2005 SENATE BILL 239

June 14, 2005 – Introduced by Senators LEIBHAM and A. LASEE, cosponsored by Representatives MUSSER, HINES, GRONEMUS, DAVIS, VOS, KESTELL, LeMAHIEU, PETROWSKI and TOWNSEND. Referred to Committee on Veterans, Homeland Security, Military Affairs, Small Business and Government Reform.

1   AN ACT *to create* 175.50 of the statutes; **relating to:** access to employment

2   records of candidates for local law enforcement officer 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 if a person who is working or has worked for that employer applies for or is being considered for a law enforcement position with that agency. In order for that requirement to apply, the 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 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 agency's request with respect to that information only if the release specifically authorizes the employer to provide that information to the agency. If the release does not contain such an authorization, the employer must inform the agency of the 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 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   SECTION 1. 175.50 of the statutes is created to read:

2   **175.50 Local 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 local 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) "Local law enforcement agency" means a unit of a political subdivision of this

10   state that is established to prevent and detect crime and enforce state laws or local

11   ordinances and that employs one or more local law enforcement officers.

12   (d) "Local law enforcement officer" means a person employed by a political

13   subdivision of the state for the purpose of detecting and preventing crime and

14   enforcing laws or ordinances and who is authorized to make arrests for violations of

15   the laws or ordinances that the person is employed to enforce.

16   (e) "Provide," with respect to employment information, includes making

17   available for inspection.

18   (f) "Release" means a document, signed by a candidate, authorizing the

19   candidate's current or former employer to provide employment information

20   regarding the candidate to a local law enforcement agency.

1   **(2)** DISCLOSURE OF EMPLOYMENT INFORMATION.   (a) A local law enforcement

2   agency may request that a candidate's current or former employer provide

3   employment information regarding the candidate. Any such request shall be in

4   writing, be signed by an authorized representative of the local law enforcement

5   agency making the request, and be accompanied by an original release.

6   (b) The employer shall comply with any request made under par. (a) with

7   respect to all employment information that is not subject to a confidentiality

8   agreement between the candidate and the employer. If some or all of the employment

9   information is subject to a confidentiality agreement, the employer shall comply with

10   a request made under par. (a) with respect to that information only if the release

11   specifically authorizes the employer to provide that information to the local law

12   enforcement agency. If the release does not contain such an authorization, the

13   employer shall inform the agency of the existence of the confidentiality agreement.

14   (c) Notwithstanding par. (b), if a court has prohibited the disclosure of

15   employment information requested by a local law enforcement agency under par. (a),

16   the employer shall comply with the court order but shall disclose to the agency the

17   fact that the prohibition exists, along with information identifying the court and

18   number of the case in which the court established the prohibition.

19   **(3)** REFUSAL TO DISCLOSE EMPLOYMENT INFORMATION. If an employer refuses to

20   comply with a request for employment information under sub. (2) (b), the circuit

21   court for any county in which the employer does business or in which the local law

22   enforcement agency is located may enter an ex parte order, upon the filing of a

23   petition by the agency, to compel the disclosure of the employment information. A

24   petition filed under this subsection shall be made by a local law enforcement officer

25   employed by the agency and shall include a copy of the original request for disclosure

1   made upon the employer and a copy of the candidate's release. The request must be

2   signed by the petitioner and the district attorney.

3   **(4)** EXEMPTION FOR CERTAIN EMPLOYERS. A candidate's current or former

4   employer is not required to provide employment information to a local law

5   enforcement agency under this section if the employer is a unit of state or local

6   government or if the employer does not do business in this state.

7   **(END)**