



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB0860

Introduced 2/2/2005, by Rep. 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. 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.

LRB094 05688 WGH 35739 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 not be published or open to public inspection,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 Workers'  
27 Compensation Commission information regarding employers for  
28 the purpose of verifying the insurance coverage required under  
29 the Workers' Compensation Act and Workers' Occupational  
30 Diseases Act.

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

36 H. The Director shall disclose only that information

1 required to be disclosed under Section 303 of the Social  
2 Security Act, as amended, including:

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

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

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

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

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

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

25 7. any information required under the income  
26 eligibility and verification system as required by Section  
27 303(f); and

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

36 9. information, upon request, to representatives of

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

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

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

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

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

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

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

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

13 O. (Blank).

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

21 Q. The Director shall make available to an elected federal  
22 official the name and address of an individual or entity that  
23 is located within the jurisdiction from which the official was  
24 elected and that, for the most recently completed calendar  
25 year, has reported to the Department as paying wages to  
26 workers, where the information will be used in connection with  
27 the official duties of the official and the official requests  
28 the information in writing, specifying the purposes for which  
29 it will be used. For purposes of this subsection, the use of  
30 information in connection with the official duties of an  
31 official does not include use of the information in connection  
32 with the solicitation of contributions or expenditures, in  
33 money or in kind, to or on behalf of a candidate for public or  
34 political office or a political party or with respect to a  
35 public question, as defined in Section 1-3 of the Election  
36 Code, or in connection with any commercial solicitation. Any

1 elected federal official who, in submitting a request for  
2 information covered by this subsection, knowingly makes a false  
3 statement or fails to disclose a material fact, with the intent  
4 to obtain the information for a purpose not authorized by this  
5 subsection, shall be guilty of a Class B misdemeanor.

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

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

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

24 For the purposes of this Section, "consumer reporting  
25 agency" has the meaning assigned by Section 603(f) of the Fair  
26 Credit Reporting Act (15 U.S.C. 1681a(f)). The information is  
27 subject to the privacy rules of this State and the federal Fair  
28 Credit Reporting Act in addition to this Section. The consumer  
29 reporting agency shall require that any user of the information  
30 shall, prior to obtaining the wage report information, obtain a  
31 written consent from the individual to whom that wage report  
32 information pertains. The written consent shall prominently  
33 contain language specifying the following:

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

1           (2) if consent is granted, the information shall be  
2           released to specified parties;

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

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

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

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

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

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



1 subsection shall be deposited in the Title III Social Security  
2 and Employment Fund.

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

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

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

15 If the completeness or accuracy of any item of information  
16 in a consumer's file at a consumer reporting agency obtained  
17 under this subsection T is disputed, the dispute resolution  
18 shall be handled according to Section 611 of the federal Fair  
19 Credit Reporting Act (15 U.S.C. 1681i).

20 (Source: P.A. 93-311, eff. 1-1-04; 93-721, eff. 1-1-05.)

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