



Sub. S.B. 258*

124th General Assembly

(As Reported by S. Judiciary on Civil Justice)

Sens. Austria, Goodman, Randy Gardner

BILL SUMMARY

- Permits the fire chief of a township, fire district, city fire department, or village fire department to request the Superintendent of the Bureau of Criminal Identification and Investigation (BCII) to conduct a criminal records check with respect to any person who is under consideration for appointment or employment as a full-time paid firefighter or appointment as a volunteer firefighter.
- Permits an appointing authority to request the Superintendent of BCII to conduct a criminal records check with respect to any person who is under consideration for appointment or employment as an emergency medical technician-basic, an emergency medical technician-intermediate, or an emergency medical technician-paramedic.
- Exempts from the Public Records Law specified residential and familial information of a firefighter or an emergency medical technician.
- Requires the Superintendent of BCII to prescribe a form to obtain the necessary information to conduct a criminal records check under the bill, a standard fingerprint impression sheet for that purpose, and a reasonable fee to be charged for conducting a records check under the bill.

** This analysis was prepared before the report of the Senate Judiciary on Civil Justice Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

CONTENT AND OPERATION

Criminal records checks

Full-time paid firefighters and volunteer firefighters

The bill permits the fire chief of a township, fire district, city fire department, or village fire department (hereafter fire chief refers to a fire chief of all of the four entities) to request the Superintendent of the Bureau of Criminal Identification and Investigation (BCII) to conduct a criminal records check with respect to any person who is under consideration for appointment or employment as a permanent, full-time paid firefighter (the word "permanent" was omitted from R.C. 737.081(A) and 737.221(A)) or under consideration for appointment as a volunteer firefighter. The bill also permits an appointing authority to request the Superintendent of BCII to conduct a criminal records check with respect to any person who is under consideration for appointment or employment as an emergency medical technician-basic, an emergency medical technician-intermediate, or an emergency medical technician-paramedic (hereafter collectively referred to as an EMT).

The bill requires a fire chief or appointing authority that intends to request a criminal records check to inform each applicant, at the time of the person's initial application for appointment or employment, that the applicant is required to provide a set of impressions of the person's fingerprints and that the fire chief or appointing authority requires that a criminal records check be conducted and satisfactorily completed. (R.C. 505.381(A) and (F), 737.081(A) and (F), 737.221(A) and (F), and 4765.301(A) and (F).)

Upon receipt of a request for a criminal records check under the bill, the completed information form, and a set of fingerprint impressions, the Superintendent of BCII must conduct a criminal records check to determine if any information exists that indicates that the person subject to the request has been convicted of or pleaded guilty to any disqualifying offense (see "Appointment," below). The Superintendent must review or cause to be reviewed all relevant information gathered and compiled by BCII that relates to the person who is the subject of the request, any relevant information contained in sealed conviction records, and, upon request, any Federal Bureau of Investigation (FBI) provided information. (R.C. 109.578(A) and (B).)

The bill requires the Superintendent of BCII to prescribe a form to obtain the information necessary to conduct a criminal records check from a prospective firefighter or EMT. The Superintendent is also required to prescribe standard impression sheets to obtain the fingerprint impressions of a prospective firefighter

or EMT. Any prospective firefighter or EMT for whom a records check is requested under the bill must obtain the fingerprint impressions at a county sheriff's office, municipal police department, or any other entity with the ability to make fingerprint impressions on the standard impression sheets prescribed by the Superintendent. The office, department, or entity may charge the person a reasonable fee for making the impressions. The bill permits both the form and the standard impression sheets to be in a tangible format, in an electronic format, or in both tangible and electronic formats and permits the Superintendent to prescribe methods of forwarding fingerprint impressions and information necessary to conduct a criminal records check that include, but are not limited to, electronic methods. (R.C. 109.578(C)(1), (2), and (4).)

The bill provides that a determination whether any information exists that indicates that a person previously has been convicted of or pleaded guilty to any felony or arson offense that is made by the Superintendent with respect to information considered in a criminal records check requested under the bill is valid for the prospective firefighter or EMT for a period of one year from the date upon which the Superintendent makes the determination. During the period in which the determination in regard to that person is valid, if another request under the bill is made for a criminal records check for that person, the Superintendent must provide the information that is the basis for the Superintendent's initial determination.

