

LFC Requester:

Klundt, Kelly

**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

AgencyAnalysis.nmlegis.gov

{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date January 30, 2024

Bill No: SB241

**Agency Name
and Code
Number:**

Aging and Long-Term Services
Department - 62400

Sponsor: Senator Leo Jaramillo

Aging and Long Term-Services
Department Act

**Person Writing
Analysis:**

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**Short
Title:**

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
NFI	NFI	NFI		

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(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis of Senate Bill 241

Senate Bill 241 (SB241) specifies that certain Aging and Long-Term Services Department (ALTSD) employees, applicants for employment, and volunteers with ALTSD programs must undergo state and national criminal history records checks.

SB241 includes definitions for:

- an employee of ALTSD to mean a person working for one of the following areas:
 - Adult Protective Services Division
 - The Long-Term Care Ombudsman Program
 - The Consumer and Elder Rights Division

- an ALTSD selected applicant to mean a person who has completed the interview process, was selected as a candidate for employment and has conditionally accepted a position with the department pending the outcome of a criminal background check.

- an ALTSD volunteer to mean a person who is not an employee and does not receive compensation for their work and has been identified to perform work in one of the following areas:
 - Adult Protective Services Division
 - The Long-Term Care Ombudsman Program
 - The Consumer and Elder Rights Division

SB241 directs the Department of Public Safety (DPS) to conduct a state criminal history records check and to forward fingerprints to the Federal Bureau of Investigation for a national criminal

history records check. It directs DPS to review the information returned from the criminal history checks and disseminate the information to ALTSD.

Additionally, SB241 directs that criminal history records obtained will be confidential, will not be public record for the purposes of the Inspection of Public Records Act, and will not be used for any purpose other than determining eligibility of employees, selected applicants, or volunteers.

SB241 sets forth the standard that criminal history records are not to be released or disclosed to any other person, except with a court order or the written consent of the person who is the subject of the records and establishes a violation penalty of a misdemeanor.

This bill contains an emergency clause and would become effective immediately on signature by the governor.

FISCAL IMPLICATIONS

ALTSD intends to align the requirement of state and national criminal history records checks with existing onboarding and orientation processes and expects little to no fiscal implications. Additionally, it is possible that background checks for certain ALTSD employees and volunteers background checks may be Medicaid reimbursable through the administrative 50% match.

SIGNIFICANT ISSUES

ALTSD serves aging adults and adults with disabilities, and its employees and volunteers have regular, and often unaccompanied, access to these vulnerable populations. Further, ALTSD employees and volunteers often have access to confidential and sensitive information such as social security numbers, dates of birth and banking information which must be protected.

Currently, ALTSD is only able to obtain statewide background checks on APS employees. Statewide background checks are deficient in providing a complete background for a potential employee or volunteer. Further, many types of offenses may be uncovered by national criminal history records checks that are essential to ensuring that ALTSD employees, potential employees, and volunteers do not pose a risk to vulnerable aging adults and adults with disabilities.

PERFORMANCE IMPLICATIONS

SB241 is necessary to ensure that ALTSD can administer programs and direct resources in a confidential and safe manner for program and resource recipients.

ADMINISTRATIVE IMPLICATIONS

ALTSD will promulgate necessary rules and regulations associated with this bill.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None identified.

TECHNICAL ISSUES

None identified.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

None identified.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

ALTSD will not have the authority to conduct nationwide background checks on its volunteers and employees which ultimately places vulnerable populations at risk for potential abuse, neglect, and exploitation.

AMENDMENTS