



House of Representatives

General Assembly

File No. 564

January Session, 2009

Substitute House Bill No. 6190

House of Representatives, April 8, 2009

The Committee on Government Administration and Elections reported through REP. SPALLONE of the 36th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING CONFIDENTIALITY OF CERTAIN EMPLOYER DATA.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-254 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 (a) (1) Each employer, whether or not otherwise subject to this
4 chapter, shall keep accurate records of employment as defined in
5 subsection (a) of section 31-222, containing such information as the
6 administrator may by regulation prescribe in order to effectuate the
7 purposes of this chapter. Such records shall be open to, and available
8 for, inspection and copying by the administrator or his authorized
9 representatives at any reasonable time and as often as may be
10 necessary. The administrator may require from any employer, whether
11 or not otherwise subject to this chapter, any sworn or unsworn reports
12 with respect to persons employed by him which are necessary for the
13 effective administration of this chapter. Except as provided in

14 subdivision (2) of this subsection and subsection (g) of this section,
15 information obtained shall not be published or be open to public
16 inspection, other than to public employees in the performance of their
17 public duties, in any manner revealing the employee's or the
18 employer's identity, but any claimant at a hearing before a
19 commissioner shall be supplied with information from such records to
20 the extent necessary for the proper presentation of his claim. Any
21 employee of the administrator, or any other public employee, who
22 violates any provision of this section shall be fined not more than two
23 hundred dollars or imprisoned not more than six months or both and
24 shall be dismissed from the service. Reports or records which have
25 been required by the administrator and which have been used in
26 computing benefit rights of claimants or in the determination of the
27 amounts and rates of contributions shall be preserved by the
28 administrator for a period of at least four years. Those records or
29 reports required by the administrator which have not been used for the
30 purpose of computing benefit rights or in the determination of the
31 amounts or rates of contributions shall be preserved by the
32 administrator for at least two and one-half years. Such records or
33 reports may, after preservation for the minimum period required by
34 this section, be destroyed by the administrator in his discretion,
35 notwithstanding the provisions of section 11-8a. Notwithstanding any
36 of the disclosure provisions of this chapter, the administrator shall
37 provide upon request of the public agency administering the TANF
38 and child support programs, any information in his possession relating
39 to individuals: (A) Who are receiving, have received, or have applied
40 for unemployment insurance; (B) the amount of benefits being
41 received; (C) the current home address of such individuals; and (D)
42 whether any offer of work has been refused and, if so, a description of
43 the job and the terms, conditions, and rate of pay therefor.
44 Notwithstanding any of the disclosure provisions of this chapter, the
45 administrator shall provide, upon request of the Connecticut Student
46 Loan Foundation, its officers or employees, any information in his
47 possession relating to the current residence address or place of
48 employment of any individual who has been determined by the

49 Connecticut Student Loan Foundation to be in default on his student
50 loan. Reimbursement for the cost of furnishing this information shall
51 be made by the agency requesting the data in a manner prescribed by
52 the administrator of this chapter.

53 (2) Any authorized user of the CTWorks Business System shall have
54 access to any information required to be entered into such system by
55 the federal Trade Adjustment Assistance program, established by the
56 Trade Act of 1974, as amended by 19 USC 2271 et seq., provided the
57 user enters into a written agreement with the administrator
58 establishing safeguards to protect the confidentiality of any
59 information disclosed to such user. Each authorized user shall
60 reimburse the administrator for all costs incurred by the administrator
61 in disclosing information to such user. Information contained in the
62 system shall not be disclosed or redisclosed to any unauthorized user,
63 except that aggregate reports from which individual data cannot be
64 identified may be disclosed. Any person who violates any provision of
65 this subdivision shall be fined not more than two hundred dollars or
66 imprisoned not more than six months, or both, and shall be prohibited
67 from any further access to information in the system.

68 (b) The Labor Department shall administer a state directory of new
69 hires in accordance with this section. Not later than twenty days after
70 the date of employment, each employer maintaining an office or
71 transacting business in this state shall report the name, address and
72 Social Security number of each new employee employed in this state to
73 the Labor Department by forwarding to said department a copy of the
74 Connecticut income tax withholding or exemption certificate
75 completed by such employee or by any other means consistent with
76 regulations the Labor Commissioner may adopt in accordance with
77 chapter 54, except that employers reporting magnetically or
78 electronically shall report new employees, if any, at least twice per
79 month by transmissions not less than twelve nor more than sixteen
80 days apart. Each such report shall indicate the name, address and state
81 and federal tax registration or identification numbers of the employer.
82 Such information shall be transmitted in a format prescribed by the

83 Labor Commissioner. Such information shall be entered by the Labor
84 Department in the state directory of new hires within five business
85 days of receipt and may be used by the Labor Commissioner in
86 accordance with his powers and duties but shall be confidential and
87 shall not be disclosed except as provided in subsections (d) and (e) of
88 this section and subsection (b) of section 31-254a.

