COMMITTEE REPORT

March 10, 2021

**S. 456**

Introduced by Senator Alexander

S. Printed 3/10/21--S.

Read the first time January 13, 2021.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 456) to amend Article 1, Chapter 3, Title 23 of the 1976 Code, relating to the South Carolina law enforcement division, by adding Section 23-3-90, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Article 1, Chapter 3, Title 23 of the 1976 Code is amended by adding:

“Section 23-3-90. (A) Notwithstanding any other provision of law, if an agency in this State is authorized by statute to obtain a fingerprint-based background check on an individual applicant for employment or licensure, the applicant shall undergo a state criminal records check, supported by fingerprints, by the South Carolina Law Enforcement Division (SLED), and a national criminal records check, supported by fingerprints, by the Federal Bureau of Investigation. The results of these criminal records checks must be reported to the agency and must not be further disseminated. The South Carolina Law Enforcement Division is authorized to retain the fingerprints for certification purposes and for notification of the agency regarding criminal charges.

(B)(1) SLED, upon request by the agency, may submit the fingerprints collected by agencies authorized to request state and national fingerprint-based background checks conducted by SLED and the Federal Bureau of Investigation to the Federal Bureau of Investigation’s Next Generation Identification (NGI) program.

(2) SLED and the Federal Bureau of Investigation may retain collected fingerprints. Retained fingerprints may be searched by future submissions to SLED and the NGI system, including latent fingerprint searches, and appropriate responses sent to SLED and authorized recipients.

(C) SLED may charge a reasonable fee for the collection and retention of fingerprints.”

SECTION 2. Chapter 2, Title 12 of the 1976 Code is amended by adding:

“Section 12-2-140. (A) Each state agency and each political subdivision of the State, is authorized, as necessary to comply with Internal Revenue Service Publication 1075, including amendments thereto and publications replacing Publication 1075, to obtain a state criminal records check, supported by fingerprints, conducted by the South Carolina Law Enforcement Division, and a national criminal records check, supported by fingerprints, conducted by the Federal Bureau of Investigation on all employees and contractors with access to federal tax information. The results of these criminal records checks must be reported to the requesting state agency or political subdivision.

(B) An employee or contractor of a state agency or a political subdivision of the State with access to or that uses federal tax information must:

(1) agree to a national background check and the release of all investigative records to the applicable state agency or political subdivision for the purpose of verifying criminal history information for non-criminal justice purposes; and

(2) supply a fingerprint sample and submit to a state criminal history background check and investigation to be conducted by the South Carolina Law Enforcement Division and a national criminal history background check to be conducted by the Federal Bureau of Investigation.

(C) Except as otherwise provided in this section, the state agency or political subdivision shall pay any costs incurred to conduct background checks and investigations requested by the state agency or political subdivision. The state agency or political subdivision may require a person or entity contracting with the agency or political subdivision to pay the costs associated with the background investigations for all employees of the contractor. The requirement may be a condition of the contract with the state agency or political subdivision.

(D) Each state agency or political subdivision required to conduct background checks and investigations pursuant to this section shall establish written policies concerning the implementation and use of the background checks and investigations conducted pursuant to this section.

(E) For purposes of this section, ‘state agency’ includes state departments and state institutions.”

SECTION 3. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

LUKE A. RANKIN for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**State Expenditure**

This amended bill enables agencies in South Carolina that are authorized to conduct state fingerprint-based background checks conducted by SLED to also conduct nationwide federal fingerprint-based background checks conducted by the Federal Bureau of Investigation (FBI) in a manner prescribed by SLED. SLED may submit information collected by authorized agencies to the FBI’s Next Generation Identification (NGI) program. SLED and the FBI may retain collected fingerprints. Retained fingerprints may be searched by future submissions to SLED and the NGI system, including latent fingerprint searches, and appropriate responses sent to SLED and authorized recipients. The bill also enables SLED to charge a reasonable fee for the collection and retention of fingerprints.

**State Law Enforcement Division.** The expenditure impact of this bill is pending, contingent upon a response from the State Law Enforcement Division.

**State Revenue**

The revenue impact of this bill is pending, contingent upon a response from the State Law Enforcement Division.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND ARTICLE 1, CHAPTER 3, TITLE 23 OF THE 1976 CODE, RELATING TO THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION, BY ADDING SECTION 23-3-90, TO PROVIDE THAT AN AGENCY AUTHORIZED TO REQUEST A STATE FINGERPRINT BACKGROUND CHECK MAY REQUEST A FEDERAL FINGERPRINT BACKGROUND CHECK, TO PROVIDE THAT THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION, UPON REQUEST, MAY SUBMIT THE FINGERPRINTS COLLECTED BY AGENCIES AND INFORMATION RELATED TO THOSE PRINTS TO THE FEDERAL BUREAU OF INVESTIGATION’S NEXT GENERATION IDENTIFICATION PROGRAM, TO PROVIDE THAT THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION AND THE FEDERAL BUREAU OF INVESTIGATION MAY RETAIN COLLECTED FINGERPRINTS AND SEARCH ANY RETAINED FINGERPRINTS AT A LATER DATE PURSUANT TO AN APPROPRIATE INQUIRY, AND TO PROVIDE THAT THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION MAY CHARGE A REASONABLE FEE FOR THE COLLECTION AND RETENTION OF FINGERPRINTS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 3, Title 23 of the 1976 Code is amended by adding:

“Section 23-3-90. (A) Notwithstanding any other provision of law, an agency in this State authorized to request a state fingerprint-based background check conducted by SLED may also request a nationwide federal fingerprint-based background check conducted by the Federal Bureau of Investigation in a manner prescribed by SLED.

(B) SLED, upon request, may submit the fingerprints collected by agencies authorized to request state fingerprint-based background checks conducted by SLED to the Federal Bureau of Investigation’s Next Generation Identification (NGI) program.

(C) SLED and the Federal Bureau of Investigation may retain collected fingerprints. Retained fingerprints may be searched by future submissions to SLED and the NGI system, including latent fingerprint searches, and appropriate responses sent to SLED and authorized recipients.

(D) SLED may charge a reasonable fee for the collection and retention of fingerprints.”

SECTION 2. This act takes effect upon approval by the Governor.

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