

SENATE BILL No. 261

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-5-7.

Synopsis: Use of credit reports for employment purposes. Prohibits an employer from using a credit report in the process of hiring a prospective employee or in determining whether to continue the employment of an employee. Provides that an employee or prospective employee may bring a civil action against an employer for violating this prohibition. Provides for an award of actual damages, court costs, and attorney's fees to an aggrieved individual, along with an injunction against the employer's further use of credit reports in violation of the prohibition.

Effective: July 1, 2012.

**Taylor, Simpson, Arnold, Breaux,
Broden, Hume, Lanane, Mrvan,
Randolph, Rogers, Skinner, Tallian,
Young R**

January 4, 2012, read first time and referred to Committee on Pensions and Labor.

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Second Regular Session 117th General Assembly (2012)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

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SENATE BILL No. 261



A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 22-5-7 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2012]:

4 **Chapter 7. Prohibition Concerning the Use of Credit Reports**
5 **for Employment Purposes**

6 **Sec. 1. As used in this chapter, "credit report" means a written,**
7 **oral, or other communication of information by a consumer**
8 **reporting agency concerning the:**

- 9 (1) creditworthiness;
- 10 (2) credit standing; or
- 11 (3) credit capacity;

12 **of a consumer.**

13 **Sec. 2. As used in this chapter, "trade secret" has the meaning**
14 **set forth in IC 24-2-3-2.**

15 **Sec. 3. (a) Except as provided in subsection (b), an employer**
16 **shall not use a credit report:**

- 17 (1) in the process of hiring a prospective employee; or



- 1 (2) in determining whether to continue the employment of an
2 employee.
- 3 (b) An employer may use a credit report for employment
4 purposes 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 credit 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 a:
- 14 (A) managerial position;
15 (B) position in the office of the attorney general created by
16 IC 4-6-1-2;
17 (C) sworn law enforcement position; or
18 (D) position for which the information contained in the
19 report is required to be disclosed by law or to be obtained
20 by 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 Sections referred to 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 Sections
29 referred to in subdivision (1).
- 30 Sec. 4. (a) An employee or prospective employee may bring a
31 civil action against an employer to enforce section 3 of this chapter.
- 32 (b) In an action brought under subsection (a) in which an
33 employer is found to have violated section 3 of this chapter, the
34 court 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 3 of this chapter.
- 41 Sec. 5. This chapter does not limit an employee's or prospective
42 employee's rights or remedies under any other state or federal law.

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