

ALABAMA DEPARTMENT OF HUMAN RESOURCES GENERAL ADMINISTRATION
DIVISION
ADMINISTRATIVE CODE

CHAPTER 660-1-7
BACKGROUND INVESTIGATIONS

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660-1-7-.01 Legal Basis.

(1) Code of Ala. 1975, §41-27-10 provides for criminal history background checks for employees and contractors with access to Federal Tax Information. The statute requires the Department of Human Resources to require each applicant for a position of employment with the Department and all current employees and contractors of the Department who have access to Federal Tax Information to:

(a) State in writing whether such applicant, employee or contractor has ever been convicted of a crime or whether criminal charges are pending against such applicant, employee or contractor, and if so, to identify the charges and court in which such charges are pending; and

(b) Be fingerprinted and submit to state and national criminal history records checks.

(2) 26 U.S.C. §6103(p)(4)(C) requires agencies to restrict access to Federal Tax Information only to persons and whose duties or responsibilities require access. The suitability of individuals

who require access to Federal Tax Information must be determined by a background investigation.

Author: Clifford Smith

Statutory Authority: Code of Ala. 1975, §§41-27-10; 26 U.S.C. §6103(p)(4)(C); P.L. 92-544.

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660-1-7-.02 Coverage.

(1) The provisions of this chapter governing criminal history background information checks is applicable to the following:

(a) Applicants for a position of employment with the Department of Human Resources who may have access to Federal Tax Information;

(b) Current employees of the Department of Human Resources who have or may have access to Federal Tax Information;

(c) Contractors of the Department of Human Resources who have or may have access to Federal Tax Information.

Author: Clifford Smith

Statutory Authority: Code of Ala. 1975, §§41-27-10; 26 U.S.C. §6103(p)(4)(C); P.L. 92-544.

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660-1-7-.03 Definitions.

When used in this chapter, the following words shall have the following meanings:

(1) APPLICANT. A person who submits an application for employment to the State Personnel Department for potential employment with the Department of Human Resources.

(2) ARREST. The taking or keeping of a person in custody by legal authority in response to a criminal charge for the purpose of bringing the arrestee before a court or otherwise securing the administration of the law.

(3) AUTOMATED SYSTEM. The computerized, automated fingerprint identification system maintained by the Alabama Law Enforcement Agency that allows for a computer search of the in-state database for criminal history background investigation information maintained by the Alabama Criminal Justice Information Center (ACJIC). The system contains

criminal history background information for fingerprint-based and name-based searches.

(4) BACKGROUND INVESTIGATION. The review of any and all records containing any information collected and stored in the criminal record repository of the Federal Bureau of Investigation and Alabama Law Enforcement Agency involving an arrest or conviction by a criminal justice agency, including, but not limited to conviction record information, fingerprint cards, correctional data and release information, and identifiable descriptions and notations of convictions; an inquiry of local law enforcement agencies where the person has lived, worked, and/or attended school within the last 5 years to identify arrests; and validation of a person's eligibility to legally work in the United States.

(5) CHIEF EXECUTIVE OFFICER. The Commissioner of the Department of Human Resources.

(6) CONVICTION. A determination of guilt as the result of a plea, including a plea of nolo contendere, or a trial.

(7) CURRENT. An individual who is presently employed on the effective date of this chapter.

(8) EMPLOYEE. An individual currently in the service of an employer for compensation, full-time or part-time, and employed by contract or at will, in which the employer has the authority to control the person in the material details of how work shall be performed and when compensation shall be provided.

(9) ESSENTIAL FUNCTIONS. The fundamental, not merely marginal, job duties of the employee as determined by a written job description or the judgment of the employer.

(10) FEDERAL TAX INFORMATION. Includes return or return information received directly from the Internal Revenue Service (IRS) or obtained through an authorized secondary source, such as Social Security Administration, Federal Office of Child Support Enforcement, Bureau of the Fiscal Service, or Centers for Medicare and Medicaid Services, or another entity acting on behalf of the IRS pursuant to an IRC 6103(p)(2)(B) Agreement. FTI includes any information created by the recipient that is derived from federal return or return information received from the IRS or obtained through a secondary source.

(11) INDIVIDUAL. A natural person.

(12) LOCAL LAW ENFORCEMENT. The sheriff's department of a county or the police department of a municipality.

