

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

# HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that House Bill 1001 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 22-5-7 IS ADDED TO THE INDIANA CODE AS
- 4 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
- 5 1, 2012]:
- 6 **Chapter 7. Prohibition Concerning the Use of Credit Reports**
- 7 **for Employes**
- 8 **Sec. 1. As used in this chapter, "credit report" means a written,**
- 9 **oral, or other communication of information by a consumer**
- 10 **reporting agency concerning the:**
- 11 **(1) creditworthiness;**
- 12 **(2) credit standing; or**
- 13 **(3) credit capacity;**
- 14 **of a consumer.**
- 15 **Sec. 2. As used in this chapter, "IEDC" refers to the Indiana**
- 16 **economic development corporation established by IC 5-28-3-1.**
- 17 **Sec. 3. As used in this chapter, "trade secret" has the meaning**
- 18 **set forth in IC 24-2-3-2.**
- 19 **Sec. 4. (a) Except as provided in subsection (b), an employer**
- 20 **may not:**
- 21 **(1) use a credit report concerning a prospective employee of**
- 22 **the employer in determining whether to hire the prospective**
- 23 **employee; or**
- 24 **(2) use a credit report concerning an employee of the**

1           employer in determining whether to continue employing the  
2           employee.

3           **(b) An employer may use a credit report for employment**  
4           **purposes described in subsection (a) if:**

5           **(1) the information contained in the credit report is**  
6           **substantially job related in that the employment position or**  
7           **prospective employment position of the individual for whom**  
8           **the report is sought has access to:**

9           **(A) money;**

10          **(B) other assets; or**

11          **(C) trade secrets or other confidential information; or**

12          **(2) the employment position of the individual for whom the**  
13          **report is sought is:**

14          **(A) a managerial position;**

15          **(B) a position in the office of the attorney general created**  
16          **by IC 4-6-1-2;**

17          **(C) a sworn law enforcement position; or**

18          **(D) a position for which the law requires the information**  
19          **contained in the report to be disclosed or to be obtained by**  
20          **the employer.**

21          **(c) This section does not apply to a person or business subject**  
22          **to:**

23          **(1) Sections 6801 through 6809 of the Fair Credit Reporting**  
24          **Act (15 U.S.C. 1681 et seq.); or**

25          **(2) state or federal statutes or regulations implementing the**  
26          **provisions in subdivision (1);**

27          **if the person or business is subject to compliance oversight by a**  
28          **state or federal regulatory agency with respect to the provisions in**  
29          **subdivision (1).**

30          **Sec. 5. (a) An employee or prospective employee may bring a**  
31          **civil action against an employer to enforce section 4 of this chapter.**

32          **(b) If an employer is found in an action brought under**  
33          **subsection (a) to have violated section 4 of this chapter, the court**  
34          **may do the following:**

35          **(1) Award:**

36          **(A) actual damages; and**

37          **(B) court costs and reasonable attorney's fees;**

38          **to the prevailing employee or prospective employee.**

39          **(2) Enjoin the employer from committing further violations**  
40          **of section 4 of this chapter.**

41          **(c) If a court, in an action brought under subsection (a), enters**  
42          **judgment for the employee or prospective employee, finding that**  
43          **the employer has violated section 4 of this chapter, the court shall**  
44          **recommend to the IEDC that the employer not be eligible for**  
45          **participation in a program or for assistance administered by the**  
46          **IEDC for two (2) years after the date of judgment. However, the**  
47          **IEDC may allow the employer to participate in a program or**

1 receive assistance earlier than two (2) years after the date of  
2 judgment if:

3 (1) the employer presents a corrective action plan to the  
4 IEDC; and

5 (2) the IEDC finds that the plan ensures compliance by the  
6 employer with section 4 of this chapter.

7 **Sec. 6. This chapter does not limit an employee's or prospective  
8 employee's rights or remedies under any other state or federal law.**

9 SECTION 2. IC 22-5-8 IS ADDED TO THE INDIANA CODE AS  
10 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
11 1, 2012]:

12 **Chapter 8. Prohibition Concerning the Consideration of  
13 Employment Status for Employment Applicants**

14 **Sec. 1. As used in this chapter, "IEDC" refers to the Indiana  
15 economic development corporation established by IC 5-28-3-1.**

16 **Sec. 2. An employer shall not discriminate against an applicant  
17 or prospective applicant for employment based on the current  
18 employment status of the applicant or prospective applicant.**

19 **Sec. 3. (a) An applicant or prospective applicant for employment  
20 may bring a civil action against an employer to enforce section 2 of  
21 this chapter.**

22 **(b) If an employer is found in an action brought under  
23 subsection (a) to have violated section 2 of this chapter, the court  
24 may do the following:**

25 **(1) Award:**

26 **(A) actual damages; and**

27 **(B) court costs and reasonable attorney's fees;**

28 **to the prevailing applicant or prospective applicant for  
29 employment.**

30 **(2) Enjoin the employer from committing further violations  
31 of section 2 of this chapter.**

32 **(c) If a court, in an action brought under subsection (a), enters  
33 judgment for the applicant or prospective applicant for  
34 employment, finding that the employer has violated section 2 of  
35 this chapter, the court shall recommend to the IEDC that the  
36 employer not be eligible for participation in a program or for  
37 assistance administered by the IEDC for two (2) years after the  
38 date of judgment. However, the IEDC may allow the employer to  
39 participate in a program or assistance earlier than two (2) years  
40 after the date of judgment if:**

41 **(1) the employer presents a corrective action plan to the  
42 IEDC; and**

43 **(2) the IEDC finds that the plan ensures compliance by the  
44 employer with section 2 of this chapter.**

45 **Sec. 4. This chapter does not limit the rights or remedies of an  
46 applicant or prospective applicant for employment under any  
47 other state or federal law."**

- 1 Page 1, line 4, delete "Right to Work" and insert "**Labor**
- 2 **Organization Membership**".
- 3 Page 2, delete lines 41 through 42, begin a new paragraph and
- 4 insert:
- 5 "**Sec. 7. A person may not require an individual to become or**
- 6 **remain a member of a labor organization.**
- 7 **Sec. 8. Nothing in this chapter shall be construed to prohibit**
- 8 **collective bargaining agreements that require the payment of**
- 9 **representation fees.**".
- 10 Delete page 3.
- 11 Page 4, delete lines 1 through 4.
- 12 Renumber all SECTIONS consecutively.  
(Reference is to HB 1001 as printed January 12, 2012.)

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Representative Pelath