

ACT NO. 8793

BILL NO. 35-0086

THIRTY-FIFTH LEGISLATURE OF THE VIRGIN ISLANDS

Regular Session

2023

An Act amending title 3 Virgin Islands Code, chapter 1, section 10h to require background checks for all information technology personnel and employees of the Bureau of Information Technology, agencies that have data centers, and any employee who handles classified information

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Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Title 3 Virgin Islands Code, chapter 1, section 10h is amended by adding subsections (e) and (f) to read as follows:

“(e)(1) The Bureau of Information Technology and each territorial agency, department or independent instrumentality that uses, receives, or provides data processing services, shall conduct a confidential clearance on applicants approved for employment, including contractors at the Bureau, information technology (IT) personnel, and any employees of the referenced departments and independent instrumentalities who handle classified information. The Human Resources divisions of the three branches of government and all governmental instrumentalities shall conduct background checks with the assistance of territorial law enforcement agencies and other certified reputable agencies that provide criminal background checks. Information obtained through background and credit report checks is for governmental purposes only and must be kept confidential.

(2) When the Bureau of Information Technology, a territorial agency, department, or independent instrumentality contracts with any federal agency or receives any federal funding, adherence with the Privacy Act of 1974 (5 USCS § 552a., *as amended*), is required.

(f) As used in this section, “classified information” means any information or data that is internal-only to an agency, confidential in nature, or restricted from public access.

SECTION 2. Title 3 Virgin Islands Code, section 452 is amended by adding a subsection (e) to read as follows:

“(e)(1) The Human Resources divisions of the three branches of government and all governmental instrumentalities when hiring personnel shall conduct either a non-sensitive clearance or a confidential clearance. The non-sensitive clearance applies to all applicants and must include a local police record paid for by the applicant or a police record from the previous place of abode if living outside of the Virgin Islands for the last seven years before the date of application For Bureau of Information Technology applicants, information technology (IT) personnel in agencies with data centers, and other positions handling classified information, a confidential clearance check must be conducted once the applicant has been selected for the job and provided with an offer. The confidential clearance includes a local and federal criminal background check and credit report check performed by a certified, reputable agency that provides such background checks.

(2) The application process for applicants for employment must be conducted in the following manner:


- (A) – The applicant applies for a position;
- (B) – The application is reviewed by the Division of Personnel;
- (C) – The application is sent to the hiring manager;
- (D) – The selection and tentative offer are made; and
- (E) – The non-sensitive clearance checks are conducted for all applicants.

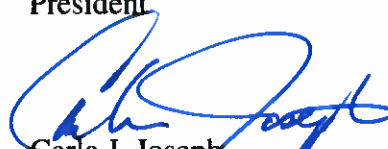
(3) As used in paragraph (1), a non-sensitive clearance means a background check that consists of a local police record or a police record from the locale where the applicant lived for the last seven years prior to living in the Virgin Islands. A confidential clearance means a full background investigation that includes a local and federal criminal investigation and credit report check and applies only to employees of the Bureau of Information Technology, IT personnel of all government agencies, departments, and instrumentalities, and individuals who as contractors with these entities to handle classified information.

Thus passed by the Legislature of the Virgin Islands on December 19, 2023.

Witness our Hands and Seal of the Legislature of the Virgin Islands this 9th day of January, A.D., 2024.




Novelle E. Francis, Jr.
President


Carla J. Joseph
Secretary



Bill No. 35-0086 is hereby approved.

**Witness my hand and the Seal of the Government of
the United States Virgin Islands at Charlotte Amalie,
St. Thomas, this 26th day of January 2024 A.D.**


**Albert Bryan Jr.
Governor**