

CS FOR SENATE BILL NO. 109(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 3/19/18

Referred: Finance

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to background investigation requirements for state employees whose**
2 **job duties require access to certain federal tax information; relating to current or**
3 **prospective contractors with the state with access to certain federal tax information;**
4 **establishing state personnel procedures required for employee access to certain federal**
5 **tax information; and providing for an effective date."**

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * **Section 1.** AS 12.62.400 is amended by adding a new subsection to read:

8 (c) To obtain a national criminal history record check for determining a
9 current or prospective employee's qualifications under AS 39.90.210 or a contractor's
10 qualifications under AS 36.30.960, the agency or the procurement officer shall submit
11 the current or prospective employee's or contractor's fingerprints to the department
12 with the fee established by AS 12.62.160. The department shall submit the fingerprints
13 to the Federal Bureau of Investigation to obtain a national criminal history record

1 check of the current or prospective employee or contractor for the purpose of
 2 evaluating a person's qualifications under AS 36.30.960 and AS 39.90.210. In this
 3 subsection, unless the context otherwise requires,

4 (1) "agency" has the meaning given in AS 39.90.290;

5 (2) "contractor" has the meaning given in AS 36.30.960;

6 (3) "employee" has the meaning given in AS 39.90.290.

7 * **Sec. 2.** AS 36.30 is amended by adding a new section to read:

8 **Sec. 36.30.960. Background investigation for contractors with access to**
 9 **federal tax information.** (a) Upon request of an agency, the procurement officer shall
 10 notify each contractor if a contract with the state requires access to federal tax
 11 information for performance of the contract. Each contractor with the state whose
 12 duties require access to federal tax information shall submit to and pass a background
 13 investigation that includes a state and national criminal history record check. The
 14 contractor shall provide information for the background investigation, including
 15 fingerprints, in a format requested by the procurement officer or the contracting
 16 agency. The procurement officer or the contracting agency shall submit the
 17 fingerprints to the Department of Public Safety to obtain a report of criminal justice
 18 information under AS 12.62 and a national criminal history record check. The
 19 Department of Public Safety may submit the fingerprints to the Federal Bureau of
 20 Investigation for a national criminal history record check.

21 (b) A contractor shall pay to the procurement officer or contracting agency the
 22 fee established by AS 12.62.160 for the national criminal history record check.

23 (c) A background investigation under this section, including a state and
 24 national criminal history record check, is confidential.

25 (d) In this section, unless the context otherwise requires,

26 (1) "agency" has the meaning given in AS 39.90.290;

27 (2) "contractor" means a person who has applied for or been awarded a
 28 contract with an agency and includes a subcontractor;

29 (3) "federal tax information" has the meaning given in AS 39.90.290.

30 * **Sec. 3.** AS 39.90 is amended by adding new sections to read:

31 **Article 3. State Personnel Procedures Relating to Employee Access to Federal Tax**

Information.

Sec. 39.90.200. Purpose of AS 39.90.200 - 39.90.290. It is the purpose of AS 39.90.200 - 39.90.290 to establish procedures to safeguard the confidentiality of protected federal tax information as required by 26 U.S.C. 6103(p)(4). The procedures established in AS 39.90.200 - 39.90.290 apply to a current or prospective state employee whose job duties include access to protected federal tax information.

Sec. 39.90.210. Background investigation for employees with access to federal tax information. (a) In connection with an initial application or as a condition of continued employment in a position with the state for which the job duties include access to federal tax information, an agency shall require a prospective or current employee to provide information for a background investigation and request a state and national criminal history record check.

(b) A current or prospective employee whose job duties include access to federal tax information shall provide fingerprints in a format requested by the agency. The agency shall submit the fingerprints and the fees required to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check. The Department of Public Safety may submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

(c) A background investigation under this section, including a state and national criminal history record check, is confidential. The agency that requested the criminal history record check shall use the information obtained under this section to determine whether the current or prospective employee is qualified to access federal tax information. With the written approval of the employee, an agency may share an employee's background investigation with another agency if the employee applies for employment with, or works for, another agency that has access to federal tax information and the employee's job duties will include access to federal tax information.

(d) An agency that has access to federal tax information shall develop a written policy establishing procedures and criteria for a background investigation under this section and establish criteria to determine whether an employee or

1 prospective employee is qualified to access federal tax information. The policy must
2 require that the agency conduct a reinvestigation not later than 10 years after the date
3 of the previous background investigation.

4 **Sec. 39.90.290. Definitions.** In AS 39.90.200 - 39.90.290, unless the context
5 otherwise requires,

6 (1) "agency" means a department, the Office of the Governor, or an
7 entity in the executive branch, including the University of Alaska, a public or quasi-
8 public corporation, a board or commission, and the Alaska Railroad Corporation;

9 (2) "employee" means a permanent, probationary, seasonal, temporary,
10 provisional, or nonpermanent employee of an agency, whether in the classified,
11 partially exempt, or exempt service;

12 (3) "federal tax information" means a federal tax return, return
13 information, and information derived from the federal tax return or return information
14 that is in an agency's possession or control and that is received directly by an agency
15 under 26 U.S.C. 6103(d) or (l) from the Internal Revenue Service, an Internal Revenue
16 Service authorized secondary source, or another entity acting on behalf of the Internal
17 Revenue Service under 26 U.S.C. 6103(p)(2)(B);

18 (4) "return" has the meaning given in 26 U.S.C. 6103;

19 (5) "return information" has the meaning given in 26 U.S.C. 6103.

20 * **Sec. 4.** This Act takes effect July 1, 2018.