The bill requires the Superintendent to prescribe and charge a reasonable fee for providing an initial criminal records check for a prospective firefighter or EMT as requested under the bill. The person making the criminal records check request must pay this fee. The bill also requires the Superintendent to prescribe and charge a lower fee than the fee prescribed for the initial criminal records check during the period that the initial criminal records check is valid. (R.C. 109.578(C)(3) and (D).)

The bill defines, for the preceding four paragraphs, "criminal records check" to mean any criminal records check conducted by the Superintendent of BCII in accordance with the bill (R.C. 109.578(E)).

Procedure

The bill authorizes the fire chief or appointing authority to request that the Superintendent of BCII obtain information from the FBI as a part of the criminal records check.

The bill also requires a fire chief or appointing authority authorized to request a criminal records check to provide to each person for whom the fire chief or appointing authority intends to request a criminal records check a copy of the

information form and standard fingerprint impression sheet prescribed under the bill, obtain the completed information form and impression sheet from the person, and forward the completed information form and impression sheet to the Superintendent of BCII at the time the criminal records check is requested.

The bill requires any person subject to a criminal records check who receives a copy of the information form and a copy of the fingerprint impression sheet and who is requested to complete the information form and provide a set of fingerprint impressions to complete the information form or provide all the information necessary to complete the information form and to provide the impression sheet with the impressions of the person's fingerprints. If the person fails to provide the information necessary to complete the form or fails to provide impressions of the person's fingerprints, the appointing authority is prohibited from appointing or employing the person as a permanent full-time paid firefighter, a volunteer firefighter, or an EMT. (R.C. 505.381(B), 737.081(B), 737.221(B), and 4765.301(B).)

Appointment

The bill prohibits, except as provided in the next paragraph, an appointing authority from appointing or employing a person as a permanent full-time paid firefighter, a volunteer firefighter, or an EMT if the fire chief or appointing authority has requested a criminal records check and the check indicates that the person previously has been convicted of or pleaded guilty to any of the following: (a) a felony, (b) arson, or (c) a violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to a felony or arson (hereafter disqualifying offense).

The bill permits an appointing authority to appoint or employ a person as a permanent full-time paid firefighter, a volunteer firefighter, or an EMT if all of the following apply: (a) a fire chief or appointing authority has requested a criminal records check pursuant to the bill, (b) the criminal records check indicates that the person previously has been convicted of or pleaded guilty to a disqualifying offense, and (c) the person meets rehabilitation standards that the fire chief or appointing authority establishes in rules adopted under the bill.

If a fire chief or appointing authority requests a criminal records check under the bill, the bill permits an appointing authority to appoint or employ a person as a permanent full-time paid firefighter, volunteer firefighter, or EMT conditionally until the criminal records check is completed and the fire chief or appointing authority receives the results of the criminal records check. If the results of the criminal records check indicate that the person does not qualify for appointment or employment, the fire chief or appointing authority must release the

person from appointment or employment. (R.C. 505.381(C), 737.081(C), 737.221(C), and 4765.301(C).)

Miscellaneous provisions relating to the criminal records check

The bill requires the fire chief or appointing authority to pay to BCII the fee prescribed under the bill for each criminal records check conducted in accordance with the bill. The bill permits the fire chief or appointing authority to charge the applicant a fee for the costs the fire chief or appointing authority incurs in obtaining the criminal records check. The fee charged cannot exceed the amount of fees the fire chief or appointing authority pays for the criminal records check. If a fee is charged to the person subject to the criminal records check, the fire chief or appointing authority must notify the applicant at the time of the person's initial application for appointment or employment of the amount of the fee and that, unless the fee is paid, the person will not be considered for appointment or employment. (R.C. 505.381(D), 737.081(D), 737.221(D), and 4765.301(D).)

The bill requires the appointing authority to adopt rules in accordance with the Administrative Procedure Act to implement the provisions of the bill. The rules must include rehabilitation standards a person who has been convicted of or pleaded guilty to a felony, arson, or an equivalent offense must meet for the appointing authority to appoint or employ the person as a permanent full-time paid firefighter, a volunteer firefighter, or an EMT. (R.C. 505.381(E), 737.081(E), 737.221(E), and 4765.301(E).)

