CHAPTER 34-15
DIRECTORY OF NEW HIRES

34-15-01. Definitions.

As used in this chapter:

1. "Date of hire" means the date services for remuneration were first performed by the employee.
2. "Department" means the department of health and human services.
3. "Employee" means an individual who would be determined to be an employee under chapter 24 of the Internal Revenue Code of 1986, as amended [26 U.S.C. 3401 et seq.], but does not include an employee of a federal or state agency performing intelligence or counterintelligence functions, if the head of the agency has determined that reporting under this chapter, with respect to that employee, could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.
4. "Employee newly hired" means an employee who has not previously been employed by the employer or was previously employed by that employer but has been separated from such prior employment for at least sixty consecutive days.
5. "Employer" means an entity or individual who would be determined to be an employer under section 3401(d) of the Internal Revenue Code of 1986, as amended [26 U.S.C. 3401(d)], and includes any governmental entity and any labor organization.
6. "Labor organization" means an organization treated as a labor organization under section 2(5) of the National Labor Relations Act, as amended [29 U.S.C. 152(5)], and includes any entity, including a "hiring hall", which is used by the organization and an employer to carry out requirements, described in section 8(f)(3) of the National Labor Relations Act, as amended [29 U.S.C. 158(f)(3)], of an agreement between the organization and the employer.

34-15-02. State directory of new hires - Duties and responsibilities.

There is, within the department, a state directory of new hires. The state directory of new hires shall, in conformance with section 453A of the Social Security Act [42 U.S.C. 653A]:

1. Receive reports made by employers;
2. Enter information into a database maintained by the state directory of new hires;
3. Provide automated comparisons of employer report information and information maintained in the state registry of cases being enforced under the state plan approved under title IV-D of the Social Security Act [42 U.S.C. 651 et seq.] and identify cases matched; and
4. Transmit information received by the state directory of new hires to the national directory of new hires.

34-15-03. Employer reporting.

1. Except as provided in subsections 2 and 3, each employer shall furnish to the directory of new hires a report that contains the name, address, and social security number of each employee newly hired for work within this state, the date of hire, whether the employer offers health insurance to the employee, and the employer's name and address and the identifying number assigned under section 6109 of the Internal Revenue Code of 1986, as amended [26 U.S.C. 6109], to the employer.
2. An employer who has employees who are employed in two or more states, and who transmits reports magnetically or electronically, may designate one state in which the employer has employees and may transmit a report conforming to subsection 1 to that state. An employer who reports pursuant to this subsection must notify the secretary of the United States department of health and human services, in writing, of the state so designated.

3. Any department, agency, or instrumentality of the United States shall transmit a report, conforming to subsection 1, to the national directory of new hires established pursuant to section 453 of the Social Security Act [42 U.S.C. 653].
4. a. Except as provided in subdivision b, a report required under this section must be made no later than twenty days after the date the employer hires the employee.
   b. If the employer transmits reports magnetically or electronically, a report required under this section may be made by two monthly transmissions, if necessary, not less than twelve nor more than sixteen days apart.

34-15-04. Reporting format.

1. Each employer report required by this chapter must be made, to the extent practicable, on a W-4 form or an equivalent form prescribed by the state directory of new hires.
2. Except as provided in subsection 3, the report may be transmitted by first-class mail or by any magnetic or electronic means readable by the department, including facsimile transmission, electronic mail, modem transmission, or other means of electronic communication.
3. An employer that employs more than twenty-four employees at any time must report new hires through an electronic method provided by the department. An employer that does not comply with this subsection is deemed to have failed to report new hires under section 34-15-05. The department may waive, upon a showing of good cause, the requirement to report new hires electronically.

34-15-05. Civil money penalties.

1. Except as provided in subsection 3, an employer who, after warning provided under subsection 2, fails to file a timely, complete, and correct report required under this chapter is liable for a civil money penalty of twenty dollars for each failure to report a new hire.
2. The department may issue a written warning to an employer who fails to file a timely, complete, and correct report required under this chapter. The warning must state that a failure to report may result in a civil money penalty.
3. An employer who, by agreement between the employer and employee, fails to file a timely, complete, and correct report required under this chapter or files a false or incomplete report is liable for a civil money penalty of two hundred fifty dollars for each failure to report or each false or incomplete report.

34-15-06. Recovery of civil money penalties.

A civil money penalty assessed under this chapter is payable fifteen days after service on the employer, by first-class mail, of notice of imposition of the civil money penalty. A judgment against an employer for failure to pay a civil money penalty may be enforced as a contempt of court by any court of this state with jurisdiction over the employer.

34-15-07. Disposition of civil money penalties - Continuing appropriation.

A civil money penalty collected under this chapter must be paid into the state treasury for deposit in the child support collection and disbursement fund and is appropriated to the department on a continuing basis for the purpose of covering losses the department incurs in making child support disbursements as provided under section 14-09-25.

34-15-08. Confidentiality.

1. Information derived from employer reports received and maintained by the directory of new hires is confidential but must be made available for use by state agencies, in this state and other states, administering:
   a. State plans under title IV-D of the Social Security Act [42 U.S.C. 651 et seq.];
   b. Programs specified in section 1137(b) of the Social Security Act [42 U.S.C. 1320b-7(b)];
   c. Employment security programs; and

d. Workforce safety and insurance programs.

2. Information acquired under subsection 1 remains confidential subject to the confidentiality requirements of the plans and programs identified in subsection 1.