

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 243

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO THE DEPARTMENT OF LABOR; AMENDING CHAPTER 13, TITLE 72, IDAHO
2 CODE, BY THE ADDITION OF A NEW SECTION 72-1321, IDAHO CODE, TO AUTHORIZE
3 THE DEPARTMENT OF LABOR TO REQUEST CRIMINAL RECORD CHECKS BY SUBMITTING
4 FEES AND FINGERPRINTS OF CERTAIN PERSONS, TO PROVIDE FOR THE RECEIPT
5 AND USE OF CRIMINAL HISTORY INFORMATION, TO PROHIBIT FURTHER DISSEM-
6 INATION OF CRIMINAL HISTORY INFORMATION, TO PROVIDE FOR THE REVIEW OF
7 INFORMATION RECEIVED FROM THE CRIMINAL HISTORY AND BACKGROUND CHECK, TO
8 PROVIDE FOR CERTAIN DETERMINATIONS, TO PROVIDE FOR THE COMMUNICATION
9 OF CLEARANCE OR DENIAL, TO PROVIDE FOR OPPORTUNITY FOR FORMAL REVIEW
10 OF A DENIAL, TO PROVIDE FOR IMMUNITY FROM LIABILITY AND TO PROVIDE THAT
11 CLEARANCE IS NOT A DETERMINATION OF SUITABILITY FOR EMPLOYMENT OR CON-
12 TRACTING.
13

14 Be It Enacted by the Legislature of the State of Idaho:

15 SECTION 1. That Chapter 13, Title 72, Idaho Code, be, and the same is
16 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
17 ignated as Section 72-1321, Idaho Code, and to read as follows:

18 72-1321. DETERMINING SUITABILITY OF ITS EMPLOYEES, APPLICANTS AND
19 PROSPECTIVE CONTRACTORS FOR EMPLOYMENT AND ACCESS TO FEDERAL TAX INFOR-
20 MATION. (1) The Idaho department of labor may request a criminal record
21 check of state and national databases by submitting the required fees and
22 a set of fingerprints obtained from an employee, a prospective contractor,
23 subcontractor or applicant for employment who will have access to federal
24 tax information, as defined in internal revenue service publication 1075
25 (2016), to the Idaho state police, bureau of criminal identification. The
26 submission of the required fees, fingerprints and information required by
27 this section shall be on forms prescribed by the Idaho state police.

28 (2) The department's human resource director is authorized to receive
29 criminal history information from the Idaho state police and from the fed-
30 eral bureau of investigation for the purpose of evaluating the fitness of em-
31 ployees and applicants for contracting or employment, with the Idaho depart-
32 ment of labor and for access to federal tax information.

33 (3) As required by state and federal law, further dissemination or
34 other use of the criminal history information is prohibited. Criminal back-
35 ground reports received from the Idaho state police and the federal bureau
36 of investigation shall be handled and disposed of in a manner consistent
37 with requirements imposed by the Idaho state police and the federal bureau
38 of investigation.

39 (4) The department shall review the information received from the ap-
40 plicant's criminal history and background check and:

- 1 (a) Determine whether the employee, applicant or contractor has a crim-
2 inal or other relevant record that would disqualify the individual from
3 having access to federal tax information;
- 4 (b) Determine which crimes disqualify the employee, applicant or con-
5 tractor from having access to federal tax information;
- 6 (c) Communicate clearance or denial to the employee, applicant or con-
7 tractor; and
- 8 (d) Provide the employee, applicant or contractor with an opportunity
9 for a formal review of a denial.
- 10 (5) The department is immune from liability for an employment decision
11 when it acts in reasonable reliance on the results of the criminal history
12 and background check in making contracting and employment decisions.
- 13 (6) Clearance through the criminal history and background check
14 process is not a determination of suitability for employment or contracting.