

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 164

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO THE EMPLOYMENT SECURITY LAW; AMENDING CHAPTER 13, TITLE 72,
2 IDAHO CODE, BY THE ADDITION OF A NEW SECTION 72-1321, IDAHO CODE, TO AL-
3 LOW THE DEPARTMENT OF LABOR TO DETERMINE THE SUITABILITY OF ITS EMPLOY-
4 EES, PROSPECTIVE CONTRACTORS, SUBCONTRACTORS, INTERNS, VOLUNTEERS,
5 AND APPLICANTS FOR EMPLOYMENT WITH THE IDAHO DEPARTMENT OF LABOR, AND
6 FOR ACCESS TO CERTAIN RECORDS MAINTAINED BY THE DEPARTMENT, THE DEPART-
7 MENT MAY REQUIRE AN EMPLOYEE OR AN APPLICANT TO PROVIDE INFORMATION AND
8 FINGERPRINTS NECESSARY TO OBTAIN CRIMINAL HISTORY INFORMATION FROM THE
9 IDAHO STATE POLICE AND THE FEDERAL BUREAU OF INVESTIGATION, AND TO PRO-
10 VIDE PROCEDURES.
11

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

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

16 72-1321. DETERMINING SUITABILITY OF ITS EMPLOYEES, PROSPECTIVE CON-
17 TRACTORS, INTERNS, VOLUNTEERS AND APPLICANTS FOR EMPLOYMENT. (1) The Idaho
18 department of labor may request a criminal record check of state and national
19 databases by submitting a set of fingerprints obtained from an employee,
20 a prospective contractor, subcontractor, intern, volunteer or applicant
21 for employment and the required fees to the Idaho state police, bureau of
22 criminal identification. The submission of fingerprints and information
23 required by this section shall be on forms prescribed by the Idaho state
24 police.

25 (2) The department's human resource administrator is authorized to re-
26 ceive criminal history information from the Idaho state police and from the
27 federal bureau of investigation for the purpose of evaluating the fitness of
28 employees and applicants for contracting, employment, interning, or volun-
29 teering with the Idaho department of labor and for access to certain records
30 maintained by the department and necessary for the applicant or employee to
31 perform the essential functions of the job to which they are assigned.

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

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

40 (a) Determine whether the employee or applicant has a criminal or other
41 relevant record that would disqualify the individual from contract-
42 ing, employment, interning, or volunteering, or from access to certain

- 1 records maintained by the department and necessary for the applicant
2 or employee to perform the essential functions of the job to which the
3 person is assigned;
- 4 (b) Determine which crimes disqualify the employee or applicant from
5 contracting, employment, interning, or volunteering, or from access to
6 certain records maintained by the department;
- 7 (c) Communicate clearance or denial to the employee or applicant; and
8 (d) Provide the employee or applicant with an opportunity for a formal
9 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, and de-
13 cisions regarding the suitability of interns and volunteers.
- 14 (6) The department, its officers and employees are immune from liabil-
15 ity for the consequences of including or excluding classes of individuals in
16 the criminal history and background check process.
- 17 (7) Clearance through the criminal history and background check
18 process is not a determination of suitability for employment, contracting,
19 internships, or volunteer positions.