The bill defines "appointing authority" as any person or body that has the authority to hire, appoint, or employ permanent, full-time paid firefighters and volunteer firefighters or to appoint EMTs (R.C. 505.381(G)(1), 737.081(G)(1), 737.221(G)(1), and 4765.301(G)(1)).

Public Records Law

Existing law

In general. The existing Public Records Law (R.C. 149.43) specifies that, generally, all "public records" (see below) must be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours. Upon request, a public office or person responsible for public records generally must make copies available at cost, within a reasonable period of time. (R.C. 149.43(B).)

Public record. For purposes of the Public Records Law, "public record" generally means any "record" (see below) that is kept by any "public office" (see below), including, but not limited to, state, county, city, village, township, and

school district units. But, "public record" does not mean any of the following: (1) medical records, (2) records pertaining to probation and parole proceedings, (3) records pertaining to certain abortion-related actions and to appeals of those actions, (4) records pertaining to adoption proceedings, including the contents of an adoption file maintained by the Department of Health, (5) information in a record contained in the Putative Father Registry, (6) certain adoption-related records, (7) trial preparation records, (8) confidential law enforcement investigatory records, (9) certain mediation and civil rights action records, (10) DNA records stored in BCII's DNA Database, (11) inmate records released by the Department of Rehabilitation and Correction to the Department of Youth Services or a court of record, (12) records maintained by the Department of Youth Services pertaining to children in its custody released by it to the Department of Rehabilitation and Correction, (13) intellectual property records, (14) donor profile records, (15) records maintained by the Department of Job and Family Services in its New Hires Directory, (16) peace officer residential and familial information, (17) in the case of a county hospital, information that constitutes a trade secret, (18) information pertaining to the recreational activities of a person under the age of 18, (19) generally, records provided to, statements made by review board members during meetings of, and all work products of a child fatality review board, (20) certain records provided to and statements made by the executive director of a public children services agency or a prosecuting attorney pertaining to the death of a child, (21) test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that the board of examiners of nursing home administrators administers or contracts under that section with a private or government entity to administer, or (22) records the release of which is prohibited by state or federal law. (R.C. 149.43(A)(1).)

The Public Records Law defines "peace officer residential and familial information" as either of the following (R.C. 149.43(A)(7)):

(1) Any information maintained in a personnel record of a peace officer that discloses any of the following: (a) the address of the actual personal residence of a peace officer, except for the state or political subdivision in which the peace officer resides, (b) information compiled from referral to or participation in an employee assistance program, (c) the social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information pertaining to, a peace officer, (d) the name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a peace officer by the peace officer's employer, (e) the identity and amount of any charitable or employment benefit deduction made by the peace officer's employer from the peace officer's compensation unless the amount of the deduction is required by state or federal law, and (f) the name, the residential address, the name

of the employer, the address of the employer, the social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of the spouse, a former spouse, or any child of a peace officer;

(2) Any record that identifies a person's occupation as a peace officer other than statements required to include the disclosure of that fact under the campaign finance law.

The Law also defines "confidential law enforcement investigatory record," "medical record," "trial preparation record," "intellectual property record," "donor profile record," and "information pertaining to the recreational activities of a person under the age of 18 (R.C. 149.43(A)(2) to (8)).

Operation of the bill

The bill enacts a new, specific exception to the Public Records Law. The bill provides that, for purposes of the Public Records Law, "public record" does not include firefighter or EMT residential and familial information. (R.C. 149.43(A)(1)(p).) The bill includes firefighters and EMTs under the existing law's provisions that exempt specified peace officer residential and familial information from the existing Public Records Law (see definition of "peace officer residential and familial information" above), thereby protecting a firefighter's or EMT's residential and familial information in the same manner as peace officers are protected under current law.

The bill defines, for purposes of the Public Records Law, "firefighter" to mean any regular, paid or volunteer, member of a lawfully constituted fire department of a municipal corporation, township, fire district, or village. The bill also defines, for purposes of the Public Records Law, "EMT" to mean EMTs-basic, EMTs-I, and paramedics that provide emergency medical services for a public emergency medical service organization. The bill further defines "emergency medical service organization," "EMT-basic," "EMT-I," and "paramedic" as having the same meanings as R.C. 4765.01.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	04-23-02	p. 1690
Reported, S. Judiciary on Civil Justice	---	---

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