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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

* * *

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

2 § 2056i. DISSEMINATION OF CRIMINAL HISTORY RECORDS TO THE
3 DEPARTMENT OF BUILDINGS AND GENERAL SERVICES;
4 PRIVATE CONTRACTORS

5 (a) As used in this section:

6 (1) “Criminal record” means the record of:

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

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

11 (2) “Private contractor” includes an individual who is employed
12 by a business that is performing specific services or functions on State-owned
13 or -leased property pursuant to a contract with the State or a subcontract with a
14 person who has contracted with the State.

15 (b) Authority. The Department of Buildings and General Services shall
16 obtain from the Vermont Crime Information Center a Vermont criminal record,
17 an out-of-state criminal record, and a record from the Federal Bureau of
18 Investigation for any applicant for a private contractor position who has given
19 written authorization, on a release form prescribed by the Center, pursuant to
20 the provisions of this subchapter and the user’s agreement filed by the
21 Commissioner of Buildings and General Services with the Center. The user’s

1 agreement shall require the Department to comply with all federal and State
2 statutes, rules, regulations, and policies regulating the release of criminal
3 history records and the protection of individual privacy. The user's agreement
4 shall be signed and kept current by the Commissioner. Release of interstate
5 and Federal Bureau of Investigation criminal history records is subject to the
6 rules and regulations of the Federal Bureau of Investigation's National Crime
7 Information Center.

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

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

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

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

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

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

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

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

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

20 (h) Confidentiality. Criminal records and criminal record information
21 received under this section are designated confidential unless, under State or

1 federal law or regulation, the record or information may be disclosed to
2 specifically designated persons.

3 (i) Continued validity of records.

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

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

9 (B) the record no longer exists;

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

13 (D) as otherwise required by law.

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

20 (j) Maintenance of records. The Commissioner shall maintain the record or
21 information pursuant to the user agreement for maintenance of records. At the

1 end of the time required by the user agreement for maintenance of the
2 information, the Commissioner shall destroy the information in accordance
3 with the user agreement.

4 Sec. 3. EFFECTIVE DATE

5 This act shall take effect on July 1, 2020.