89 (c) (1) For the purposes of this section, "employer" does not include
90 any department, agency or instrumentality of the United States; or any
91 state agency performing intelligence or counterintelligence functions, if
92 the head of such agency has determined that reporting pursuant to this
93 section with respect to the employee could endanger the safety of the
94 employee or compromise an ongoing investigation or intelligence
95 mission. For the purposes of subsections (b) to (e), inclusive, of this
96 section, the terms "employer" and "employee" shall include persons
97 engaged in the acquisition and rendition, respectively, of independent
98 contractual services, provided the expected value of such services for
99 the calendar year next succeeding the effective date of the contract for
100 such services, is at least five thousand dollars.

101 (2) An employer that has employees who are employed in this state
102 and one or more other states and that transmits reports magnetically or
103 electronically shall not be required to report to this state if such
104 employer has designated another state in which it has employees to
105 which it will transmit reports, provided such employer has notified the
106 Labor Commissioner, in writing, as to which other state it has
107 designated for the purpose of sending such reports.

108 (d) On a daily basis, in IV-D support cases, as defined in section
109 46b-231, the Department of Social Services shall compile a list of all
110 individuals who are the subject of a child support investigation or
111 action being undertaken by the IV-D agency, as defined in section 46b-
112 231, and shall transmit such list to the Labor Department. The Labor
113 Department shall promptly identify any new employee who is such an
114 individual and said department shall transmit to the Department of
115 Social Services the name, address and Social Security number of each

116 new employee and the name, address and state and federal tax
117 registration or identification numbers of the employer. The IV-D
118 agency shall use such information to locate individuals for purposes of
119 establishing paternity and establishing, modifying and enforcing child
120 or medical support orders, and may disclose such information to any
121 agent of such agency that is under contract to carry out such purposes.
122 The Labor Commissioner shall require that confidentiality safeguards
123 be part of the contracting agency's agreement with the Department of
124 Social Services.

125 (e) On a biweekly basis, the Department of Social Services shall
126 compile a list of individuals who are receiving public assistance under
127 the temporary assistance for needy families, Medicaid, food stamp,
128 state supplement and state-administered general assistance programs
129 and shall transmit such list to the Labor Department. The Labor
130 Department shall promptly identify any new employee who is such an
131 individual and said department shall transmit to the Department of
132 Social Services the name, address and Social Security number of each
133 such new employee and the name, address and state and federal tax
134 registration or identification numbers of the employer.

135 (f) The Department of Social Services shall reimburse the Labor
136 Department for any costs included in carrying out the provisions of
137 this section, including the cost of providing a toll-free facsimile
138 number for employers required to report pursuant to subsection (b) of
139 this section and section 31-254a. The Commissioner of Social Services
140 and the Labor Commissioner shall enter into a purchase of service
141 agreement which establishes procedures necessary for the
142 administration of subsections (b) to (f), inclusive, of this section.

143 (g) (1) Notwithstanding any of the information disclosure
144 provisions of this section, the administrator shall disclose information
145 obtained pursuant to subsection (a) of this section to: [a] (A) A regional
146 workforce development board, established pursuant to section 31-3k,
147 to the extent necessary for the effective administration of the federal
148 Trade Adjustment Assistance Program of the Trade Act of 1974, as

149 amended from time to time, the federal Workforce Investment Act, as
150 amended from time to time, and the state employment services
151 program established pursuant to section 17b-688c for recipients of
152 temporary family assistance, provided a regional workforce
153 development board, enters into a written agreement with the
154 administrator, pursuant to subdivision (2) of this subsection,
155 concerning protection of the confidentiality of such information prior
156 to the receipt of any such information; or (B) a nonpublic entity that is
157 under contract with the United States Department of Labor to
158 administer grants which are beneficial to the interests of the
159 administrator, provided such nonpublic entity enters into a written
160 agreement with the administrator, pursuant to subdivision (2) of this
161 subsection, concerning protection of the confidentiality of such
162 information prior to the receipt of any such information.

163 (2) [The] Any written agreement shall contain safeguards as are
164 necessary to protect the confidentiality of the information being
165 disclosed, including, but not limited to a:

166 (A) Statement from the regional workforce development board or
167 nonpublic entity, as appropriate, of the purposes for the requested
168 information and the specific use intended for the information;

169 (B) Statement from the regional workforce development board or
170 nonpublic entity, as appropriate, that the disclosed information shall
171 only be used for such purposes as are permitted by this subsection and
172 consistent with the written agreement;

173 (C) Requirement that the regional workforce development board or
174 nonpublic entity, as appropriate, store the disclosed information in a
175 location that is physically secure from access by unauthorized persons;

