

LAWS OF DELAWARE
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CHAPTER 33
153rd GENERAL ASSEMBLY
FORMERLY
HOUSE BILL NO. 20

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATED TO CRIMINAL BACKGROUND CHECKS FOR DEPARTMENT OF LABOR EMPLOYEES, CONTRACTORS, AND SUBCONTRACTORS WITH ACCESS TO CONFIDENTIAL OR SENSITIVE INFORMATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 1, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 118. Required criminal background checks and fingerprinting.

(a) The purpose of this section is as follows:

(1) To comply with 26 U.S.C. § 6103(p)(4) of the Internal Revenue Code of 1986 and Internal Revenue Service Publication 1075, including amendments and any successor statutory provisions or Internal Revenue Service publications that require criminal background checks for any employees, contractors, and any subcontractors who have access to federal tax information.

(2) To protect sensitive information of individuals and employers, including personally identifiable information, confidential unemployment compensation information, and confidential information relating to family and medical leave benefits as defined in § 3701 of this title, by requiring employees, contractors, subcontractors, and volunteers of the Department who have access to such sensitive or confidential information to submit to a criminal background check and be monitored for criminal history record information.

(3) To protect vulnerable individuals who have direct, one-on-one contact with vocational rehabilitation counselors by requiring employees, contractors, subcontractors, and volunteers of the Department who serve in the role of vocational rehabilitation counselors within the Division of Vocational Rehabilitation to submit to a criminal background check and be monitored for criminal history record information.

(4) To safeguard the Unemployment Insurance Trust Fund and other funds maintained by the Division of Unemployment Insurance, the Family and Medical Leave Insurance Account Fund, and the Workers' Compensation Second Injury Fund by requiring employees, contractors, subcontractors, and volunteers of the Department who have access to these funds to submit to a criminal background check and be monitored for criminal history record information.

(b) To ensure compliance by the Department with 26 U.S.C. § 6103(p)(4) of the Internal Revenue Code of 1986 and Internal Revenue Service Publication 1075, including amendments and any successor statutory provisions or Internal Revenue Service publications:

(1) All individuals seeking to become an employee, contractor, subcontractor, or volunteer of the Department in or seeking a promotion or transfer to a position or under a contract that provides access to federal tax information, as defined in Internal Revenue Service Publication 1075, must obtain a criminal background check as provided in subsection (e) of this section.

(2) To remain employed in a position or work on a contract that provides access to federal tax information, as defined in Internal Revenue Service Publication 1075, all employees, contractors, subcontractors, and volunteers of the Department who have not yet obtained a criminal background check are required to submit to a criminal background check as provided in subsection (e).

(3) All employees, contractors, subcontractors, and volunteers of the Department with access to federal tax information, as defined in Internal Revenue Service Publication 1075, must submit to a subsequent criminal background check in the manner as provided in subsection (e) of this section not less than every 5 years or earlier as necessary to ensure compliance by the Department with Internal Revenue Service Publication 1075, including any amendments thereto and any successor Internal Revenue Service publications.

(c) The following individuals must submit to a criminal background check as provided in subsection (e) of this section:

(1) An individual seeking to become an employee, contractor, subcontractor, or volunteer of the Division of Unemployment Insurance, the Division of Paid Leave or the Department as information technology staff, after the completion of the first interview.

(2) An individual seeking to become an employee, contractor, subcontractor, or volunteer of the Division of Industrial Affairs in a position that provides access to the funds in the Delaware Workers' Compensation Second Injury Fund, after the completion of the first interview.

(3) An individual seeking to become an employee, contractor, subcontractor, or volunteer of the Division of Vocational Rehabilitation as a Vocational Rehabilitation Counselor, after the completion of the first interview.

(4) An employee of the Department who, after [the effective date of this Act], seeks a promotion or transfer to another position within the Department, where this section would require a prospective employee for that position to obtain a criminal background check, after the completion of the first interview for such promotion or transfer.