(13) PERSON. A natural person, sometimes referred to as an individual, an applicant or employee with the Department of Human Resources who has or may have access to Federal Tax Information.

(14) REPORT. A written statement of background investigation information.

(15) RESIDENCE. Place of abode, domicile, or dwelling with intention to remain permanently and continuously or for an indefinite or uncertain length of time.

(16) SUITABILITY CRITERIA.

(a) Felony convictions for any of the following crimes shall make an individual unsuitable for access to Federal Tax Information:

1. Identity theft as proscribed by the Code of Ala. 1975, §13A-8-192.

2. Trafficking in stolen identities as proscribed by the Code of Ala. 1975, §13A-8-193.

3. Use of false identity to obstruct justice as proscribed by the Code of Ala. 1975, §13A-8-194.

4. Public assistance fraud; penalties as proscribed by the Code of Ala. 1975, §13A-9-150.

5. Misapplication of property as proscribed by the Code of Ala. 1975, §13A-9-51.

6. False or fraudulent statements as proscribed by the Code of Ala. 1975, §40-29-113.

7. Supplying false or fraudulent statements as proscribed by the Code of Ala. 1975, §40-29-114.

8. Perjury - Aiding or abetting - False bond - Fraudulent removal or concealment - False address as proscribed by the Code of Ala. 1975, §40-29-115.

9. Theft as proscribed by Chapter 8 of Title 13A of the Code of Ala. 1975 related to any of the crimes listed in paragraphs 1. to 8., inclusive and/or any lesser included crimes listed in paragraphs 1. to 8., inclusive.

10. A crime or offense committed in another state or under federal law which would constitute any of the above crimes in this state.

(b) Arrests of more than three times as related to crimes listed in paragraphs (a)1. to (a)10., inclusive will be reviewed on a case by case basis and may make an individual unsuitable for access to Federal Tax Information.

(c) A single arrest involving more than three actions as related to crimes listed in paragraphs (a)1. to (a)10., inclusive will be reviewed on a case by case basis and may make an individual unsuitable for access to Federal Tax Information.

(17) **SUITABILITY DETERMINATION:** A decision that an individual is or is not suitable to have access to Federal Tax Information based upon the existence of a prohibited conviction.

(18) **WRITTEN CONSENT.** A signed statement by the applicant or employee containing all of the following:

(a) The name, address, date of birth, race, gender, and Social Security number appearing on a valid identification document as defined in subsection (d) of 18 U.S.C. Section 1028. If the applicant or employee does not have a Social Security number because of sincerely held personal beliefs, the Social Security number shall not be required and the Department of Human Resources and the Alabama Law Enforcement Agency shall provide an alternative means of identification and procedure.

(b) Notice to the applicant or employee of the right to obtain a copy of the background investigation report, challenge the accuracy completeness of any information contained in the report, and to obtain a prompt determination as to the validity of a challenge.

(c) Release of the background investigation report to the Department of Human Resources.

Author: Clifford Smith

Statutory Authority: Code of Ala. 1975, §§41-27-10; 26 U.S.C. §6103(p)(4)(C); P.L. 92-544.

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660-1-7-.04 Background Investigations Required.

(1) The Department of Human Resources shall request the Alabama Law Enforcement Agency to conduct a criminal history background investigation and for local law enforcement agencies to conduct an arrest history background investigation for the following:

(a) A current employee of the Department of Human Resources if the individual has or will have access to Federal Tax Information. Subsequent convictions of an employee, or convictions entered into the automated system subsequent to the initial report, shall be sent by the Alabama Law Enforcement Agency to the Department of Human Resources as provided in this chapter. The Department of Human Resources shall pay any fees related to checks required pursuant to this chapter.

(b) An employment applicant of the Department of Human Resources if the applicant will have access to Federal Tax Information. Subsequent convictions of an applicant, or convictions entered into the automated system subsequent to the initial report, shall be sent by the Alabama Law Enforcement Agency to the Department of Human Resources as provided in this chapter. The Department of Human Resources shall pay any fees related to checks required pursuant to this chapter.

(c) Prospective and current personnel under contract with the Department of Human Resources or working with another entity under contract with the Department of Human Resources if they have or will have access to Federal Tax Information. Subsequent convictions, or convictions entered into the automated system subsequent to the initial report, shall be sent by the Alabama Law Enforcement Agency to the Department of Human Resources as provided in this chapter. The Department of Human Resources shall pay any fees related to checks required pursuant to this chapter.

