



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB5675

Introduced 2/16/2012, by Rep. Jim Watson

#### 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.

LRB097 17839 WGH 63059 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 not be published or open to public inspection,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

1 related parties or involved the same facts.

2 C. Any officer or employee of this State, any officer or  
3 employee of any entity authorized to obtain information  
4 pursuant to this Section, and any agent of this State or of  
5 such entity who, except with authority of the Director under  
6 this Section, shall disclose information shall be guilty of a  
7 Class B misdemeanor and shall be disqualified from holding any  
8 appointment or employment by the State.

9 D. An individual or his duly authorized agent may be  
10 supplied with information from records only to the extent  
11 necessary for the proper presentation of his claim for benefits  
12 or with his existing or prospective rights to benefits.  
13 Discretion to disclose this information belongs solely to the  
14 Director and is not subject to a release or waiver by the  
15 individual. Notwithstanding any other provision to the  
16 contrary, an individual or his or her duly authorized agent may  
17 be supplied with a statement of the amount of benefits paid to  
18 the individual during the 18 months preceding the date of his  
19 or her request.

20 E. An employing unit may be furnished with information,  
21 only if deemed by the Director as necessary to enable it to  
22 fully discharge its obligations or safeguard its rights under  
23 the Act. Discretion to disclose this information belongs solely  
24 to the Director and is not subject to a release or waiver by  
25 the employing unit.

26 F. The Director may furnish any information that he may

1 deem proper to any public officer or public agency of this or  
2 any other State or of the federal government dealing with:

- 3 1. the administration of relief,
- 4 2. public assistance,
- 5 3. unemployment compensation,
- 6 4. a system of public employment offices,
- 7 5. wages and hours of employment, or
- 8 6. a public works program.

9 The Director may make available to the Illinois Workers'  
10 Compensation Commission information regarding employers for  
11 the purpose of verifying the insurance coverage required under  
12 the Workers' Compensation Act and Workers' Occupational  
13 Diseases Act.

14 G. The Director may disclose information submitted by the  
15 State or any of its political subdivisions, municipal  
16 corporations, instrumentalities, or school or community  
17 college districts, except for information which specifically  
18 identifies an individual claimant.

19 H. The Director shall disclose only that information  
20 required to be disclosed under Section 303 of the Social  
21 Security Act, as amended, including:

- 22 1. any information required to be given the United  
23 States Department of Labor under Section 303(a)(6); and
- 24 2. the making available upon request to any agency of  
25 the United States charged with the administration of public  
26 works or assistance through public employment, the name,

1 address, ordinary occupation and employment status of each  
2 recipient of unemployment compensation, and a statement of  
3 such recipient's right to further compensation under such  
4 law as required by Section 303(a) (7); and

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

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

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

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

18 7. any information required under the income  
19 eligibility and verification system as required by Section  
20 303(f); and

21 8. information that might be useful in locating an  
22 absent parent or that parent's employer, establishing  
23 paternity or establishing, modifying, or enforcing child  
24 support orders for the purpose of a child support  
25 enforcement program under Title IV of the Social Security  
26 Act upon the request of and on a reimbursable basis to the

1 public agency administering the Federal Parent Locator  
2 Service as required by Section 303(h); and

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

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

18 1. the current or most recent home address of the  
19 individual, and

20 2. the names and addresses of the individual's  
21 employers.

22 J. Nothing in this Section shall be deemed to interfere  
23 with the disclosure of certain records as provided for in  
24 Section 1706 or with the right to make available to the  
25 Internal Revenue Service of the United States Department of the  
26 Treasury, or the Department of Revenue of the State of

1 Illinois, information obtained under this Act.

2 K. The Department shall make available to the Illinois  
3 Student Assistance Commission, upon request, information in  
4 the possession of the Department that may be necessary or  
5 useful to the Commission in the collection of defaulted or  
6 delinquent student loans which the Commission administers.

7 L. The Department shall make available to the State  
8 Employees' Retirement System, the State Universities  
9 Retirement System, the Teachers' Retirement System of the State  
10 of Illinois, and the Department of Central Management Services,  
11 Risk Management Division, upon request, information in the  
12 possession of the Department that may be necessary or useful to  
13 the System or the Risk Management Division for the purpose of  
14 determining whether any recipient of a disability benefit from  
15 the System or a workers' compensation benefit from the Risk  
16 Management Division is gainfully employed.

