

2007 DRAFTING REQUEST

Bill

Received: 11/30/2006

Received By: rryan

Wanted: As time permits

Identical to LRB:

For: Joseph Leibham (608) 266-2056

By/Representing: Greg Gasper

This file may be shown to any legislator: NO

Drafter: rryan

May Contact:

Addl. Drafters:

Subject: Criminal Law - law enforcement

Extra Copies:

Submit via email: YES

Requester's email: Sen.Leibham@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Access to employment records of candiates for law enforcement positions

Instructions:

Redraft 05 SB 239

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rryan 12/04/2006	jdyer 12/13/2006		_____			
/1			rschluet 12/13/2006	_____	sbasford 12/13/2006	mbarman 01/11/2007	

FE Sent For:

<END>

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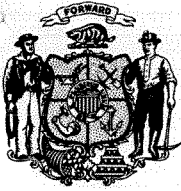
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FE Sent For:

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State of Wisconsin
2007 - 2008 LEGISLATURE

09681
LRB-0617/1

RLRwljrs

stays

2007 BILL

RMNR
D-Note

Regen

- 1 AN ACT *to create* 175.55 of the statutes; **relating to:** access to employment
2 records of candidates for law enforcement positions. ✓

Analysis by the Legislative Reference Bureau

In general, under current law, an employer may, but is generally not required to, provide information regarding a current or former employee who applies for a job elsewhere. This bill requires a private employer doing business in this state to provide employment information requested by a municipal or county law enforcement agency or the Department of Justice (law enforcement agency) if a person who is working or has worked for that employer applies for or is being considered for a law enforcement position with the law enforcement agency. In order for that requirement to apply, the law enforcement agency's request must be signed and in writing and be accompanied by a release, signed by the candidate for the law enforcement position, which authorizes the current or former employer to provide employment information regarding the candidate to the law enforcement agency. The bill authorizes a law enforcement agency to obtain a court order mandating the release of employment information if an employer does not comply with a proper request.

The bill contains two exceptions relating to this requirement. First, if any employment information is subject to a confidentiality agreement, the employer is required to comply with the law enforcement agency's request with respect to that information only if the release specifically authorizes the employer to provide that information to the law enforcement agency. If the release does not contain such an authorization, the employer must inform the law enforcement agency of the

BILL

existence of the confidentiality agreement and comply with the agreement. Second, if a court has prohibited the disclosure of relevant employment information, the employer must inform the law enforcement agency of the order and comply with the order.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 ^x
SECTION 1. 175.55 of the statutes is created to read:

2 **175.55 Law enforcement officer background investigations. (1)**

3 DEFINITIONS. In this section:

4 (a) "Candidate" means a person applying or being considered for a position as
5 a law enforcement officer.

6 (b) "Employment information" means written information in connection with
7 job applications, performance evaluations, attendance records, disciplinary actions,
8 and eligibility for being rehired.

9 (c) "Law enforcement agency" means either the department of justice or a unit
10 of a political subdivision of this state that is established to prevent and detect crime
11 and enforce state laws or local ordinances and that employs one or more law
12 enforcement officers.

13 (d) "Local law enforcement officer" means a person employed either the
14 department of justice or by a political subdivision of the state for the purpose of
15 detecting and preventing crime and enforcing laws or ordinances and who is
16 authorized to make arrests for violations of the laws or ordinances that the person
17 is employed to enforce.

18 (e) "Provide," with respect to employment information, includes making
19 available for inspection.

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1 (f) "Release" means a document, signed by a candidate, authorizing the
2 candidate's current or former employer to provide employment information
3 regarding the candidate to a law enforcement agency.

4 **(2) DISCLOSURE OF EMPLOYMENT INFORMATION.** (a) A law enforcement agency
5 may request that a candidate's current or former employer provide employment
6 information regarding the candidate. Any such request shall be in writing, be signed
7 by an authorized representative of the law enforcement agency making the request,
8 and be accompanied by an original release.

9 (b) The employer shall comply with any request made under par. (a) with
10 respect to all employment information that is not subject to a confidentiality
11 agreement between the candidate and the employer. If some or all of the employment
12 information is subject to a confidentiality agreement, the employer shall comply with
13 a request made under par. (a) with respect to that information only if the release
14 specifically authorizes the employer to provide that information to the law
15 enforcement agency. If the release does not contain such an authorization, the
16 employer shall inform the agency of the existence of the confidentiality agreement.

17 (c) Notwithstanding par. (b), if a court has prohibited the disclosure of
18 employment information requested by a law enforcement agency under par. (a), the
19 employer shall comply with the court order but shall disclose to the agency the fact
20 that the prohibition exists, along with information identifying the court and number
21 of the case in which the court established the prohibition.

22 **(3) REFUSAL TO DISCLOSE EMPLOYMENT INFORMATION.** If an employer refuses to
23 comply with a request for employment information under sub. (2) (b), the circuit
24 court for any county in which the employer does business or in which the law
25 enforcement agency is located may enter an ex parte order, upon the filing of a

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1 petition by the agency, to compel the disclosure of the employment information. A
2 petition filed under this subsection shall be made by a law enforcement officer
3 employed by the agency and shall include a copy of the original request for disclosure
4 made upon the employer and a copy of the candidate's release. The request must be
5 signed by the petitioner and the district attorney.

6 (4) EXEMPTION FOR CERTAIN EMPLOYERS. A candidate's current or former
7 employer is not required to provide employment information to a law enforcement
8 agency under this section if the employer is a unit of state or local government or if
9 the employer does not do business in this state.

10 (END)

d-note
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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0968/1dn

RLR:.....

date

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Jld

Senator Leibham:

This is a redraft of 2005 Senate Bill 239, as amended by Senate Amendment 1. ✓

Should the bill apply to employment information regarding candidates for law enforcement positions with state agencies other than the Department of Justice, for example, candidates for the State Patrol, the Capitol Police, or Department of Natural Resources warden positions? ✓

Robin Ryan
Legislative Attorney
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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0968/1dn
RLR:jld:rs

December 13, 2006

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Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.wisconsin.gov

Barman, Mike

From: Gasper, Greg
Sent: Thursday, January 11, 2007 11:27 AM
To: LRB.Legal
Subject: Draft Review: LRB 07-0968/1 Topic: Access to employment records of candidates for law enforcement positions

Please Jacket LRB 07-0968/1 for the SENATE.