(2) The Department of Human Resources may only request a background investigation by its chief executive officer, or his or her designee authorized in writing and notarized, and law enforcement shall render assistance, including assistance in obtaining fingerprints required for submission of a request to the Alabama Law Enforcement Association.

(3) Every employee or applicant for employment with the Department of Human Resources who has or will have access to Federal Tax Information shall submit two sets of fingerprints and sign a written consent to obtain the background investigation. Fingerprints shall not be required when a person is permanently physically unable to provide fingerprints, specifically double amputees with the loss of both hands. In cases involving a double amputee, a written consent to obtain available background information by name only shall be obtained from the applicant or employee through their power of attorney or authorized family member.

(4) An applicant who fails or refuses to give written consent or submit fingerprints necessary to obtain background information may

not be employed by the Department of Human Resources if they will have access to Federal Tax Information.

(5) An employee who fails or refuses to give written consent or submit fingerprints necessary to obtain background information may be subject to disciplinary action, up to termination of employment, and may be reassigned pending resolution of the background check and/or disciplinary action if they have or will have access to Federal Tax Information.

Author: Clifford Smith

Statutory Authority: Code of Ala. 1975, §§41-27-10; 26 U.S.C. §6103(p)(4)(C); P.L. 92-544.

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660-1-7-.05

Responsibilities Of The Department Of Human Resources.

(1) For individuals required to obtain background investigations pursuant to this chapter, the Department of Human Resources shall obtain and maintain in the agency a request with written consent for the background investigation and a statement signed by the applicant, or employee indicating whether he or she has ever been arrested or convicted of a crime, and if so, fully disclosing all arrests and convictions. The statement shall indicate whether he or she has criminal charges pending and if so, shall identify the charges and court in which such charges are pending. The statement shall also include a notice and questionnaire the same as or similar to the following:

(a) "MANDATORY BACKGROUND INVESTIGATION NOTICE: Alabama law requires that a background investigation be conducted on all persons who work or will work in a Department of Human Resources or under contract who have or will have access to Federal Tax Information. You are required to provide full, complete, and accurate information on your criminal arrest and conviction history, excluding minor traffic violations, as well as information on any pending criminal charges, excluding minor traffic violations. This information shall be used to determine your suitability to obtain access to Federal Tax Information. Refusal to complete these documents or providing false information shall result in refusal or termination of employment. The term conviction includes a determination of guilt by a trial, by a plea of guilty, or a plea of nolo contendere. Any individual determined to have submitted false information may be referred to the district attorney or law enforcement for investigation and possible prosecution. An individual who intentionally falsifies or provides any misleading information on the statement is guilty of a Class A misdemeanor, punishable by a fine of not more than two

thousand dollars (\$2,000) and imprisonment for not more than one year.

(2) Felony convictions for any of the following crimes shall make an individual unsuitable for access to Federal Tax Information:

(a) Identity theft as proscribed by the Code of Ala. 1975, §13A-8-192.

(b) Trafficking in stolen identities as proscribed by the Code of Ala. 1975, §13A-8-193.

(c) Use of false identity to obstruct justice as proscribed by the Code of Ala. 1975, §13A-8-194.

(d) Public assistance fraud,; penalties as proscribed by the Code of Ala. 1975, §13A-9-150.

(e) Misapplication of property as proscribed by the Code of Ala. 1975, §13A-9-51.

(f) False or fraudulent statements as proscribed by the Code of Ala. 1975, §40-29-113.

(g) Supplying false or fraudulent statements as proscribed by the Code of Ala. 1975, §40-29-114. (h) Perjury - Aiding or abetting - False bond - Fraudulent removal or concealment - False address as proscribed by the Code of Ala. 1975, §40-29-114.

(h) Perjury - Aiding or abetting - False bond - Fraudulent removal or concealment - False address as proscribed by Code of Ala. 1975, §40-26-115.

(i) Theft as proscribed by Chapter 8 of Title 13A of the Code of Ala. 1975 related to any of the crimes listed in paragraphs a. to h., inclusive and/or any lesser included crimes listed in paragraphs (a) to (h), inclusive.

(j) A crime or offense committed in another state or under federal law which would constitute any of the above crimes in this state.

(3) Arrests of more than three times as related to crimes listed in paragraphs (2)(a) to (2)(j), inclusive will be reviewed on a case by case basis and may make an individual unsuitable for access to Federal Tax Information.