17 M. This Section shall be applicable to the information  
18 obtained in the administration of the State employment service,  
19 except that the Director may publish or release general labor  
20 market information and may furnish information that he may deem  
21 proper to an individual, public officer or public agency of  
22 this or any other State or the federal government (in addition  
23 to those public officers or public agencies specified in this  
24 Section) as he prescribes by Rule.

25 N. The Director may require such safeguards as he deems  
26 proper to insure that information disclosed pursuant to this

1 Section is used only for the purposes set forth in this  
2 Section.

3 O. Nothing in this Section prohibits communication with an  
4 individual or entity through unencrypted e-mail or other  
5 unencrypted electronic means as long as the communication does  
6 not contain the individual's or entity's name in combination  
7 with any one or more of the individual's or entity's social  
8 security number; driver's license or State identification  
9 number; account number or credit or debit card number; or any  
10 required security code, access code, or password that would  
11 permit access to further information pertaining to the  
12 individual or entity.

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

20 Q. The Director shall make available to an elected federal  
21 official the name and address of an individual or entity that  
22 is located within the jurisdiction from which the official was  
23 elected and that, for the most recently completed calendar  
24 year, has reported to the Department as paying wages to  
25 workers, where the information will be used in connection with  
26 the official duties of the official and the official requests



1 the information in writing, specifying the purposes for which  
2 it will be used. For purposes of this subsection, the use of  
3 information in connection with the official duties of an  
4 official does not include use of the information in connection  
5 with the solicitation of contributions or expenditures, in  
6 money or in kind, to or on behalf of a candidate for public or  
7 political office or a political party or with respect to a  
8 public question, as defined in Section 1-3 of the Election  
9 Code, or in connection with any commercial solicitation. Any  
10 elected federal official who, in submitting a request for  
11 information covered by this subsection, knowingly makes a false  
12 statement or fails to disclose a material fact, with the intent  
13 to obtain the information for a purpose not authorized by this  
14 subsection, shall be guilty of a Class B misdemeanor.

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

20 S. The Department shall make available to a State's  
21 Attorney of this State or a State's Attorney's investigator,  
22 upon request, the current address or, if the current address is  
23 unavailable, current employer information, if available, of a  
24 victim of a felony or a witness to a felony or a person against  
25 whom an arrest warrant is outstanding.

26 T. The Director shall make available to the Department of

1 State Police, a county sheriff's office, or a municipal police  
2 department, upon request, any information concerning the  
3 current address and place of employment or former places of  
4 employment of a person who is required to register as a sex  
5 offender under the Sex Offender Registration Act that may be  
6 useful in enforcing the registration provisions of that Act.

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

14 For the purposes of this Section, "consumer reporting  
15 agency" has the meaning assigned by Section 603(f) of the Fair  
16 Credit Reporting Act (15 U.S.C. 1681a(f)). The information is  
17 subject to the privacy rules of this State and the federal Fair  
18 Credit Reporting Act in addition to this Section. The consumer  
19 reporting agency shall require that any user of the information  
20 shall, prior to obtaining the wage report information, obtain a  
21 written consent from the individual to whom that wage report  
22 information pertains. The written consent shall prominently  
23 contain language specifying the following:

24 (1) the consent to disclose is voluntary and refusal to  
25 consent to disclosure of State wage information shall not  
26 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

1 provided for by this subsection U, including but not limited to  
2 the costs of any audits of the consumer reporting agency or  
3 users by the Department. The Department may void any contract  
4 authorized by this subsection U if the contractor is not  
5 complying with this Section. Except in cases of willful and  
6 wanton misconduct, the Department is immune from any liability  
7 in connection with information provided under this subsection  
8 U, including but not limited to liability with regard to the  
9 accuracy or use of the information. Any fees received by the  
10 Department from a consumer reporting agency pursuant to this  
11 subsection shall be deposited in the Title III Social Security  
12 and Employment Fund.

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

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

20 Any person who knowingly and willfully obtains information  
21 pursuant to this subsection U from a consumer reporting agency  
22 under false pretenses shall be punished to the same extent as  
23 provided under Section 619 of the federal Fair Credit Reporting  
24 Act (15 U.S.C. 1681q).

25 If the completeness or accuracy of any item of information  
26 in a consumer's file at a consumer reporting agency obtained

1 under this subsection U is disputed, the dispute resolution  
2 shall be handled according to Section 611 of the federal Fair  
3 Credit Reporting Act (15 U.S.C. 1681i).

4 (Source: P.A. 96-420, eff. 8-13-09; 97-621, eff. 11-18-11.)

5 Section 99. Effective date. This Act takes effect upon  
6 becoming law.