176 (D) Requirement that the regional workforce development board or
177 nonpublic entity, as appropriate, store and process the disclosed
178 information maintained in an electronic format in such a way that
179 ensures that unauthorized persons cannot obtain the information by
180 any means;

181 (E) Requirement that the regional workforce development board or
182 nonpublic entity, as appropriate, establish safeguards to ensure that
183 only authorized persons, including any authorized agent of the board,
184 are permitted access to disclosed information stored in computer
185 systems;

186 (F) Requirement that the regional workforce development board or
187 nonpublic entity, as appropriate, enter into a written agreement, that
188 has been approved by the administrator, with any authorized agent of
189 the board or nonpublic entity, which agreement shall contain the
190 requisite safeguards contained in the written agreement between the
191 board or nonpublic entity and the administrator;

192 (G) Requirement that the regional workforce development board or
193 nonpublic entity, as appropriate, instruct all persons having access to
194 the disclosed information about the sanctions specified in this section,
195 and further require each employee of such board or nonpublic entity,
196 and any agent of such board or nonpublic entity, authorized to review
197 such information, to sign an acknowledgment that he or she has been
198 advised of such sanctions;

199 (H) Statement that redisclosure of confidential information is
200 prohibited, except with the written approval of the administrator;

201 (I) Requirement that the regional workforce development board or
202 nonpublic entity, as appropriate, dispose of information disclosed or
203 obtained under this subsection, including any copies of such
204 information made by the board or nonpublic entity, after the purpose
205 for which the information is disclosed has been served, either by
206 returning the information to the administrator, or by verifying to the
207 administrator that the information has been destroyed;

208 (J) Statement that the regional workforce development board or
209 nonpublic entity, as appropriate, shall permit representatives of the
210 administrator to conduct periodic audits, including on-site inspections,
211 for the purpose of reviewing such board's or nonpublic entity's
212 adherence to the confidentiality and security provisions of the written

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which requires the disclosure of employment data to certain nonpublic entities, has no fiscal impact.

OLR Bill Analysis

sHB 6190

AN ACT CONCERNING CONFIDENTIALITY OF CERTAIN EMPLOYER DATA.

SUMMARY:

The unemployment compensation act requires employers to provide the Labor Department with employee information that must be kept confidential other than to department employees. There are exceptions to this under specific confidentiality agreements with regional workforce development boards as a part of their duties under the federal Workforce Investment Act.

This bill permits the department to make such information available to a private entity under contract with the U.S. Department of Labor (U.S. DOL) to administer grants that benefit the state Labor Department. It requires the private entities to enter into the same confidentiality agreements that the law requires of the regional workforce development boards.

EFFECTIVE DATE: October 1, 2009

RELEASE OF CERTAIN EMPLOYMENT RECORDS

By law, employers must keep accurate employment records, which contain information that the unemployment compensation administrator prescribes and must be available for the administrator to inspect. The administrator must keep this information confidential if it will reveal the employee's or employer's identity.

The bill allows administrator to disclosure the information to a private entity under contract with U.S. DOL if the private entity first enters into to the same type of confidentiality agreement that state law requires of the workforce boards.

SAFEGUARDS TO PROTECT CONFIDENTIALITY

Under the bill, each agreement must contain safeguards to protect the information's confidentiality. The safeguards must include:

1. a statement from the private entity of the purposes and specific use of the information along with a statement that it will only be used for these purposes;
2. a requirement that the entity store the information in a location that is physically secure from unauthorized access and, when the information is maintained electronically, in a way that prevents this access;
3. a requirement that the entity establish procedures to ensure that only authorized individuals, including its agents, have access to information stored in computers;
4. a requirement that the entity also enter into written agreements, which the administrator must approve, with its authorized agents extending the "requisite" safeguards contained in its agreement with the administrator;
5. a requirement that the entity instruct all people with access to the information about the legal sanctions (presumably for unauthorized disclosure) and require each employee and agent authorized to "review" the disclosed information to acknowledge in writing that they have been advised of the sanctions;
6. a statement that re-disclosure of the information is prohibited unless the administrator approves it in writing;
7. a requirement that the entity dispose of the information, including copies the entity makes, after it has served its purpose either by returning it to the administrator or verifying to him or her that the information has been destroyed;
8. a statement that the entity must permit the administrator's

representatives to conduct periodic audits, including on-site inspections, to review the entity's adherence to these provisions; and

9. a statement that the entity will reimburse the administrator for costs the administrator incurs in making the information available and conducting the audits.

Under the bill, an entity's employees or agents violating these provisions may be fined up to \$200, imprisoned for up to six months, or both. And they are banned from any further access to confidential information.

The law, which is unchanged by the bill, allows the administrator to make disclosures to public employees in the performance of their duties and subjects violators to identical penalties.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Change of Reference
Yea 11 Nay 0 (02/26/2009)

Government Administration and Elections Committee

Joint Favorable Substitute
Yea 14 Nay 0 (03/20/2009)