(4) A single arrest involving more than three actions as related to crimes listed in paragraphs (2)(a) to (2)(j), inclusive will be reviewed on a case by case basis and may make an individual unsuitable for access to Federal Tax Information.

(5) CRIMINAL HISTORY STATEMENT

(a) Have you ever been arrested for any crime, excluding minor traffic violations? Yes () No () If yes, state the date, crime, and location.

(b) Have you ever been convicted of any crime, excluding minor traffic violations? Yes () No () If yes, state the date, crime, location, and punishment imposed.

(c) Do you have any criminal charges pending against you, excluding minor traffic violations? Yes () No () If yes, identify the charges and the court in which charges are pending.

Date: _____
Signature (Legal Name of Applicant Required): _____

(6) An applicant who fails or refuses to provide a Criminal History Statement shall not be allowed to access Federal Tax Information. Failure or refusal to submit said statement may result in disciplinary action, up to termination of employment.

(7) Upon receipt of a signed Criminal History Statement from an employee which does not indicate an arrest or conviction for a crime which prohibits access to Federal Tax Information under the suitability criteria, the employee may work provisionally with access to Federal Tax Information pending a suitability determination.

(8) The Department of Human Resources shall mail or deliver a request for a background investigation to the Alabama Law Enforcement Agency accompanied by the following:

(a) Two complete sets of fingerprints, properly executed by a law enforcement agency or an individual properly trained in fingerprinting techniques.

(b) Written consent from the applicant or employee for the release of the criminal history background information to the Department of Human Resources.

(c) The fee.

(9) The Department of Human Resources shall mail or deliver a request for information regarding any identified arrests to the local law enforcement agencies where the applicant or employee has lived, worked, and/or attended school within the last 5 years. The request shall be accompanied by written consent from the applicant or employee for release of the arrest history background information to the Department of Human Resources.

(10) The Department of Human Resources shall validate the identity and the status of an employee's eligibility to legally work in the United States. The U.S. Citizenship and Immigration Services' USCIS Form I-9, Employment Eligibility Verification form shall be completed to document verification of the identity and employment authorization of each new employee hired after November 16, 1986, to work in the United States. No later than the third business day after the employee starts work for pay, the new employee shall be processed through the Federal E-Verify electronic system to assist with verification of his or her status in order to confirm employment eligibility.

(11) Upon receipt of the criminal history background investigation results from the Alabama Law Enforcement Agency and from local law enforcement agencies, the Department of Human Resources shall make a determination of approval to access Federal Tax Information. This chapter shall not create any right to employment, work, or approval. Upon a determination by the Department of Human Resources that an individual is unsuitable for access to Federal Tax Information, the Department of Human Resources shall not employ an applicant or use a current employee in a position requiring access to Federal Tax Information. The Department of Human Resources may transfer a permanent Merit System employee to an available position for which the employee is qualified where access to Federal Tax Information shall not be an essential function or requirement of the job.

(12) If a review of the background investigation information received reveals that the applicant provided false information on the Criminal History Statement and/or on the State of Alabama employment application, the applicant may not be employed with the Department of Human Resources. The Department of Human Resources may make a request to the State Personnel Department that the applicant be removed from the employment register for falsification of an employment application. If an employee is found to have provided false information on the Criminal History Statement and/or on the State of Alabama employment application, the Department of Human Resources may issue disciplinary action, up to termination of employment. The Department of Human Resources may also refer the case of any applicant or employee providing false information to an appropriate law enforcement agency or district attorney for investigation and prosecution.

(13) Subsequent background investigations shall be required on an employee who has access to Federal Tax Information at intervals to meet federal requirements. The Department of Human Resources shall pay the cost for subsequent background investigations.

Author: Clifford Smith

Statutory Authority: Code of Ala. 1975, §§41-27-10; 26 U.S.C. §6103(p)(4)(C); P.L. 92-544.

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660-1-7-.06

Responsibilities Of The Applicant And Employee To Provide Information.

(1) An applicant or employee, upon request, shall submit the following items:

(a) Two functional, acceptable fingerprint cards, bearing the fingerprints of the individual, properly executed by a law enforcement agency or an authorized individual properly trained in fingerprinting techniques.

(b) Written consent authorizing the release of any criminal history background information to the Department of Human Resources.

