

HOUSE BILL NO. 404
INTRODUCED BY D. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT ~~REQUIRING~~ ALLOWING REQUIRING A CURRENT OR FORMER EMPLOYER TO PROVIDE A REQUESTING LAW ENFORCEMENT AGENCY WITH EMPLOYMENT INFORMATION RELATING TO A CURRENT OR FORMER EMPLOYEE SEEKING A PEACE OFFICER POSITION WITH THE AGENCY; AND PROVIDING ~~LIMITED IMMUNITY FROM CIVIL DAMAGES FOR PRIVATE EMPLOYERS~~ THAT A REQUIRED RESPONSE IS AN OFFICIAL DUTY."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Law enforcement agency request that employer or former employer provide information on applicant for peace officer position.** (1) A current or former employer ~~shall~~ MAY SHALL, upon request of a law enforcement agency, provide the following information, if available, to the law enforcement agency regarding a current or former employee who is an applicant for a peace officer position with the law enforcement agency:

(a) the date on which employment began and the termination date if the individual is no longer employed by the employer;

(b) the compensation provided the individual;

(c) an application for employment submitted to the employer;

(d) A GENERAL STATEMENT CONCERNING the individual's performance evaluations and disciplinary action;

(e) a ~~record of~~ GENERAL STATEMENT CONCERNING the individual's absences and attendance; AND

~~(f) a statement whether the employer would hire the individual if the individual were applying for a position and if the employer would not hire the individual, the reason why, except as provided in 39-2-801; and~~

~~(g)~~(F) if the individual is no longer employed by the employer, ~~the reason why and~~ A STATEMENT OF whether the individual:

(i) left voluntarily; ~~or~~

(ii) was terminated by the employer, ~~except as provided in 39-2-801;~~

(iii) RESIGNED AFTER BEING TOLD THAT THE INDIVIDUAL WOULD BE FIRED;

(iv) LEFT BY MUTUAL AGREEMENT BECAUSE OF SPECIFIC WORK-RELATED PROBLEMS; OR

(v) HAD A TERMINATION CHANGED TO A RESIGNATION BY MUTUAL AGREEMENT.

(2) The request must be in writing, CONTAIN THE DATE BY WHICH THE RESPONSE IS NEEDED, BE presented to the employer in person by an employee of the law enforcement agency or of a law enforcement agency authorized by the requesting agency to present the request OR BY CERTIFIED MAIL, and contain the applicant's signed and notarized consent to the employer's release of the information. THE APPLICANT, UPON REQUEST, MUST BE PROVIDED BY THE LAW ENFORCEMENT AGENCY WITH A COPY OF ALL INFORMATION PROVIDED IN RESPONSE TO A REQUEST UNDER THIS SECTION.

(3) The law enforcement agency may use the information to assist in determining the suitability of an applicant for employment as a peace officer.

(4) The law enforcement agency shall keep the information confidential, except that it may, UNDER THE PROCEDURE CONTAINED IN SUBSECTION (2), provide the information to another law enforcement agency to which the individual applies for a position as a peace officer, which shall also keep the information confidential.

(5) ~~A private~~ AN employer who discloses information about a current or former employee under this section ~~is not liable for civil damages for the disclosure or any consequences related to the disclosure unless the employer knowingly, purposely, or negligently disclosed information that was false. For the purposes of this section, the definitions of knowingly, purposely, and negligently are those contained in 45-2-101~~ PERFORMS AN OFFICIAL DUTY WITHIN THE MEANING OF 27-1-804(1).

(6) As used in this section, the following definitions apply:

(a) "Employer" includes a private employer, the state, and any local government or subdivision of the state.

(b) "Law enforcement agency" ~~has the meaning provided~~ MEANS ANY STATE OR LOCAL AGENCY OR SUBDIVISION OF THE STATE THAT EMPLOYS LAW ENFORCEMENT OFFICERS AS DEFINED in 7-32-201.

(c) "Peace officer" has the meaning provided in 45-2-101.

~~(7) THIS SECTION DOES NOT AFFECT ANY IMMUNITY OTHERWISE AVAILABLE UNDER 27-1-804(1) FOR COMMUNICATIONS VOLUNTARILY MADE BY PRIVATE OR PUBLIC, CURRENT OR FORMER EMPLOYERS IN THE PROPER DISCHARGE OF AN OFFICIAL DUTY.~~

NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 7, ~~chapter 32, and the provisions of Title 7~~ 39, CHAPTER 2, AND THE PROVISIONS OF TITLE 39, CHAPTER 2, apply to [section 1].

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