

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

AN ACT

RELATING TO THE WORKFORCE SOLUTIONS DEPARTMENT; PROVIDING FOR
CRIMINAL HISTORY BACKGROUND CHECKS FOR EMPLOYEES, FINALISTS
FOR EMPLOYMENT, CONTRACTORS AND SUBCONTRACTORS OF THE
WORKFORCE SOLUTIONS DEPARTMENT UNDER CERTAIN CIRCUMSTANCES;
PROVIDING FOR LIMITED USE AND REQUIRING CONFIDENTIALITY OF
INFORMATION OBTAINED THROUGH THE BACKGROUND CHECKS; PROVIDING
FOR DENIAL OR TERMINATION OF EMPLOYMENT BASED UPON
INFORMATION OBTAINED THROUGH THE BACKGROUND CHECKS; REPEALING
SECTION 9-26-15 NMSA 1978 (BEING LAWS 2007, CHAPTER 200,
SECTION 23); PROVIDING A PENALTY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 9-26-1 NMSA 1978 (being Laws 2007,
Chapter 200, Section 1) is amended to read:

"9-26-1. SHORT TITLE.--Chapter 9, Article 26 NMSA 1978
may be cited as the "Workforce Solutions Department Act"."

SECTION 2. A new section of the Workforce Solutions
Department Act is enacted to read:

"BACKGROUND CHECKS--AUTHORIZATION--PROCEDURES--
RULEMAKING--CONFIDENTIALITY--PENALTIES.--

A. The department shall require fingerprint-based
records on:

(1) department employees who have or will
have access to federal tax information; and

1 (2) finalists for employment by the
2 department who have or may have access to federal tax
3 information.

4 B. The department shall request the fingerprint-
5 based criminal history record for each subject required
6 pursuant to Subsection A from:

7 (1) the department of public safety, which
8 shall:

9 (a) conduct a criminal history
10 background check to determine the existence and content of a
11 record of convictions and arrests of the subject in this
12 state, in accordance with rules of the department of public
13 safety;

14 (b) provide the fingerprint-based
15 record to the federal bureau of investigation to obtain a
16 national criminal history background check to determine the
17 existence and content of a record of convictions and arrests
18 of the subject in other law enforcement jurisdictions, in
19 accordance with regulations of the federal bureau of
20 investigation; and

21 (c) compile and provide the information
22 determined and obtained pursuant to this subsection to the
23 department; and

24 (2) the law enforcement agency of each
25 county and municipality in which the subject lived, worked or

1 attended any high school or post-secondary educational
2 institution, which shall conduct a criminal history
3 background check to determine the existence and content of a
4 record of convictions and arrests of the subject in the law
5 enforcement agency's respective jurisdiction within the last
6 five years and provide that information to the department.

7 C. Subject to any restrictions imposed by federal
8 law, the department shall have access to the information
9 furnished by the federal bureau of investigation, the
10 department of public safety and any other law enforcement
11 agency or organization pursuant to Subsection B of this
12 section.

13 D. A finalist for employment by the department
14 shall not be hired for a position that provides access to
15 federal tax information before the completion of the criminal
16 history background checks required by this section.

17 E. Before entering into a contract with the
18 department or with a contractor of the department, a
19 prospective contractor or subcontractor who may have access
20 to federal tax information pursuant to specific duties that
21 would be assigned to that person by the department shall
22 arrange to have criminal history background checks to be
23 conducted by the department of public safety and the
24 necessary law enforcement agencies as required pursuant to
25 Subsection B of this section for department employees and

1 finalists for employment by the department. That person
2 shall bear the costs associated with obtaining the criminal
3 history background checks.

4 F. The department shall use the information
5 obtained from a criminal history background check pursuant to
6 this section only to investigate and determine whether a
7 department employee or finalist for employment by the
8 department or prospective contractor or prospective
9 subcontractor with the department has been convicted of a
10 crime that has a direct impact on the ability of that person
11 to meet federal requirements or to perform the specific
12 duties assigned to that person. The provisions of the
13 Criminal Offender Employment Act shall govern consideration
14 of criminal history records of employees and finalists for
15 employment obtained pursuant to this section. The secretary
16 may deny or terminate employment of a person who has been
17 convicted of a felony or other crime that directly reflects
18 on the person's ability to access federal tax information.

19 G. The department shall conduct a check for
20 eligibility to legally work in the United States on each
21 department employee and each finalist for employment by the
22 department who has or may have access to federal tax
23 information. The department shall complete a check every
24 five years for continued eligibility to legally work in the
25 United States.

1 H. The information obtained from criminal history
2 background checks or legal residency background checks
3 pursuant to this section is confidential and shall not be
4 released or disclosed by the department except pursuant to a
5 court order or with written consent of the person who is the
6 subject of the records. A person who releases or discloses
7 information obtained pursuant to a criminal history
8 background check or legal residency background check in
9 violation of the provisions of this subsection is guilty of a
10 misdemeanor and shall be sentenced pursuant to the provisions
11 of Section 31-19-1 NMSA 1978."

12 SECTION 3. REPEAL.--Section 9-26-15 NMSA 1978 (being
13 Laws 2007, Chapter 200, Section 23) is repealed. _____

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25