

PROPOSED CHANGES TO H.516, SEC. 11

* * * Background Investigations; Federal Tax Information * * *

Sec. 11. 3 V.S.A. chapter 10 is redesignated to read:

CHAPTER 10. ~~DEPARTMENT OF ADMINISTRATION~~

FEDERAL TAX INFORMATION

Sec. 11a. 3 V.S.A. § 241 is added to read:

§ 241. BACKGROUND INVESTIGATIONS

(a) “Federal tax information” or “FTI” means returns and return information as defined in 26 U.S.C. § 6103(b) that are received directly from the Internal Revenue Service or obtained through an IRS-authorized secondary source, that are in the Recipient’s possession or control, and that are subject to the confidentiality protections and safeguarding requirements of the Internal Revenue Code and corresponding federal regulations and guidance.

(b) As used in this chapter, “Recipient” means the following authorities of the Executive Branch of State government that receive FTI:

(1) Agency of Human Services, including:

(A) Department for Children and Families;

(B) Department of Mental Health; and

(C) Department of Vermont Health Access.

(2) Department of Labor; and

(3) Department of Taxes.

(c) The Recipient shall conduct an initial background investigation of any individual, including a current or prospective employee, volunteer, contractor, or subcontractor, to whom the Recipient permits access to FTI for the purpose of assessing the individual’s fitness to be permitted access to FTI. The Recipient shall conduct, every 10 years at a minimum, periodic

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background investigations of employees or other individuals to whom the Recipient permits access to FTL.

(d) The Recipient shall request and obtain from the Vermont Crime Information Center (VCIC) the Federal Bureau of Investigation and state and local law enforcement criminal history records based on fingerprints for the purpose of conducting a background investigation under this section.

(e) The Recipient shall sign and keep a user agreement with the VCIC.

(f) A request made under subsection (d) of this section shall be accompanied by a release signed by the individual on a form provided by the VCIC, a set of the individual's fingerprints, and a fee established by the VCIC that shall reflect the cost of obtaining the record. The fee for a current or prospective employee shall be paid by the Recipient. The release form to be signed by the individual shall include a statement informing the individual of:

(1) the right to challenge the accuracy of the record by appealing to the VCIC pursuant to rules adopted by the Commissioner of Public Safety; and

(2) the Recipient's policy regarding background investigations and the maintenance and destruction of records.

(g) Upon completion of a criminal history record check under subsection (d) of this section, the VCIC shall send to the Recipient either a notice that no record exists or a copy of the record. If a copy of a criminal history record is received, the Recipient shall forward it to the individual and shall inform the individual in writing of:

(1) the right to challenge the accuracy of the record by appealing to the VCIC pursuant to rules adopted by the Commissioner of Public Safety; and

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(2) the Recipient's policy regarding background investigations and the maintenance and destruction of records.

(h) Criminal history records and information received under this chapter are designated confidential pursuant to 1 V.S.A. § 317(c)(1) and (c)(7) and are exempt from disclosure unless, under State or federal law or regulation, the record or information may be disclosed to specifically designated persons.

(i) The Recipient shall adopt policies in consultation with the Department of Human Resources to carry out this chapter and to guide decisions based on the results of any background investigation conducted under this chapter.

Sec. 11b. 3 V.S.A. § 243 is added to read:

§ 243. RAP BACK PROGRAM

The Recipient may request the Vermont Crime Information Center (VCIC) to provide Federal Bureau of Investigation "Rap Back" background investigation services based on fingerprints for the purpose of assessing the fitness of an individual with access to FTI, including a current employee, volunteer, contractor, or subcontractor, to continue to be permitted access to FTI. A Rap Back investigation authorized under this section may be requested upon:

(1) Obtaining informed written consent from the individual to authorize the retention of fingerprints for future background investigation purposes;

(2) Creating sufficient controls and processes to protect the confidentiality and privacy of the records and information received;

(3) Notifying the individual in a timely manner of new records and information received;
and

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(4) Notifying the individual of the background investigation policy established by the Recipient in consultation with the Department of Human Resources.

Sec. 11c. EFFECTIVE DATES

Secs. 11, 11a, and 11c of this act shall take effect on passage and Sec. 11b (Rap Back program) shall take effect when the VCIC has been authorized in statute to subscribe to the FBI Rap Back program.