

Legislative Analysis



JOB APPLICANT PRIVACY ACT

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<http://www.house.mi.gov/hfa>

House Bill 4240 as introduced
Sponsor: Rep. Helena Scott
Committee: Insurance and Financial Services
Complete to 6-19-23

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4240 would create the Job Applicant Privacy Act, which would prohibit employers from asking about or refusing to hire an applicant based on their credit history. The bill would provide exceptions to this prohibition and provide an avenue for relief for an individual injured by a violation of the act.

The bill would prohibit an *employer* from inquiring about a job applicant's or potential job applicant's *credit history* or failing or refusing to hire an individual because of their credit history. These prohibitions would not apply if a good credit history is an established bona fide occupational requirement of a particular position or employment classification. The bill would specify that this exemption applies to an employee of any of the following:

- A state or nationally chartered bank or bank holding company, or its affiliate or subsidiary.
- A state or federally chartered savings and loan, savings bank, or credit union, or its affiliate or subsidiary.
- A person licensed under Article 7 (Public Accounting) of the Occupational Code.¹
- A casino

Employer would mean an individual or entity, or an agent of an individual or entity, that allows one or more individuals to work or accepts applications for employment.

Credit history would mean information that is generally used in evaluating an individual's creditworthiness, credit standing, or credit capacity, such as a debt payment record or a credit score compiled by a consumer credit agency.

The bill would also prohibit retaliation or discrimination against an individual because they have done or were about to do any of the following:

- Testify, assist, or participate in an investigation, proceeding, or action concerning a violation of the bill.
- Oppose a violation of the bill.

An employer could not require an individual to waive or limit any protection granted by the bill as a condition of applying for or receiving an offer of employment. An agreement to waive any of these rights or protections would be void and unenforceable.

An individual who is injured by a violation of the bill could bring a civil action to obtain damages, injunctive relief, or both. If an individual prevailed as a plaintiff in an action

¹ <http://legislature.mi.gov/doc.aspx?mcl-299-1980-7>

authorized under the bill, the court would have to award them costs and reasonable attorney fees.

FISCAL IMPACT:

The bill would allow an individual injured by a violation to bring a civil action for appropriate injunctive relief or damages, or both. The fiscal impact on local court systems would depend on how provisions of the bill affected court caseloads and related administrative costs.

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