

HOUSE No. 3825

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to the disclosure of prior employment information ..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 41 of the General Laws, as appearing in the 2004 Official Edition, is hereby
2 amended by inserting after Section 96B the following new section:-

3 Section 96C. Public safety personnel; disclosure of prior employment

4 (a) As used in this section, the term “public safety personnel” includes, but is not limited
5 to police officers at the state or local level, municipal firefighters, emergency medical services
6 personnel employed by a municipality, correctional officers, probation officers, or support staff
7 of any division of municipal public safety departments or law enforcement, including part-time
8 or temporary staff, and the term “employment information” includes, but is not limited to,
9 written information relating to job applications, performance evaluations, attendance records,
10 disciplinary matters, reasons termination, eligibility for rehire, and other information relevant to
11 the employee’s performance, except information that other state or federal law prohibits
12 disclosing or information that is subject to a legally recognized privilege the employer is
13 otherwise entitled to follow.

(b) Current or former employers must disclose employment information when requested pursuant to this section.

(c) Due to the duty of public safety agencies to protect the public and conduct the most thorough screenings possible of prospective employees, background investigations of prospective public safety personnel should include a request for employment information from current or former employers. This request must be made to the current or former employer in writing and must be accompanied by an authorization or release in original, copy, or facsimile form, signed by both the prospective employee and an authorized representative of the public safety agency no more than one year before the request.

(d) Current and former employers are required to disclose or otherwise make available for inspection all employment information of a current or former employee seeking employment in public safety. A reasonable fee may be charged by the current or former employer to cover the actual costs incurred in copying or otherwise furnishing documents as required by this section.

(e) If a current or former employer fails to make a disclosure in accordance with this section, the prospective employer has grounds for a civil action for injunctive relief compelling the disclosure. Failure to comply with such an order shall subject the current or former employer to civil or criminal contempt of court.

(f) An employer who discloses employment information under this section is to be immune from any form of liability for such disclosure or its consequences.