

CHAPTER 152

AN ACT concerning international labor matching or matchmaking organizations and supplementing chapter 8 of Title 56 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.56:8-185 Definitions relative to international labor matching, matchmaking organizations.

1. As used in this act:

“Client” means a resident of this State for whom an international labor matching organization seeks to locate labor assistance from non-citizens residing outside the country or for whom an international matchmaking organization renders dating, matrimonial or social referral services involving citizens of a foreign country.

“Criminal history record background check” means a determination of whether a person has a criminal record by cross-referencing that person's name and fingerprints with those on file with the Federal Bureau of Investigation, Identification Division and the State Bureau of Identification in the Division of State Police.

“Director” means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

“Division” means the Division of Consumer Affairs in the Department of Law and Public Safety.

“International labor matching organization” means a corporation, partnership, sole proprietorship, or other entity that does business in the United States, whose primary purpose is to offer to State residents, opportunities to locate labor assistance from foreign recruits residing outside the country for the purpose of bringing the foreign recruit to the State.

“International matchmaking organization” means a corporation, partnership, sole proprietorship, or other entity that does business in the United States and whose primary purpose is offering, including to State residents, dating, matrimonial, or social referral services involving citizens of a foreign country or countries who are not residing in the United States, such as (1) an exchange of names, telephone numbers, addresses, or statistics; (2) a selection of photographs; or (3) a social environment in a country other than the United States. The term shall not include an on-line personal services organization.

“On-line personal services organization” means a corporation, partnership, sole proprietorship, or other entity that does business in the United States and for profit provides an on-line forum for persons to post personal profiles as a means of self-referral for dating, matrimonial, or other social purpose.

“Recruit” means a noncitizen, nonresident person that is recruited by an international labor matching organization for the purpose of bringing the laborer to the State or by an international matchmaking organization for the purpose of providing dating, matrimonial or social referral services.

C.56:8-186 Criminal history record background checks condition for employment.

2. a. The division shall initiate criminal history record background checks of present and prospective owners and employees of an international labor matching organization or an international matchmaking organization.

b. No person shall own or be employed by an international labor matching organization or an international matchmaking organization unless the division certifies that the person has no criminal history record of a conviction for an offense enumerated in subsection d. of this section.

c. No international labor matching organization or international matchmaking organization shall employ a person who has not been certified pursuant to subsection b. of this section.

d. A person subject to subsection b. of this section whose criminal history record background check reveals a conviction for any of the following crimes and offenses shall be disqualified from owning or being employed by an international labor matching organization or an international matchmaking organization:

(1) If the conviction was in New Jersey for a crime:

(a) involving danger to the person, meaning those crimes and disorderly persons offenses set forth in N.J.S.2C:11-1 et seq., N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq. or N.J.S.2C:15-1 et seq.; or

(b) against the family, children or incompetents, meaning those crimes and disorderly persons offenses set forth in N.J.S.2C:24-1 et seq. or the "Prevention of Domestic Violence Act," P.L.2C:25-17 et seq.; or

(c) involving theft as set forth in chapter 20 of Title 2C of the New Jersey Statutes; or

(d) involving any controlled dangerous substance or analog as set forth in chapter 35 of Title 2C of the New Jersey Statutes except paragraph (4) of subsection a. of N.J.S.2C:35-10; or

(e) involving terrorism as set forth in the "September 11th, 2001 Anti-Terrorism Act," P.L.2002, c.26 (C.2C:38-1 et seq.); or

(f) involving prostitution and related offenses as set forth in N.J.S.2C:34-1.

(2) If the conviction was in any other state or jurisdiction for conduct constituting any of the crimes described in paragraph (1) of this subsection.

C.56:8-187 Certification as qualified to own enterprise.

3. a. Every owner or prospective owner of an international labor matching organization or an international matchmaking organization shall apply to the director to be certified as qualified to own the enterprise.

b. Every owner of an international labor matching organization or an international matchmaking organization shall apply to the director to have certified as qualified any person who will be employed by the enterprise.

c. The owner of an international labor matching organization or an international matchmaking organization shall apply to the director, within 90 days of the effective date of this act, for the certifications of persons employed by the enterprise on the effective date. These persons shall be permitted to continue their employment pending the completion of the certification process.

d. An application for certification shall be accompanied by the fee required to perform a criminal history record background check.

e. The international labor matching organization or international matchmaking organization shall retain a copy of the certification of persons subject to certification under this act. The certifications shall be made available upon request to interested members of the public.

