

1 **LAW ENFORCEMENT EMPLOYEE BACKGROUND**

2 **CHECKS**

3 2004 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Loraine T. Pace**

7 **LONG TITLE**

8 **General Description:**

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

15 **Highlighted Provisions:**

16 This bill:

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

25 **Monies Appropriated in this Bill:**

26 None

27 **Other Special Clauses:**



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **53-14-101**, as enacted by Chapter 133, Laws of Utah 2003



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

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

35 **53-14-101. Law enforcement and training academy applicants -- Employer**
36 **background information.**

37 (1) As used in this section:

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

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

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

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

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

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

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

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

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

57 (a) in writing;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

89 (6) An employer's refusal to disclose information to a law enforcement agency in

90 accordance with this section constitutes grounds for a civil action by the requesting agency for
91 injunctive relief requiring disclosure on the part of an employer.

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

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

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

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

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

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

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

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

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

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

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

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

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

Legislative Review Note
as of 1-14-04 1:43 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Fiscal Note

Law Enforcement Employee Background Checks

21-Jan-04

Bill Number HB02102:48 PM

State Impact

It is estimated that provisions of this bill can be implemented with existing resources.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst