

SHARE Act

Policy Brief

Details of the SHARE Act

- The [SHARE Act \(H.R. 1310\)](#) is a bipartisan bill amending an FBI criminal background check statute to account for the rise in requests of criminal background checks as a result of interstate compacts.
- Specifically, the SHARE Act directs the FBI, through a technical addition to an existing federal background check law, to conduct criminal background checks for requesting state regulatory agencies that are determining eligibility for an individual seeking a license or privilege to practice through an interstate compact.
- The legislation also ensures criminal history record information is maintained in the same manner as requests for all occupational licenses handled at the state level. In accordance with how compact commissions already operate, the SHARE Act specifies that criminal history record information cannot be shared with any entity other than a state licensing agency which requests the criminal background check.
- The legislation permits a state licensing agency to only share with a compact commission that a criminal background check has been completed, including a binary determination of whether the criminal background check is satisfactory for the purposes of the compact.
- The SHARE Act was introduced by Kansas Rep. Tracey Mann and Colorado Rep. Joe Neguse. As of May 2023, the bill has 18 co-sponsors.

Occupational Licensure Compacts Background

- [Occupational licensure compacts](#) are legislatively enacted agreements between states which establish uniform standards to facilitate multistate practice and strengthen public protection.
- As of May 2023, 15 licensure compacts are available to states, territories and Washington, D.C., with 49 participating in at least one of the compacts. The federal government serves as a partner to states when developing compacts, including through the Department of Defense, Department of Labor, and the Department of Health and Human Services through the Health Resources and Services Administration.

Licensure compacts require an FBI criminal background check to be conducted, either at initial licensure or during the compact licensure or privilege to practice process, to ensure public protection.

Criminal Background Check Issues

- As state and territorial legislatures continue to pass occupational licensure compacts, one roadblock to successful implementation is the challenge for some state regulatory agencies to obtain FBI criminal background check verification for licensees. This is the case even though they are permitted by state and federal law to do so.
- [34 USC 41101](#) authorizes the FBI to conduct criminal background checks for a licensing or employment purpose and exchange this information with state and local governments.

- The FBI has been inconsistent in its interpretation of [34 USC 41101](#) despite all member states enacting uniform licensure compact statutes.
- The FBI has given contradictory guidance to compact member states that use the exact same language, and many times gives inconsistent guidance to agencies within the same state.
- FBI criminal background check requirements in all eight active interstate compacts meet the requirements set out in [34 USC 41101](#):
 - No compact authorizes state licensing agencies to share criminal history record and information with any compact commission or entity outside of that agency. In most cases, compact legislation specifically prohibits the sharing of this information.
 - The only information regarding an applicant for licensure that is shared between the licensing agency and the commission is whether that individual is eligible for a license or privilege to practice through the compact. The commission is never notified why a candidate is not eligible.
 - State licensing agencies only submit a verification of eligibility to the compact commission. Therefore, commissions will not receive any materials maintained by the FBI or reference an FBI criminal background check.
 - All compacts requiring FBI criminal background checks also require fingerprints to be submitted to the FBI.
 - Each compact commission utilizes the designated state licensing agency for its professions to conduct the criminal background check.
 - Each compact and compact commission are the result of a legislative enactment by each member state.
- Currently, eight active interstate compact commissions require an FBI criminal background check verification. It is expected that within five years that number will at least double. Without the passage of the clarifying language in the SHARE Act, state licensing agencies run the risk of being severely backlogged due to a lack of FBI criminal background check verification for compact license applicants.

Further Information

- [SHARE Act \(H.R. 1310\)](#).
- [34 USC 41101](#).
- [AOTA Memo in Support of the SHARE Act](#).
- [Interstate Medical Licensure Compact Letter to the FBI](#).