(5) A contractor, subcontractor, or volunteer with the Division of Unemployment Insurance, the Division of Paid Leave, the Division of Industrial Affairs who has access to funds in the Delaware Workers' Compensation Second Injury Fund, or the Division of Vocational Rehabilitation as a Vocational Rehabilitation Counselor, and the Department as information technology staff as of [the effective date of this Act], who has not yet obtained a criminal background check.

(d) The following individuals who are employed by the Department as of [the effective date of this Act] must submit fingerprints and other necessary information to the State Bureau of Identification sufficient to allow the Department to obtain from the State Bureau of Identification any subsequent criminal history record information of the individual, pursuant to subsection (h) of this section:

(1) All employees of the Division of Unemployment Insurance.

(2) All employees of the Division of Paid Leave.

(3) All information technology staff within the Department.

(4) All employees of the Division of Industrial Affairs who have access to the funds in the Delaware Workers' Compensation Second Injury Fund.

(5) All employees of the Division of Vocational Rehabilitation in the position of Vocational Rehabilitation Counselor.

(e) An individual submitting to a criminal background check pursuant to this section must provide fingerprints and other necessary information to the State Bureau of Identification so the Department may obtain the following:

(1) A report of the individual's entire state criminal history record information from the State Bureau of Identification or a statement that the State Bureau of Identification Central Repository contains no such information relating to that individual.

(2) A report of the individual's entire federal criminal history record information from the Federal Bureau of Investigation or a statement that the Federal Bureau of Investigation's records contain no such information relating to that individual.

(f) The State Bureau of Identification shall forward all information obtained under subsection (e) of this section to the Department.

(g) The Department may adopt standards for screening the criminal background checks required by this section and for determining what qualifies as a disqualifying criminal conviction as the Department determines appropriate. The Department has the right to review every criminal background check obtained under this section and make its own determination of the individual's qualification for employment, access to sensitive or confidential information, access to funds maintained by the Department, and qualification to have one-on-one contact with vulnerable individuals.

(h) If a current employee, contractor, subcontractor, or volunteer of the Department obtains a criminal background check under this section or submits fingerprints under this section, the State Bureau of Identification must provide the following information to the Department:

(1) Any subsequent state criminal history record information of the individual.

(2) Any subsequent criminal history record information of the individual available through the Rap Back System as defined under § 8502 of Title 11, if the Rap Back System is available.

Section 2. Amend Chapter 33, Subchapter I, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3307. Required employee background checks.—————

~~(a) All prospective employees, contractors, and any subcontractors thereof, of the Department who will have access to federal tax information shall obtain a background check as provided in subsection (c) of this section in order to be considered for employment to ensure compliance by the Department with § 6103(p)(4) of the Internal Revenue Code of 1986 (26 U.S.C. § 6103(p)(4)) and Internal Revenue Service Publication 1075, including amendments thereto, and any successor statutory provisions or Internal Revenue Service publications.~~

~~(b) All current employees, contractors, and any subcontractors thereof, of the Department who have access to federal tax information shall be required to submit to an initial and subsequent background checks as provided in subsection (c) of this section not less frequently than necessary to ensure compliance by the Department with~~

~~Internal Revenue Service Publication 1075, including any amendments thereto and any successor Internal Revenue Service publications.~~

~~(c) A person required to obtain a background check under this chapter shall submit fingerprints and other necessary information to the State Bureau of Identification in order to obtain all of the following:~~

~~(1) A report of the person's entire criminal history record from the State Bureau of Identification or a statement that the State Bureau of Identification Central Repository contains no such information relating to that person.~~

~~(2) A report of the person's entire federal criminal history record from the Federal Bureau of Investigation pursuant to Federal Bureau of Investigation appropriation of Title II of Public Law 92-544 (28 U.S.C. § 534) or a statement that the Federal Bureau of Investigation's records contain no such information relating to that person.~~

~~(d) The State Bureau of Identification shall be the intermediary for the purpose of subsection (c) of this section and shall forward all information required by subsections (a) and (b) of this section to the Department.~~

~~(e) The Department may adopt such standards for screening the background checks required by this section as the Department shall determine appropriate.~~

Approved June 24, 2025