SERVICES;  
PRIVATE CONTRACTORS*

*(a) Definitions. As used in this section:*

*(1) "Criminal record" means the record of:*

*(A) convictions in Vermont; or*

*(B) convictions in other jurisdictions recorded in other state  
repositories or by the Federal Bureau of Investigation (FBI).*

*(2) "Private contractor" means any individual who is performing  
specific services or functions for the Department of Buildings and General  
Services on State-owned or -leased property pursuant to a contract with the  
State or a subcontract with a person who has contracted with the State and  
includes an individual who is employed by a person that is performing specific  
services or functions for the Department of Buildings and General Services on  
State-owned or -leased property pursuant to a contract with the State or a  
subcontract with a person who has contracted with the State.*

*(b) Authority. The Department of Buildings and General Services may  
obtain from the Vermont Crime Information Center a Vermont criminal record,  
an out-of-state criminal record, and a record from the Federal Bureau of  
Investigation for any person who is or will be working in a private contractor  
position and any applicant for a private contractor position who has given  
written authorization, on a release form prescribed by the Center, pursuant to  
the provisions of this subchapter and the user's agreement filed by the  
Commissioner of Buildings and General Services with the Center. The user's  
agreement shall require the Department to comply with all federal and State*

statutes, rules, regulations, and policies regulating the release of criminal history records and the protection of individual privacy. The user's agreement shall be signed and kept current by the Commissioner. Release of interstate and Federal Bureau of Investigation criminal history records is subject to the rules and regulations of the Federal Bureau of Investigation's National Crime Information Center.

(c) Request process. A request made under this section shall be accompanied by a set of the person's fingerprints.

(d) Notice of records. Upon completion of a criminal record check, the Vermont Crime Information Center shall send to the Commissioner a notice that no record exists or, if a record exists, a copy of any criminal record.

~~(e) Process for sending information. The Commissioner may inform the contractor in writing of the approved level of access granted but shall not reveal the content of the record to the contractor.~~

(e) Process for sending information. The Commissioner may inform the contractor in writing of the approved level of access granted for each person for which a record was obtained, but shall not reveal the content of the record to the contractor.

(f) Notice of rights. Information sent to a person by the Commissioner of Buildings and General Services under subsection (e) of this section shall be accompanied by a written notice of the person's rights under subsection (g) of this section, a description of the policy regarding maintenance and destruction of records, and the person's right to request that the notice of no record or record be maintained for purposes of using it to comply with future criminal record check requests pursuant to subsection (i) of this section.

(g) Appeal. Any person subject to a criminal record check pursuant to this section may challenge the accuracy of the record by appealing to the Vermont Crime Information Center pursuant to rules adopted by the Commissioner of Public Safety.

~~(h) Confidentiality. Criminal records and criminal record information received under this section are designated confidential unless, under State or federal law or regulation, the record or information may be disclosed to specifically designated persons.~~

(h) Confidentiality. Criminal records and criminal record information received under this section are designated confidential unless, under subsection (e) of this section, or State or federal law or regulation, the record or information may be disclosed to specifically designated persons.

(i) Recheck of records request. The Commissioner may request a name and date of birth or fingerprint-supported recheck of the criminal record for any person who is working in a private contractor position every three years or as otherwise required by law.

(j) Maintenance of records. The Commissioner shall maintain the record or information pursuant to the user agreement for maintenance of records. At the end of the time required by the user agreement for maintenance of the information, the Commissioner shall destroy the information in accordance with the user agreement.

*Sec. 3. EFFECTIVE DATE*

*This act shall take effect on ~~July 1, 2020~~ passage.*