

**TITLE 42 - THE PUBLIC HEALTH AND WELFARE**  
**CHAPTER 7 - SOCIAL SECURITY**  
**SUBCHAPTER IV - GRANTS TO STATES FOR AID AND SERVICES TO NEEDY**  
**FAMILIES WITH CHILDREN AND FOR CHILD-WELFARE SERVICES**  
**Part D - Child Support and Establishment of Paternity**

**§ 653a. State Directory of New Hires**

**(a) Establishment**

**(1) In general**

**(A) Requirement for States that have no directory**

Except as provided in subparagraph (B), not later than October 1, 1997, each State shall establish an automated directory (to be known as the “State Directory of New Hires”) which shall contain information supplied in accordance with subsection (b) of this section by employers on each newly hired employee.

**(B) States with new hire reporting law in existence**

A State which has a new hire reporting law in existence on August 22, 1996, may continue to operate under the State law, but the State must meet the requirements of subsection (g)(2) of this section not later than October 1, 1997, and the requirements of this section (other than subsection (g)(2) of this section) not later than October 1, 1998.

**(2) Definitions**

As used in this section:

**(A) Employee**

The term “employee”—

(i) means an individual who is an employee within the meaning of chapter 24 of the Internal Revenue Code of 1986; and

(ii) does not include an employee of a Federal or State agency performing intelligence or counterintelligence functions, if the head of such agency has determined that reporting pursuant to paragraph (1) with respect to the employee could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

**(B) Employer**

(i) In general

The term “employer” has the meaning given such term in section 3401(d) of the Internal Revenue Code of 1986 and includes any governmental entity and any labor organization.

(ii) Labor organization

The term “labor organization” shall have the meaning given such term in section 152 (5) of title 29, and includes any entity (also known as a “hiring hall”) which is used by the organization and an employer to carry out requirements described in section 158 (f)(3) of title 29 of an agreement between the organization and the employer.

**(b) Employer information**

**(1) Reporting requirement**

**(A) In general**

Except as provided in subparagraphs (B) and (C), each employer shall furnish to the Directory of New Hires of the State in which a newly hired employee works, a report that contains the name, address, and social security number of the employee, and the name and address of, and identifying number assigned under section 6109 of the Internal Revenue Code of 1986 to, the employer.

**(B) Multistate employers**

An employer that has employees who are employed in 2 or more States and that transmits reports magnetically or electronically may comply with subparagraph (A) by designating 1 State in which such employer has employees to which the employer will transmit the report described in subparagraph (A), and transmitting such report to such State. Any employer that transmits reports pursuant to this subparagraph shall notify the Secretary in writing as to which State such employer designates for the purpose of sending reports.

**(C) Federal Government employers**

Any department, agency, or instrumentality of the United States shall comply with subparagraph (A) by transmitting the report described in subparagraph (A) to the National Directory of New Hires established pursuant to section 653 of this title.

**(2) Timing of report**

Each State may provide the time within which the report required by paragraph (1) shall be made with respect to an employee, but such report shall be made—

(A) not later than 20 days after the date the employer hires the employee; or

(B) in the case of an employer transmitting reports magnetically or electronically, by 2 monthly transmissions (if necessary) not less than 12 days nor more than 16 days apart.

**(c) Reporting format and method**

Each report required by subsection (b) of this section shall be made on a W-4 form or, at the option of the employer, an equivalent form, and may be transmitted by 1st class mail, magnetically, or electronically.

**(d) Civil money penalties on noncomplying employers**

The State shall have the option to set a State civil money penalty which shall not exceed—

(1) \$25 per failure to meet the requirements of this section with respect to a newly hired employee; or

(2) \$500 if, under State law, the failure is the result of a conspiracy between the employer and the employee to not supply the required report or to supply a false or incomplete report.

**(e) Entry of employer information**

Information shall be entered into the data base maintained by the State Directory of New Hires within 5 business days of receipt from an employer pursuant to subsection (b) of this section.

