



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
HB4447

Introduced 02/03/04, by Dave Winters

SYNOPSIS AS INTRODUCED:

820 ILCS 405/1900

from Ch. 48, par. 640

Amends the Unemployment Insurance Act. Provides that the Department of Employment Security may contract with consumer reporting agencies to provide secure electronic access to information provided to the Department by employing units. Limits the information provided to the amount of wages paid by each employing unit for each of or up to the last 8 quarters. Requires the user of the information to obtain a written consent form from the individual to whom the wage report information pertains prior to obtaining the report. Specifies language for the consent form. Restricts the use of the information. Provides for: audit, security, net worth, and liability insurance standards, technological requirements, costs, remedies for non-compliance, dispute resolution, and other matters. Effective immediately.

LRB093 15402 WGH 41005 b

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Unemployment Insurance Act is amended by
5 changing Section 1900 as follows:

6 (820 ILCS 405/1900) (from Ch. 48, par. 640)

7 Sec. 1900. Disclosure of information.

8 A. Except as provided in this Section, information obtained
9 from any individual or employing unit during the administration
10 of this Act shall:

11 1. be confidential,

12 2. not be published or open to public inspection,

13 3. not be used in any court in any pending action or
14 proceeding,

15 4. not be admissible in evidence in any action or
16 proceeding other than one arising out of this Act.

17 B. No finding, determination, decision, ruling or order
18 (including any finding of fact, statement or conclusion made
19 therein) issued pursuant to this Act shall be admissible or
20 used in evidence in any action other than one arising out of
21 this Act, nor shall it be binding or conclusive except as
22 provided in this Act, nor shall it constitute res judicata,
23 regardless of whether the actions were between the same or
24 related parties or involved the same facts.

25 C. Any officer or employee of this State, any officer or
26 employee of any entity authorized to obtain information
27 pursuant to this Section, and any agent of this State or of
28 such entity who, except with authority of the Director under
29 this Section, shall disclose information shall be guilty of a
30 Class B misdemeanor and shall be disqualified from holding any
31 appointment or employment by the State.

32 D. An individual or his duly authorized agent may be

1 supplied with information from records only to the extent
2 necessary for the proper presentation of his claim for benefits
3 or with his existing or prospective rights to benefits.
4 Discretion to disclose this information belongs solely to the
5 Director and is not subject to a release or waiver by the
6 individual. Notwithstanding any other provision to the
7 contrary, an individual or his or her duly authorized agent may
8 be supplied with a statement of the amount of benefits paid to
9 the individual during the 18 months preceding the date of his
10 or her request.

11 E. An employing unit may be furnished with information,
12 only if deemed by the Director as necessary to enable it to
13 fully discharge its obligations or safeguard its rights under
14 the Act. Discretion to disclose this information belongs solely
15 to the Director and is not subject to a release or waiver by
16 the employing unit.

17 F. The Director may furnish any information that he may
18 deem proper to any public officer or public agency of this or
19 any other State or of the federal government dealing with:

- 20 1. the administration of relief,
- 21 2. public assistance,
- 22 3. unemployment compensation,
- 23 4. a system of public employment offices,
- 24 5. wages and hours of employment, or
- 25 6. a public works program.

26 The Director may make available to the Illinois Industrial
27 Commission information regarding employers for the purpose of
28 verifying the insurance coverage required under the Workers'
29 Compensation Act and Workers' Occupational Diseases Act.

30 G. The Director may disclose information submitted by the
31 State or any of its political subdivisions, municipal
32 corporations, instrumentalities, or school or community
33 college districts, except for information which specifically
34 identifies an individual claimant.

35 H. The Director shall disclose only that information
36 required to be disclosed under Section 303 of the Social

1 Security Act, as amended, including:

2 1. any information required to be given the United
3 States Department of Labor under Section 303(a)(6); and

4 2. the making available upon request to any agency of
5 the United States charged with the administration of public
6 works or assistance through public employment, the name,
7 address, ordinary occupation and employment status of each
8 recipient of unemployment compensation, and a statement of
9 such recipient's right to further compensation under such
10 law as required by Section 303(a)(7); and

11 3. records to make available to the Railroad Retirement
12 Board as required by Section 303(c)(1); and

13 4. information that will assure reasonable cooperation
14 with every agency of the United States charged with the
15 administration of any unemployment compensation law as
16 required by Section 303(c)(2); and