(c) A written Criminal History Statement signed by the applicant or employee indicating whether he or she has ever been arrested or convicted of any crime(s), excluding minor traffic violations, and if so, fully disclosing all arrests and convictions. The statement shall indicate whether he or she has criminal charges, excluding minor traffic violations, pending and if so, shall identify the charges and court in which such charges are pending. The statement shall include a notice and questionnaire in the form required in Rule 660-1-7-.05

(2) An applicant or employee shall notify the prospective or current employer of any criminal conviction or criminal charges occurring subsequent to the date of completion of the Criminal History Statement.

Author: Clifford Smith

Statutory Authority: Code of Ala. 1975, §§41-27-10; 26 U.S.C. §6103(p)(4)(C); P.L. 92-544.

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660-1-7-.07 Fees.

(1) The Alabama Law Enforcement Agency may charge a fee in accordance to state law for the cost of processing the request. The fee charged for background investigation checks shall not exceed the statutory and regulatory amounts set under existing guidelines and no additional administrative fees, except for the cost of mailings, shall be charged which would increase the cost of the background investigation.

(2) A local law enforcement agency may charge a fee in accordance to state law for the cost of processing the request. The fee charged for background investigation checks shall not exceed the statutory and regulatory amounts set under existing guidelines and no additional administrative fees, except for the cost of mailings, shall be charged which would increase the cost of the background investigation.

(3) The Department of Human Resources shall be responsible for the cost of the background investigation on applicants for employment and current employees.

(4) The Department of Human Resources shall be responsible for the cost of the background investigation on prospective and current personnel under contract with the Department of Human Resources or working with another entity under contract with the Department of Human Resources.

(5) A fee paid for which a criminal history background investigation is not performed shall be refunded to the Department of Human Resources.

Author: Clifford Smith

Statutory Authority: Code of Ala. 1975, §§41-27-10; 26 U.S.C. §6103(p)(4)(C); P.L. 92-544.

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660-1-7-.08 Responsibilities Of The Alabama Law Enforcement Agency, Local Law Enforcement Agencies, And The Department OF Human Resources.

(1) Criminal history background investigations shall be performed by the Alabama Law Enforcement Agency upon request by the Department of Human Resources. The Alabama Law Enforcement Agency shall conduct a background investigation within a reasonable time of the receipt of the request. National criminal history background investigations shall be requested by the Alabama Law Enforcement Agency from the Federal Bureau of Investigation within

a reasonable time of the request. The Alabama Law Enforcement Agency, upon receipt of the criminal history background investigation information report from the Federal Bureau of Investigation, shall forward the report to the Department of Human Resources within a reasonable period.

(2) Criminal history background investigation information reports shall be sent directly from the Alabama Law Enforcement Agency to the Department of Human Resources within a reasonable time from the receipt of the report from the Federal Bureau of Investigation.

(3) Arrest history background investigations shall be performed by local law enforcement agencies upon request by the Department of Human Resources. Local law enforcement agencies shall conduct a background investigation within a reasonable time of the receipt of the request.

(4) Arrest history background investigation information reports shall be sent directly from the local law enforcement agency to the Department of Human Resources within a reasonable time after the background investigation has been conducted.

(5) A copy of a criminal history report from the Alabama Law Enforcement Agency and Federal Bureau of Investigation and the local law enforcement agencies that contains potentially disqualifying crimes shall be sent by the Department of Human Resources to the applicant or employee by certified mail. The Department of Human Resources shall review the criminal history record information report and determine whether the applicant or employee meets the suitability criteria for access to Federal Tax Information based on the criminal history background investigation. The Department of Human Resources shall issue a written suitability determination to the applicant or employee. The Alabama Law Enforcement Agency shall notify the Department of Human Resources of a subsequent conviction or convictions entered into the automated system subsequent to the initial report, for a crime committed by an individual for whom a criminal history background investigation information report has been sent. The Department of Human Resources shall include the conviction in an amended or subsequent suitability determination.

(6) A person may contest the accuracy or completeness of the Alabama criminal history background investigation information pertaining to him or her with the Alabama Law Enforcement Agency or the applicable local law enforcement agency according to procedures established by that agency. The person or his or her legal counsel may review at the Department of Human Resources a copy of the Alabama criminal history background investigation information report from the Alabama Law Enforcement Agency and the local law enforcement agency. If, upon review by the Alabama Law Enforcement Agency or the local law enforcement agency, the information is determined to be incorrect or incomplete, the

information shall be corrected appropriately, and the Department of Human Resources shall be provided with the corrected information.

