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AB-1339 Public employment: background investigations. (2017-2018)

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Assembly Bill No. 1339

CHAPTER 89

An act to amend Section 1031.1 of the Government Code, relating to public employment.

[Approved by Governor July 21, 2017. Filed with Secretary of State July 21, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1339, Cunningham. Public employment: background investigations.

The California Constitution provides for a right to privacy, and existing statutory law provides certain privacy protections for employment records. Existing law requires, an employer to disclose employment information relating to a current or former employee who is an applicant for a peace officer position, and who is not currently employed as a peace officer, upon request of a law enforcement agency, if certain conditions are met.

This bill would extend those employer disclosure requirements to information relating to a current or former employee who is an applicant for a position other than as a sworn peace officer with a law enforcement agency.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1031.1 of the Government Code is amended to read:

1031.1. (a) For purposes of performing a thorough background investigation for applicants not currently employed as a peace officer, as required by subdivision (d) of Section 1031, or in the case of an applicant for a position other than a sworn peace officer within a law enforcement agency, an employer shall disclose employment information relating to a current or former employee, upon request of a law enforcement agency, if all of the following conditions are met:

- (1) The request is made in writing.
- (2) The request is accompanied by a notarized authorization by the applicant releasing the employer of liability.
- (3) The request and the authorization are presented to the employer by a sworn officer or other authorized representative of the employing law enforcement agency.

(b) In the absence of fraud or malice, no employer shall be subject to any civil liability for any relevant cause of action by virtue of releasing employment information required pursuant to this section. Nothing in this section is intended to, nor does in any way or manner, abrogate or lessen the existing common law or statutory privileges and immunities of an employer.

(c) For purposes of this section, "employment information" includes written information in connection with job applications, performance evaluations, attendance records, disciplinary actions, eligibility for rehire, and other information relevant to peace officer performance, except information prohibited from disclosure by any other state or federal law or regulation.

(d) An employer's refusal to disclose information to a law enforcement agency in accordance with this section shall constitute grounds for a civil action for injunctive relief requiring disclosure on the part of an employer.

(e) Employment information disclosed by an employer to an initial requesting law enforcement agency shall be deemed confidential. However, the initial requesting law enforcement agency may disclose this information to another authorized law enforcement agency that is also conducting a peace officer background investigation. Whenever this information is disclosed to another law enforcement agency, that agency shall utilize the information for investigative leads only and the information shall be independently verified by that agency in order to be used in determining the suitability of a peace officer applicant.

(f) An employer may charge reasonable fees to cover actual costs incurred in copying and furnishing documents to law enforcement agencies as required by this section.