17 5. information upon request and on a reimbursable basis
18 to the United States Department of Agriculture and to any
19 State food stamp agency concerning any information
20 required to be furnished by Section 303(d); and

21 6. any wage information upon request and on a
22 reimbursable basis to any State or local child support
23 enforcement agency required by Section 303(e); and

24 7. any information required under the income
25 eligibility and verification system as required by Section
26 303(f); and

27 8. information that might be useful in locating an
28 absent parent or that parent's employer, establishing
29 paternity or establishing, modifying, or enforcing child
30 support orders for the purpose of a child support
31 enforcement program under Title IV of the Social Security
32 Act upon the request of and on a reimbursable basis to the
33 public agency administering the Federal Parent Locator
34 Service as required by Section 303(h); and

35 9. information, upon request, to representatives of
36 any federal, State or local governmental public housing

1 agency with respect to individuals who have signed the
2 appropriate consent form approved by the Secretary of
3 Housing and Urban Development and who are applying for or
4 participating in any housing assistance program
5 administered by the United States Department of Housing and
6 Urban Development as required by Section 303(i).

7 I. The Director, upon the request of a public agency of
8 Illinois, of the federal government or of any other state
9 charged with the investigation or enforcement of Section 10-5
10 of the Criminal Code of 1961 (or a similar federal law or
11 similar law of another State), may furnish the public agency
12 information regarding the individual specified in the request
13 as to:

- 14 1. the current or most recent home address of the
15 individual, and
- 16 2. the names and addresses of the individual's
17 employers.

18 J. Nothing in this Section shall be deemed to interfere
19 with the disclosure of certain records as provided for in
20 Section 1706 or with the right to make available to the
21 Internal Revenue Service of the United States Department of the
22 Treasury, or the Department of Revenue of the State of
23 Illinois, information obtained under this Act.

24 K. The Department shall make available to the Illinois
25 Student Assistance Commission, upon request, information in
26 the possession of the Department that may be necessary or
27 useful to the Commission in the collection of defaulted or
28 delinquent student loans which the Commission administers.

29 L. The Department shall make available to the State
30 Employees' Retirement System, the State Universities
31 Retirement System, and the Teachers' Retirement System of the
32 State of Illinois, upon request, information in the possession
33 of the Department that may be necessary or useful to the System
34 for the purpose of determining whether any recipient of a
35 disability benefit from the System is gainfully employed.

36 M. This Section shall be applicable to the information

1 obtained in the administration of the State employment service,
2 except that the Director may publish or release general labor
3 market information and may furnish information that he may deem
4 proper to an individual, public officer or public agency of
5 this or any other State or the federal government (in addition
6 to those public officers or public agencies specified in this
7 Section) as he prescribes by Rule.

8 N. The Director may require such safeguards as he deems
9 proper to insure that information disclosed pursuant to this
10 Section is used only for the purposes set forth in this
11 Section.

12 O. The Department may contract with one or more consumer
13 reporting agencies to provide secure electronic access to
14 information provided in the quarterly wage report to the
15 Department by employing units. The consumer reporting agency
16 shall be limited to use of such information to those permitted
17 under Section 604 of the federal Fair Credit Reporting Act (15
18 U.S.C. 1681b).

19 The information provided to a consumer reporting agency
20 shall be limited to the amount of wages reported by each
21 employing unit (with the employing unit's name and address) for
22 each of or up to the last 8 quarters. For the purposes of this
23 Section, "consumer reporting agency" has the meaning assigned
24 by Section 603(f) of the Fair Credit Reporting Act (15 U.S.C.
25 1681a(f)). The information is subject to the privacy rules of
26 this State and the federal Fair Credit Reporting Act in
27 addition to this Section. The consumer reporting agency shall
28 require that any user of the information shall, prior to
29 obtaining the wage report information, obtain a written consent
30 from the individual to whom that wage report information
31 pertains. The written consent shall prominently contain
32 language specifying the following:

33 (1) the consent to disclose is voluntary and refusal to
34 consent to disclosure of State wage information shall not
35 be the basis for the denial of credit;

36 (2) if consent is granted, the information shall be

1 released to specified parties;

2 (3) authorization by the individual is necessary for
3 the release of wage and employment history information;

4 (4) the specific application or transaction for the
5 sole purpose of which release is made;

6 (5) Department files containing wage and employment
7 history information submitted by employers may be
8 accessed; and

9 (6) the identity and address of parties authorized to
10 receive the released information.

