

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 SENATE BILL 378

By: Coates

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5
6 AS INTRODUCED

7 An Act relating to employer responsibilities;
8 amending 40 O.S. 2001, Section 61, which relates to
9 job performance information; deleting certain
10 liability provisions; prohibiting certain act;
11 defining term; providing certain exceptions; amending
12 Section 1, Chapter 296, O.S.L. 2004 (40 O.S. Supp.
2010, Section 173.1), which relates to social
13 security number; modifying language; prohibiting use
14 of social security number in certain manner; deleting
15 certain application for health cards; and declaring
16 an emergency.

17 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

18 SECTION 1. AMENDATORY 40 O.S. 2001, Section 61, is
19 amended to read as follows:

20 Section 61. A. An employer may disclose information about a
21 current or former employee's job performance to a prospective
22 employer of the current or former employee upon request of the
23 prospective employer and with consent of the current or former
24 employee, or upon request of the current or former employee. A
state agency, as defined in Section 840-2.5 of Title 74 of the
Oklahoma Statutes, may disclose information regarding a current or

1 former employee's job performance to another state agency which is a
2 prospective employer of the current or former employee without the
3 employee's consent. The employer is presumed to be acting in good
4 faith, unless lack of good faith is shown by a preponderance of the
5 evidence. The current or former employer shall be immune from civil
6 liability for the disclosure or any consequences of such disclosure
7 unless the presumption of good faith is rebutted upon a showing that
8 the information disclosed by the current or former employer was
9 false and the employer providing the information had knowledge of
10 its falsity or acted with malice or reckless disregard for the
11 truth.

12 B. The provisions of this section shall apply to any employee,
13 agent, or other representative of the current or former employer,
14 including a state agency or public body, who is authorized to
15 provide and who provides information in accordance with the
16 provisions of this section.

17 ~~C. Failure to comply with any provision of this section shall~~
18 ~~not give rise to any liability or causes of action which did not~~
19 ~~exist prior to July 1, 1995. This section shall only apply to~~
20 ~~causes of action accruing on and after July 1, 1995~~ An employer
21 shall not, unless otherwise required by state or federal law,
22 communicate a current or former employee's personal identifying
23 information to the general public. For purposes of this subsection,
24 "personal identifying information" shall include the employee's

1 social security number, home address, telephone number, cellular
2 phone number, personal electronic mail address, Internet
3 identification name or password, parent's surname prior to marriage,
4 maiden name, surname from prior marriages, marital status, spouse's
5 name or telephone number, children's names, driver license number,
6 birth date, age, bank account numbers, bank routing numbers, credit
7 or debit card numbers, signature, medical information, or biometric
8 information, including, but not limited to, fingerprints, photograph
9 or other images which identify the person. The prohibition in this
10 subsection shall not apply when written consent is given by the
11 current or former employee for release of information for a specific
12 purpose or for purposes of criminal investigations by a recognized
13 law enforcement agency or pursuant to court order.

14 SECTION 2. AMENDATORY Section 1, Chapter 296, O.S.L.
15 2004 (40 O.S. Supp. 2010, Section 173.1), is amended to read as
16 follows:

17 Section 173.1 A. 1. Any employing entity located in this
18 state shall not do any of the following:

19 a. publicly post or publicly display in any manner the
20 social security number, home address, telephone
21 number, cellular phone number, or personal identifying
22 information of ~~an~~ a current or former employee. For
23 purposes of this paragraph, "publicly post" or
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- 1 "publicly display" means to intentionally communicate
2 or otherwise make available to the general public,
- 3 b. print the social security number of an employee on any
4 card or document required for the employee to access
5 information, products or services provided by the
6 employing entity,
- 7 c. require ~~an~~ a current or former employee to transmit
8 their social security number over the Internet, unless
9 the connection is secure or the social security number
10 is encrypted,
- 11 d. require an employee to use their social security
12 number to access an Internet web site, unless a
13 password or unique personal identification number or
14 other authentication device is also required to access
15 the Internet web site, ~~or~~
- 16 e. print the social security number of an employee on any
17 materials that are distributed or mailed to the
18 employee, unless state or federal law requires the
19 social security number to be on the document to be
20 distributed or mailed. Notwithstanding this
21 paragraph, social security numbers may be included in
22 applications and forms sent by mail, including
23 documents sent as part of an application or enrollment
24 process, or to establish, amend or terminate an

1 account, contract or policy, or to confirm the
2 accuracy of the social security number;

3 f. place a current or former employee's social security
4 number in any file with unrestricted access;

5 g. dispose of any document bearing a current or former
6 employee's social security number without redacting
7 the social security number or shredding the entire
8 document; or

9 h. use a social security number for purposes of an
10 occupational license, or as an employee identification
11 number.

12 2. The provisions of this subsection shall not apply to the
13 state or any political subdivision of the state.

14 ~~B. The provisions of this section shall not apply to a health~~
15 ~~benefit plan membership identification card issued or renewed prior~~
16 ~~to January 1, 2005. After January 1, 2005, the provisions of this~~
17 ~~section shall be applicable to all health benefit plan membership~~
18 ~~cards upon issuance or renewal.~~

19 ~~C.~~ This section shall not prevent the collection, use, or
20 release of a social security number as otherwise required by state
21 or federal law or the use of a social security number for internal
22 verification or administrative purposes. An employee may also
23 provide an employing entity with written permission to use their
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1 social security number for any of the uses otherwise prohibited by
2 this section.

3 SECTION 3. It being immediately necessary for the preservation
4 of the public peace, health and safety, an emergency is hereby
5 declared to exist, by reason whereof this act shall take effect and
6 be in full force from and after its passage and approval.

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