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Tenn. Code Ann. § 50-7-701

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*** Current through the 2015 Regular Session and amendments approved at the November 4, 2014 General Election ***

Title 50 Employer And Employee
Chapter 7 Tennessee Employment Security Law
Part 7 Enforcement

Tenn. Code Ann. § 50-7-701 (2015)

50-7-701. Records and reports -- Evidence -- Privilege -- Cost.

(a) (1) Each employing unit shall keep true and accurate work records, for the periods of time and containing the information the commissioner prescribes. The records shall be open to inspection and be subject to being copied by the commissioner or the commissioner's authorized representative at any reasonable time and as often as necessary.

(A) The commissioner, the commissioner's designee or an unemployment hearing officer may require from a claimant all necessary information to process the claimant's claim and may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, that any of them deem necessary for the effective administration of this chapter.

(B) Information thus obtained pursuant to the administration of this chapter shall be held confidential and shall not be published or be open to public inspection in any manner revealing the individual's or the employing unit's identity, other than to:

(i) The extent necessary for the proper presentation of a claim for unemployment insurance benefits;

(ii) Public employees in the performance of their public duties and to their duly authorized agents and contractors for the purpose of performing such duties; provided, that the safeguard and security requirements of 20 CFR 603.9(b) and (c) are met;

(iii) State and local child support agencies for the enforcement, collection and establishment of child support obligations, for the location of child support obligors, and for the establishment of paternity. Information disclosed to the state and local child support agencies may be provided by them to their duly authorized agents, working under contract or otherwise; provided, that the information provided to the agents is limited to only information on individuals who are child support obligors or who are sought for establishing paternity, and the information is used only for the purposes of establishing and collecting child support obligations, locating child support obligors, and establishing paternity. Any agent of a state or local child support agency who receives information under this section shall be required to comply with all regulations, restrictions and safeguards provided in § 303(e)(1)(B) of the Social Security Act, codified in 42 U.S.C. § 503(e)(1)(B), as determined in regulations issued by the United States secretary of

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labor;

(iv) Any party or the party's legal representative at a hearing before an unemployment hearing officer or the commissioner's designee to the extent necessary for the proper presentation of a claim. Any documents, records, affidavits, testimony, or other information introduced into the record at any hearing before an unemployment hearing officer or the commissioner's designee shall not be held confidential and shall be open to public inspection, unless expressly prohibited by other state or federal law or by administrative or judicial protective order. Hearings before an unemployment hearing officer or the commissioner's designee will be open to the public, subject to rules the agency prescribed in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, and applicable federal law;

(v) The bureau of TennCare, the office of inspector general, and their duly authorized agents and contractors, for the sole purpose of investigating the eligibility of TennCare enrollees and applicants; provided, that the information disclosed to the agents shall only include TennCare enrollee and applicant information, and that the information shall be used only for the following purposes: verification of eligibility for TennCare, verification of TennCare enrollee access to health insurance other than through TennCare, and determination of whether the enrollee is being charged and is paying correct TennCare premium amounts. It is further provided that, before any agent or contractor may have access to the information, the agent or contractor shall execute an agreement with the bureau of TennCare or the office of inspector general, warranting that any information obtained as provided in this section shall remain confidential, shall not be disclosed by the agent or contractor to third parties or subcontractors, and that the agent or contractor shall limit the use to the purposes set forth in this section. The agreement shall further require that the contractor or agent return or destroy all confidential information received during the course of the contract or agency, and use appropriate safeguards to prevent use or disclosure other than as provided for by law and by the contract or agency agreement. Nothing in this subdivision (a)(1)(B)(v) shall be construed to prevent the office of inspector general from sharing the information with other public agencies, including law enforcement agencies, in the performance of the official duties of the office of inspector general and those agencies, as may be otherwise provided by law; or

(vi) To the individual or employing unit to whom the records relate, or to their agents with a written authorization from the individual or employing unit.

(C) Any employee or commissioner's designee or any employee of the commissioner or any public employee or contractor of a public employee in the performance of the public employee's or contractor's public duties or any employee, official or agent of a state or local child support agency, or employees of duly authorized agents of, or contractors with, the bureau of TennCare or the office of inspector general, who has received the information who violates this section commits a Class C misdemeanor.

(2) Information obtained by the division of employment security pursuant to the Social Security Act, § 1137, codified in 42 U.S.C. § 1320b-7, as added by § 2651 of the Deficit Reduction Act of 1984 (Pub. L. No. 98-369), shall be held confidential in accordance with subdivision (a)(1), § 1137(a)(5) of the Social Security Act, codified in 42 U.S.C. § 1320b-7(a)(5) and regulations described in § 1137(a)(5)(B) of the Social Security Act, codified in 42 U.S.C. § 1320b-7(a)(5)(B).

(b) Neither the commissioner, a commissioner's designee, nor any employee of the department shall be required by any process to appear in any court to give evidence as to the contents of any official record of the division maintained pursuant to this chapter, but the evidence of non-confidential records may be introduced by deposition of any of them, which must be taken in the office of the department where the record is filed. The evidence also may be taken by interrogatories propounded to any of them, or by affidavit executed by any of them. Any

subpoena or subpoena duces tecum issued contrary to this subsection (b) may be disregarded by any person or persons.

(c) All letters, reports, communications, or any other matters, either oral or written, from the employer or employee or former employee, to each other, or to the department, or to or by any of the agents, representatives or employees of any of them, which shall have been written, spoken, sent, delivered or made in connection with the requirements and administration of this chapter, shall be absolutely privileged, and shall not be made the subject matter or basis for any suit for libel or slander in any court.

(d) The cost of disclosure of information, other than for the proper administration of a claim, shall be paid by the requestor in accordance with 20 CFR 603.8(d).

HISTORY: Acts 1947, ch. 29, § 11; C. Supp. 1950, § 6901.11 (Williams, § 6901.35); Acts 1957, ch. 146, § 12; 1963, ch. 176, § 6; 1974, ch. 460, § 10; 1975, ch. 190, § 11; 1978, ch. 744, § 16; T.C.A. (orig. ed.), § 50-1339; Acts 1985, ch. 318, §§ 76, 77; 1985, ch. 323, § 6; 1989, ch. 591, § 113; 1997, ch. 104, § 5; 1999, ch. 520, § 41; 2003, ch. 191, §§ 5, 6; 2005, ch. 474, §§ 10, 11; 2008, ch. 728, §§ 1-5; 2010, ch. 1042, §§ 13-16.

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