

**LAW ENFORCEMENT EMPLOYEE BACKGROUND  
CHECKS**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: Loraine T. Pace**

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**LONG TITLE**

**General Description:**

This bill amends the Public Safety Code to allow background checks of all applicants for employment with a law enforcement agency; the current law limits background checks to peace officer applicants. This bill also requires that training academies provide applicant background information to law enforcement agencies and protects the academies from civil liability for disclosing the information to hiring law enforcement agencies.

**Highlighted Provisions:**

This bill:

- ▶ allows law enforcement agencies to process background checks on anyone seeking employment with the agency;
- ▶ allows law enforcement agencies and training academies to request background information regarding an applicant from any training academy the applicant has attended; and
- ▶ protects law enforcement training academies from civil liability when the academy discloses information about an academy graduate to a hiring law enforcement agency.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**53-14-101**, as enacted by Chapter 133, Laws of Utah 2003

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **53-14-101** is amended to read:

**53-14-101. Law enforcement and training academy applicants -- Employer**

**background information.**

(1) As used in this section:

(a) "Director" means the director of a certified law enforcement officer training academy.

(b) "Employer" includes a public employer and a private employer.

(c) "Law enforcement agency" has the same definition as in Section 53-1-102.

(d) "Law enforcement officer" has the same definition as in Section 53-13-103, and includes those officers in administrative positions.

(e) "Training academy" means a peace officer training institution certified in accordance with the standards developed under Section 53-6-105.

(2) ~~Upon the request of~~ A current or former employer and the director of any training academy an applicant has attended or graduated from shall provide available information in accordance with this section regarding an applicant if the request complies with Subsection (3) and is submitted by:

(a) a law enforcement agency regarding an applicant for ~~the~~ an employment position [of peace officer]; or

(b) the director of a law enforcement training academy for which the applicant requests admission under Section 53-6-203~~[, a current or former employer of the applicant shall provide to the law enforcement agency or the director information, if available, regarding the applicant if the request complies with Subsection (3)].~~

(3) The request for information pursuant to Subsection (2) shall be:

(a) in writing;

(b) accompanied by an authorization signed by the applicant and notarized by a notary

public, in which the applicant consents to the release of the requested information and releases the employer or training academy providing the information from liability; and

(c) addressed to the employer or director and signed by a sworn officer or other authorized representative of the requesting law enforcement agency or the academy.

(4) The information that a law enforcement agency or the director of an academy may request pursuant to Subsection (2) includes:

(a) the date on which the applicant began his employment and, if applicable, the date on which the employment of the applicant was terminated;

(b) a list of the compensation that the employer provided to the applicant during the course of the employment;

(c) a copy of the application for a position of employment that the applicant submitted to the employer;

(d) a written evaluation of the performance of the applicant;

(e) a record of the attendance of the applicant;

(f) a record of disciplinary action taken against the applicant;

(g) a statement regarding whether the employer would rehire the applicant and, if the employer would not rehire the applicant, the reasons why; [~~and~~]

(h) if applicable, a record setting forth the reason that the employment of the applicant was terminated and whether the termination was voluntary or involuntary[-];

(i) the record of any final action regarding an applicant's peace officer certification that is based on an investigation concerning the applicant's qualification for certification; and

(j) notice of any pending or ongoing investigation regarding the applicant's certification as a peace officer.

(5) (a) In the absence of fraud or malice, an employer or training academy is not subject to any civil liability for any relevant cause of action by releasing employment information requested under this section.

(b) This section does not in any way or manner abrogate or lessen the existing common law or statutory privileges and immunities of an employer.

(c) An employer or training academy may not provide information pursuant to Subsection (2) if the disclosure of the information is prohibited pursuant to federal or state law.

(6) An employer's refusal to disclose information to a law enforcement agency in accordance with this section constitutes grounds for a civil action by the requesting agency for injunctive relief requiring disclosure on the part of an employer.

(7) (a) (i) A law enforcement agency may use the information received pursuant to this section only to determine the suitability of an applicant for employment [~~as a law enforcement officer~~].

(ii) A director may use the information received pursuant to this section only to determine the suitability of an applicant for acceptance at the training academy.

(b) Except as otherwise provided in Subsection (7)(c), a law enforcement agency and a director shall maintain the confidentiality of information received pursuant to this section.

(c) (i) A law enforcement agency may share information regarding an applicant that it receives pursuant to this section with another law enforcement agency if:

(A) the applicant is also an applicant for [~~a~~] any employment position [~~as a peace officer~~] with the other law enforcement agency; and

(B) the confidentiality of the information is otherwise maintained.

(ii) A director may share information regarding an applicant that is received pursuant to this section with another training academy if:

(A) the applicant is an applicant for acceptance at the other training academy; and

(B) the confidentiality of the information is otherwise maintained.

(iii) A director may share information regarding an applicant, attendee, or graduate of a training academy that is received pursuant to this section with a law enforcement agency if:

(A) the applicant is [~~an applicant~~] applying for a position as a peace officer with the law enforcement agency; and

(B) the confidentiality of the information is otherwise maintained.

(8) This section applies to requests submitted to employers on and after July 1, 2003 for employment information under this section.