(7) The Department of Human Resources shall issue a suitability determination and maintain a confidential file on individuals for whom a criminal history background investigation report or report updates have been received.

(8) Within 30 days of the date of notification, an individual determined unsuitable for access to Federal Tax Information by the Department of Human Resources based upon a disqualifying conviction may request in writing reversal of the determination of unsuitability if the conviction is not related to those defined in the Suitability Criteria in Rule 660-1-7-.03. In the case of a felony conviction, 10 years shall have lapsed since the sentence was served or the probation or parole ended, whichever is later, with no subsequent conviction.

(9) The Department of Human Resources and the Alabama Law Enforcement Agency may adopt rules and regulations to implement the procedures and requirements of this chapter pursuant to the Administrative Procedure Act, Section 41-22-1, et seq., of the Code of Ala. 1975.

Author: Clifford Smith

Statutory Authority: Code of Ala. 1975, §§41-27-10; 26 U.S.C. §6103(p)(4)(C); P.L. 92-544.

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660-1-7-.09 Confidentiality Of Information.

(1) All reports of criminal history background investigations received by the Department of Human Resources from the Alabama Law Enforcement Agency and arrest history background investigations from local law enforcement agencies shall be confidential and marked confidential with no further disclosure and shall not be made available for public inspection.

(2) All criminal and arrest history background investigation information reports shall be excluded from any requirement of public disclosure as a public record.

(3) Without additional public disclosure, the following release of the criminal and arrest history background information reports shall not be construed to violate this section:

(a) Showing the report to the applicant or current employee.

(b) Release of the report to a court of competent jurisdiction in the event of litigation brought by the applicant or employee.

(c) Release of the report to a court of competent jurisdiction upon a finding that the information is material to the issues of the case before the court.

(d) Use of the report in preparation, investigation, and presentation during a criminal prosecution, or in any administrative proceeding involving the challenge to a suitability determination.

(e) Release to anyone with the written consent of the employee or applicant.

(4) Nothing in this chapter shall be construed to prohibit the distribution of employment information to an interested party.

Author: Clifford Smith

Statutory Authority: Code of Ala. 1975, §§41-27-10; 26 U.S.C. §6103(p)(4)(C); P.L. 92-544.

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660-1-7-.10 Penalties.

(1) A person convicted of the following actions under this chapter shall be guilty of a Class A misdemeanor:

(a) Violating the confidentiality of records.

(b) Violating lawfully adopted policies pursuant to this chapter.

(c) Knowingly, willfully, and intentionally making or transmitting a false or misleading report or information concerning past convictions as required under this chapter.

(d) Knowingly, willfully, and intentionally failing to report subsequent convictions as required by this chapter.

(2) A current employee of the Department of Human Resources who knowingly submits false information concerning past convictions on an application for employment or other form required for disclosure of criminal convictions may be subject to disciplinary action, up to termination of employment.

(3) An applicant for employment who knowingly submits false information concerning past convictions on an application for employment or other form required for disclosure of criminal convictions may not be employed with the Department of Human

Resources and a request may be made by the Department of Human Resources to the State Personnel Department for the applicant to be removed from the employment register.

Author: Clifford Smith

Statutory Authority: Code of Ala. 1975, §§41-27-10; 26 U.S.C. §6103(p)(4)(C); P.L. 92-544.

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660-1-7-.11 Liability.

Nothing in this chapter is intended to create or establish new causes of action in any court. Nothing in this chapter shall be construed as a waiver of any sovereign or qualified immunity.

Author: Clifford Smith

Statutory Authority: Code of Ala. 1975, §§41-27-10; 26 U.S.C. §6103(p)(4)(C); P.L. 92-544.

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660-1-7-.12 Administrative Hearings.

(1) Administrative hearings will be offered and, if requested, held with regard to criminal arrests or convictions in any of the following situations:

(a) Where a determination of unsuitability has been based upon an out-of-state or federal arrest or conviction determined to fall within the list of disqualifying arrests and convictions in Rule 660-1-7-.03 (16);

(b) Where a determination of unsuitability has been based upon an in-state arrest or conviction determined to fall within the theft related disqualifying crimes in Rule 660-1-7-.03(16); or

(c) Where a request for reversal of a determination of unsuitability has been denied.

Author: Clifford Smith

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