



STATE of NEBRASKA
OFFICE OF THE GOVERNOR
LINCOLN

EXECUTIVE ORDER NO. 23-13
Waiver of Federal Criminal Background Check for Certain Professions

WHEREAS, Nebraska Revised Statute §38-131 requires the State to conduct a national criminal background check by having the Nebraska State Patrol submit fingerprints to the Federal Bureau of Investigation for a Federal Bureau of Investigation criminal background investigation for certain critical healthcare workers, including an audiologist, a speech-language pathologist, a licensed independent mental health practitioner, an occupational therapist, and an occupational therapy assistant;

WHEREAS, the Federal Bureau of Investigation must approve a state's statutory language prior to conducting national criminal background investigations;

WHEREAS, During the 2022 Legislative Session Nebraska Revised Statute §38-131 was revised to include critical healthcare workers such as audiologists, speech-language pathologists, licensed independent mental health practitioners, occupational therapists, and occupational therapy assistants;

WHEREAS, During the 2023 legislative session Nebraska Revised Statute §38-131 was further revised to comport with federal requirements necessary to allow the Nebraska State Patrol submit fingerprints to the Federal Bureau of Investigation for criminal background investigations for the above healthcare professions;

WHEREAS, the Federal Bureau of Investigation has not yet approved the 2023 revisions to Nebraska Revised Statute §38-131 and the issuance of initial licenses to critical healthcare professionals will be delayed while awaiting federal approval;

WHEREAS, health care professionals should not be kept from providing health care services because of delays in the federal background check process and should be allowed to begin work so long as applicants have passed Department-conducted checks of state criminal history which would decrease the time required for critical staff to provide patient care; and

WHEREAS, in the interest of protecting the citizens of Nebraska from the public health threat of a healthcare workforce shortage emergency, the Governor is authorized to take such action as is necessary to maintain public health, including suspension of any state statutes where strict compliance with the statute and state regulations will hinder necessary action in coping with this public health threat.

NOW, THEREFORE, I, Jim Pillen, Governor of the State of Nebraska, by virtue of the authority vested in me by the Constitution and laws of Nebraska, hereby declare an emergency exists and therefore waive the following statute and regulations to ensure that Nebraskans retain access to needed health care professionals.

Pursuant to this declaration, I hereby order and direct the following:

1. The provisions of Neb. Rev. Stat. §38-131 and any implementing regulations which require the Nebraska State Patrol to submit fingerprints to the Federal Bureau of Investigation for a national criminal history record check for individuals applying to be licensed as an audiologist, a speech-language pathologist, a licensed independent mental health practitioner, an occupational therapist, or an occupational therapist assistant are hereby suspended, but only to the extent the Federal Bureau of Investigation will not accept or allow fingerprints for processing a national criminal history.
2. The Nebraska State Patrol shall process fingerprint records for individuals applying to be licensed as an audiologist, a speech-language pathologist, a licensed independent mental health practitioner, an occupational therapist, or an occupational therapist assistant for a state criminal history.
3. This Executive Order shall become effective immediately and shall remain in effect until January 1, 2024 unless repealed earlier.

IN WITNESS THEREOF, I hereunto set my hand and cause the Seal of the State of Nebraska to be affixed this 26th day of July, 2023.



Attest:



Jim Pillen, Governor
State of Nebraska



Robert B. Evnen, Secretary of State
State of Nebraska