C.56:8-188 Authorization for receipt of criminal history record information.

4. a. The director is authorized to receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations. The

applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check.

b. The Division of State Police in the Department of Law and Public Safety, upon the request of the director, shall conduct a criminal history record background check requested by the director in accordance with the provisions of this act. The check shall be performed only upon certification by the director that the person has submitted to the director the person's name, address, fingerprints and written consent for a criminal history record background check to be performed.

For the purpose of conducting the criminal history record background check, the State Police shall examine its own files and arrange for a similar examination of federal criminal records. The information obtained as a result of any such check shall be forwarded to the director.

C.56:8-189 Written consent for criminal history record background check.

5. a. The division shall not initiate a criminal history record background check pursuant to this act without the written consent of the person. The consent required under this section shall be in a manner and form prescribed by the director and shall include, but not be limited to, the signature, name, address and fingerprints of the person.

b. Upon receiving the results of a criminal history record background check, the director shall promptly notify any person who has not been convicted of a disqualifying offense. Along with that notice, the director shall forward a certification stating that the person has been subjected to a criminal history record background check and that the check has not revealed any record that the person has been convicted of a disqualifying offense. The certificate shall be in a form and contain any additional information as the director may prescribe by rule and regulation.

c. The director shall promptly notify a person whose criminal history record background check reveals a disqualifying criminal conviction of the results of the background check. The person shall have 30 days from the receipt of that notice to petition the director for a review and cite reasons substantiating the review. If the person successfully challenges the accuracy of the criminal history record information indicating a criminal conviction or the person demonstrates affirmatively to the director clear and convincing evidence of rehabilitation, the director may issue a certificate indicating that the person has successfully cleared a background check.

In determining whether the rehabilitation of a person has been affirmatively demonstrated, the director shall consider:

- (1) The nature and seriousness of the offense;
- (2) The circumstances under which the offense occurred;
- (3) The date of the offense;
- (4) The age of the person when the offense was committed;
- (5) Whether the offense was repeated;
- (6) Social conditions which may have contributed to the offense; and
- (7) Any evidence of rehabilitation, including good conduct in the community; counseling, psychological or psychiatric treatment; additional academic or vocational training; or personal recommendations.

d. The director shall not certify a person subject to the provisions of this act who refuses to consent to, or cooperate in, the securing of a criminal history record background check.

C.56:8-190 Information provided to recruits of international matchmaking organization.

6. An international matchmaking organization conducting business in this State shall provide all recruits with the telephone numbers for the Statewide Domestic Violence Hotline and the National Domestic Violence Hotline and shall provide recruits with basic information concerning domestic violence. This may include information on what is considered domestic violence, statistics concerning domestic violence, legal rights of persons in abusive relationships and suggestions about what to do in the event of domestic violence.

C.56:8-191 Public education program.

7. The division shall develop and undertake a public education program designed to inform the citizens of this State of the provisions of this act. A component of this program shall be the establishment and maintenance of a file of certifications granted by the director in accordance with the provisions of this act. The certifications shall be made available to interested members of the public upon request. The program also shall publicize those international labor matching organizations and international matchmaking organizations which are in compliance with the provisions of this act.

C.56:8-192 Registration, fee.

8. The division may require an international labor matching organization or an international matchmaking organization operating in this State to register with the division and to pay an annual registration fee sufficient to defray the cost of administering this act.

C.56:8-193 Criminal history, provision required before information provided to recruit.

9. a. Upon receipt of a request for information from a recruit, an international labor matching organization or an international matchmaking organization shall refrain from providing any further services to the recruit or the client with regard to facilitating future interaction between the recruit and the client until the client has submitted to the organization the complete transcript of any criminal history record obtained from the State Bureau of Identification in the Division of State Police consistent with applicable State and Federal laws, rules and regulations. The client shall bear the cost for the criminal history record background check, including all costs of administering and processing the check.

b. The Division of State Police shall promptly notify the director if the person who was the subject of a criminal history record background check pursuant to subsection a. of section 2 of this act is convicted of a disqualifying crime or offense in this State after the date the background check was performed.

C.56:8-194 Violations.

10. It is a violation of P.L.1960, c.39 (C.56:8-1 et seq.) to violate a provision of this act.

C.56:8-195 Rules, regulations.

11. The director, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall promulgate and enforce rules and regulations to effectuate the purposes of this act.

12. This act shall take effect on the first day of the thirteenth month after enactment.

Approved November 20, 2009.