11 The consumer reporting agency shall require that the
12 information released shall be used only to verify the accuracy
13 of the wage or employment information previously provided by an
14 individual in connection with a specific transaction to satisfy
15 its user's standard underwriting requirements or those imposed
16 upon the user, and to satisfy user's obligations, under
17 applicable State or federal fair credit reporting laws.

18 The Department shall establish minimum audit, security,
19 net worth, and liability insurance standards, technological
20 requirements, and any other terms and conditions deemed
21 necessary in the discretion of the Department to safeguard the
22 confidentiality of the information and to otherwise serve the
23 public interest. The Department shall not pay any costs
24 associated with the establishment or maintenance of the access
25 provided for by this subsection O, including but not limited to
26 the costs of any audits of the consumer reporting agency or
27 users by the Department. The Department may void any contract
28 authorized by this subsection O if the contractor is not
29 complying with this Section. Except in cases of willful and
30 wanton misconduct, the Department is immune from any liability
31 in connection with information provided under this subsection
32 O, including but not limited to liability with regard to the
33 accuracy or use of the information. Any fees received by the
34 Department from a consumer reporting agency pursuant to this
35 subsection shall be deposited in the Title III Social Security
36 and Employment Fund.

1 Any person or entity who willfully fails to comply with any
2 requirement imposed under this subsection O with respect to any
3 consumer is liable in Illinois State courts to that consumer to
4 the same extent as provided for in Section 616 of the federal
5 Fair Credit Reporting Act (15 U.S.C. 1681n).

6 A consumer may bring an action in a circuit court to enjoin
7 a violation of this Act.

8 Any person who knowingly and willfully obtains information
9 pursuant to this subsection O from a consumer reporting agency
10 under false pretenses shall be punished to the same extent as
11 provided under Section 619 of the federal Fair Credit Reporting
12 Act (15 U.S.C. 1681g).

13 If the completeness or accuracy of any item of information
14 in a consumer's file at a consumer reporting agency obtained
15 under this subsection O is disputed, the dispute resolution
16 shall be handled according to Section 611 of the federal Fair
17 Credit Reporting Act (15 U.S.C. 1681i). ~~(Blank)~~.

18 P. Within 30 days after the effective date of this
19 amendatory Act of 1993 and annually thereafter, the Department
20 shall provide to the Department of Financial Institutions a
21 list of individuals or entities that, for the most recently
22 completed calendar year, report to the Department as paying
23 wages to workers. The lists shall be deemed confidential and
24 may not be disclosed to any other person.

25 Q. The Director shall make available to an elected federal
26 official the name and address of an individual or entity that
27 is located within the jurisdiction from which the official was
28 elected and that, for the most recently completed calendar
29 year, has reported to the Department as paying wages to
30 workers, where the information will be used in connection with
31 the official duties of the official and the official requests
32 the information in writing, specifying the purposes for which
33 it will be used. For purposes of this subsection, the use of
34 information in connection with the official duties of an
35 official does not include use of the information in connection
36 with the solicitation of contributions or expenditures, in

1 money or in kind, to or on behalf of a candidate for public or
2 political office or a political party or with respect to a
3 public question, as defined in Section 1-3 of the Election
4 Code, or in connection with any commercial solicitation. Any
5 elected federal official who, in submitting a request for
6 information covered by this subsection, knowingly makes a false
7 statement or fails to disclose a material fact, with the intent
8 to obtain the information for a purpose not authorized by this
9 subsection, shall be guilty of a Class B misdemeanor.

10 R. The Director may provide to any State or local child
11 support agency, upon request and on a reimbursable basis,
12 information that might be useful in locating an absent parent
13 or that parent's employer, establishing paternity, or
14 establishing, modifying, or enforcing child support orders.

15 S. The Department shall make available to a State's
16 Attorney of this State or a State's Attorney's investigator,
17 upon request, the current address or, if the current address is
18 unavailable, current employer information, if available, of a
19 victim of a felony or a witness to a felony or a person against
20 whom an arrest warrant is outstanding.

21 (Source: P.A. 93-311, eff. 1-1-04.)

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.