

1 §3401;

2 (2) "Employer" means the person or entity for whom an
3 individual performs or performed any service of whatever nature and
4 who has control of the payment of the individual's wages for
5 performance of the service or services, as defined in 26 U.S.C.
6 §3401;

7 (3) "Independent Contractor" means an individual who is not an
8 employee of the employer and who receives compensation or executes
9 a contract for services performed for that employer. Independent
10 contractor does not include a direct seller as defined in 26 U. S.
11 C. §3508(b) (2).

12 ~~(3)~~ (4) An individual is considered a "new hire" on the first
13 day in which that individual performs services for remuneration and
14 on which an employer begins to withhold amounts for income tax
15 purposes.

16 (b) Except as provided in subsections (c) and (d) of this
17 section, all employers doing business in the state shall report to
18 the Bureau for Child Support Enforcement:

19 (1) The hiring of any person who resides or works in this
20 state to whom the employer anticipates paying earnings; ~~and~~

21 (2) The rehiring or return to work of any employee or
22 independent contractor who resides or works in this state; and

23 (3) The contracting for services in the state with an

1 independent contractor when payment for the services is \$2,500 or
2 more. Payment for the services shall be reported within fourteen
3 days of the earlier of first making payments that in the aggregate
4 equal or exceed \$2,500 in any year or contracts with an independent
5 contractor providing for payments that in the aggregate equal or
6 exceed \$2,500 in any year.

7 (c) Employers are not required to report the hiring, rehiring
8 or return to work of any person who is an employee or independent
9 contractor of a federal or state agency performing intelligence or
10 counterintelligence functions if the head of the agency has
11 determined that reporting could endanger the safety of the employee
12 or independent contractor or compromise an ongoing investigation or
13 intelligence mission.

14 (d) An employer that has employees or independent contractors
15 in states other than this state and that transmits reports
16 magnetically or electronically is not required to report to the
17 Bureau for Child Support Enforcement the hiring, rehiring or return
18 to work of any employee or independent contractor if the employer
19 has filed with the secretary of the federal department of health
20 and human services, as required by 42 U.S.C. §653A, a written
21 designation of another state in which it has employees or
22 independent contractors as the reporting state.

23 (e) Employers shall report by mailing the required information

1 to the Bureau for Child Support Enforcement ~~a copy of the~~
2 ~~employee's W-4 form; however, an employer~~ or may transmit the
3 information through another means if approved in writing by the
4 Bureau for Child Support Enforcement prior to the transmittal. The
5 report shall include the employee's or independent contractor's
6 name, address and social security number, start date, the
7 employer's name and address, any different address of the payroll
8 office and the employer's federal tax identification number. The
9 employer may report other information, such as date of birth or
10 income information, if desired.

11 (f) Employers shall submit a report within fourteen days of
12 the date of the hiring, rehiring or return to work of the employee
13 or independent contractor. However, if the employer transmits the
14 reports magnetically or electronically by two monthly submissions,
15 the reports shall be submitted not less than twelve days nor more
16 than sixteen days apart.

17 (g) An employer shall provide to the Bureau for Child Support
18 Enforcement, upon its written request, information regarding an
19 obligor's employment, wages or salary, medical insurance, start
20 date and location of employment.

21 (h) Any employer who fails to report in accordance with the
22 provisions of this section shall be assessed a civil penalty of no
23 more than \$25 per failure. If the failure to report is the result

1 of a conspiracy between the employer and the employee or
2 independent contractor not to supply the required report or to
3 supply a false or incomplete report, the employer shall be assessed
4 a civil penalty of no more than \$500.

5 (i) Employers required to report under this section may assess
6 each employee or independent contractor reported \$1 for the
7 administrative costs of reporting.

8 (j) Uses for the new hire information include, but are not
9 limited to, the following:

10 (1) The state directory of new hires shall furnish the
11 information to the national directory of new hires;

12 (2) The Bureau for Child Support Enforcement shall use
13 information received pursuant to this section to locate individuals
14 for purposes of establishing paternity and of establishing,
15 modifying and enforcing child support obligations and may disclose
16 the information to any agent of the agency that is under contract
17 with the bureau to carry out those purposes;

18 (3) State agencies responsible for administering a program
19 specified in 42 U.S.C. §1320b-7(b) shall have access to information
20 reported by employers for purposes of verifying eligibility for the
21 program; and

22 (4) The Bureau of Employment Programs and the Workers'
23 Compensation Commission shall have access to information reported

1 by employers for purposes of administering employment security and
2 Workers' Compensation Programs.

NOTE: The purpose of this bill is to require employers to report the contracting of services with an independent contractor and report payment made to an independent contractor if over \$2,500.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.