

**BACKGROUND INVESTIGATIONS OF PEACE
OFFICER CANDIDATES**

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Loraine T. Pace

An act modifying the Public Safety Code by adding provisions regarding thorough background investigations of applicants to be law enforcement officers or to be accepted at an officer training academy. This act provides that employers of the applicant are to provide employment history to the law enforcement agency or academy if the procedures required in this act are followed. This act also protects employers from civil liability if they provide background information to the law enforcement agency or academy. The act requires that the information be confidential, and limits use by law enforcement agencies and training academies. This act also provides for an implementation date for these provisions.

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

53-14-101, Utah Code Annotated 1953

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

Section 1. Section **53-14-101** is enacted 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 law enforcement agency regarding an applicant for the position of peace officer or 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 from liability; and

(c) addressed to the employer and signed by a sworn officer or other authorized representative of the 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.

(5) (a) In the absence of fraud or malice, an employer 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 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 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 that is received pursuant to this section with a law enforcement agency if:

(A) the applicant is an applicant 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.