

28 AMENDS:

29 **34-46-201**, as enacted by Laws of Utah 2009, Chapter 174

30 **34-46-202**, as enacted by Laws of Utah 2009, Chapter 174

31

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

33 Section 1. Section **34-46-201** is amended to read:

34 **34-46-201. Information collected.**

35 (1) ~~[An]~~ Except as provided in Subsection (2), an employer may not request the following
36 information [listed in Subsection (2) before: (a)] before an applicant is offered a job[; or]:

37 (a) Social Security number;

38 (b) date of birth; or

39 (c) driver license number.

40 (2) An employer may request the information listed in Subsection (1) before an applicant is
41 offered a job only if:

42 ~~[(b) (i) if]~~ (a) the request for information is applicable to any applicant applying for the
43 position for which the applicant is applying[;];

44 (b) the information is requested during the time in the employer's employment selection
45 process when the employer [~~obtains a~~]:

46 ~~[(A)]~~ (i) obtains a criminal background check;

47 ~~[(B)]~~ (ii) obtains a credit history of an applicant for employment, subject to the requirements
48 of the Fair Credit Reporting Act, 15 U.S.C. Sec. 1681 et seq.; [or]

49 ~~[(C)]~~ (iii) obtains a driving record of a driver from the Driver License Division in accordance
50 with Section 53-3-104 or [Section] 53-3-420; [and]

51 (iv) subject to Subsection (3), conducts a review of the internal records of the employer to
52 determine whether:

53 (A) the applicant was previously employed by the employer; or

54 (B) the applicant previously applied for employment with the employer; or
55 (v) collects the information to provide it to a government entity for the purpose of:
56 (A) determining eligibility for a government service, benefit, or program that requires that the
57 information is collected on or before the day on which an offer of employment is made; or
58 (B) participating in a government service, benefit, or program that requires that the
59 information is collected on or before the day on which an offer of employment is made; and
60 [(ii)] (c) the applicant consents to the employer taking the action described in Subsection
61 [(1)(b)(i)] (2)(b).

62 ~~[(2) The information subject to the restriction of Subsection (1) is an applicant's:]~~
63 ~~[(a) Social Security number;]~~
64 ~~[(b) date of birth; and]~~
65 ~~[(c) driver license number.]~~

66 (3) If the information listed in Subsection (1) is requested under Subsection (2)(b)(iv), the
67 employer may only request that information listed in Subsection (1) that is necessary to conduct the
68 review of the employer's internal records.

69 (4) An employer violates this section if pursuant to Subsection (2) the employer requests the
70 information listed in Subsection (1), but fails to take the action described in Subsection (2)(b) for
71 which the information is requested.

72 Section 2. Section **34-46-202** is amended to read:

73 **34-46-202. Use of information collected in initial selection process.**

74 (1) (a) An employer may not:

75 (i) use information about an applicant obtained through an initial selection process for a
76 purpose other than to determine whether or not the employer will hire the applicant as an employee;
77 or

78 (ii) except as provided in Subsection (2), provide information about an applicant obtained
79 through an initial selection process to a person other than the employer.

80 (b) A use prohibited under this Subsection (1) includes:

81 (i) marketing;

82 (ii) profiling;

83 (iii) reselling of the information; or

84 (iv) a similar use.

85 (2) Notwithstanding the other provisions of this section~~[(a)]~~, an employer may provide
86 information ~~[to a government official at the request of the government official];~~

87 (a) as required by law;

88 (b) to a government entity for the purpose of:

89 (i) determining eligibility for a government service, benefit, or program; or

90 (ii) participating in a government service, benefit, or program;

91 ~~[(b)]~~ (c) if the applicant applies for another position with the employer; or

92 ~~[(c)]~~ (d) if the applicant becomes an employee and the information is used for one or more of
93 the following, that is also applied to other employees in a similar position:

94 (i) a performance review; or

95 (ii) a promotion application.

96 Section 3. **Effective date.**

97 If approved by two-thirds of all the members elected to each house, this bill takes effect upon
98 approval by the governor, or the day following the constitutional time limit of Utah Constitution
99 Article

VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

100 Section 4. **Retrospective operation.**

101 This bill has retrospective operation to May 12, 2009.