**(f) Information comparisons****(1) In general**

Not later than May 1, 1998, an agency designated by the State shall, directly or by contract, conduct automated comparisons of the social security numbers reported by employers pursuant to subsection (b) of this section and the social security numbers appearing in the records of the State case registry for cases being enforced under the State plan.

**(2) Notice of match**

When an information comparison conducted under paragraph (1) reveals a match with respect to the social security number of an individual required to provide support under a support order, the State Directory of New Hires shall provide the agency administering the State plan approved under this part of the appropriate State with the name, address, and social security number of the employee to whom the social security number is assigned, and the name and address of, and identifying number assigned under section 6109 of the Internal Revenue Code of 1986 to, the employer.

**(g) Transmission of information****(1) Transmission of wage withholding notices to employers**

Within 2 business days after the date information regarding a newly hired employee is entered into the State Directory of New Hires, the State agency enforcing the employee's child support obligation shall transmit a notice to the employer of the employee directing the employer to withhold from the income of the employee an amount equal to the monthly (or other periodic) child support obligation (including any past due support obligation) of the employee, unless the employee's income is not subject to withholding pursuant to section 666 (b)(3) of this title.

**(2) Transmissions to the National Directory of New Hires**

**(A) New hire information**

Within 3 business days after the date information regarding a newly hired employee is entered into the State Directory of New Hires, the State Directory of New Hires shall furnish the information to the National Directory of New Hires.

**(B) Wage and unemployment compensation information**

The State Directory of New Hires shall, on a quarterly basis, furnish to the National Directory of New Hires information concerning the wages and unemployment compensation paid to individuals, by such dates, in such format, and containing such information as the Secretary of Health and Human Services shall specify in regulations.

**(3) "Business day" defined**

As used in this subsection, the term "business day" means a day on which State offices are open for regular business.

**(h) Other uses of new hire information**

**(1) Location of child support obligors**

The agency administering the State plan approved under this part shall use information received pursuant to subsection (f)(2) of this section to locate individuals for purposes of establishing paternity and establishing, modifying, and enforcing child support obligations, and may disclose such information to any agent of the agency that is under contract with the agency to carry out such purposes.

**(2) Verification of eligibility for certain programs**

A State agency responsible for administering a program specified in section 1320b-7 (b) of this title shall have access to information reported by employers pursuant to subsection (b) of this section for purposes of verifying eligibility for the program.

**(3) Administration of employment security and workers' compensation**

State agencies operating employment security and workers' compensation programs shall have access to information reported by employers pursuant to subsection (b) of this section for the purposes of administering such programs.

(Aug. 14, 1935, ch. 531, title IV, § 453A, as added Pub. L. 104-193, title III, § 313(b), Aug. 22, 1996, 110 Stat. 2209; amended Pub. L. 105-33, title V, § 5533, Aug. 5, 1997, 111 Stat. 627.)

## References in Text

The Internal Revenue Code of 1986, referred to in subsecs. (a)(2), (b)(1)(A), and (f)(2), is classified generally to Title 26, Internal Revenue Code.

## Amendments

1997—Subsec. (d). Pub. L. 105-33, § 5533(1), substituted "shall not exceed" for "shall be less than" in introductory provisions and "\$25 per failure to meet the requirements of this section with respect to a newly hired employee" for "\$25" in par. (1).

Subsec. (g)(2)(B). Pub. L. 105-33, § 5533(2), substituted "information" for "extracts of the reports required under section 503 (a)(6) of this title to be made to the Secretary of Labor".

*NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscpri.html>).*

**Effective Date of 1997 Amendment**

Amendment by Pub. L. 105–33 effective as if included in the enactment of title III of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193, see section 5557 of Pub. L. 105–33, set out as a note under section 608 of this title.

**Effective Date**

For effective date of section, see section 395 (a)–(c) of Pub. L. 104–193, set out as an Effective Date of 1996 Amendment note under section 654 of this title.