

COMMITTEE ON DISASTER RECOVERY, INFRASTRUCTURE
AND PLANNING

12/7/2023-AMENDED AND REPORTED OUT TO THE FLOOR

11/09/2023-AMENDED AND REPORTED OUT TO THE COMMITTEE ON RULES AND JUDICIARY

10/10/2023-HELD IN COMMITTEE

06/02/2023-REASSIGNED TO THE COMMITTEE ON HOMELAND SECURITY, JUSTICE AND
PUBLIC SAFETY

BILL NO. 35-0086

Thirty-Fifth Legislature of the Virgin Islands

May 31, 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

PROPOSED BY: Senators Dwayne M. DeGraff and Angel L. Bolques, Jr.

1 *Be it enacted by the Legislature of the Virgin Islands:*

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

4 “(e)(1) The Bureau of Information Technology and each territorial agency,
5 department or independent instrumentality that uses, receives, or provides data
6 processing services, shall conduct a confidential clearance on applicants approved for
7 employment, including contractors at the Bureau, information technology (IT) personnel,
8 and any employees of the referenced departments and independent instrumentalities who
9 handle classified information. The Human Resources divisions of the three branches of
10 government and all governmental instrumentalities shall conduct background checks with
11 the assistance of territorial law enforcement agencies and other certified reputable

1 agencies that provide criminal background checks. Information obtained through
2 background and credit report checks is for governmental purposes only and must be kept
3 confidential.

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

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

11 **SECTION 2.** Title 3 Virgin Islands Code, section 452 is amended by adding a subsection

12 (e) to read as follows:

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

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

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

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

15 **BILL SUMMARY**

16 This bill amends title 3 Virgin Islands Code, chapter 1, section 10h to require background
17 checks be conducted with the assistance of the National Crime Center and territorial law
18 enforcement agencies for all information technology personnel and employees of the Bureau
19 of Information Technology, agencies that have data centers, and any employee who handles
20 classified information.

21 **BR23-0124/April 24, 2023/NS**

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