

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

HOUSE BILL 1065

By: Talley

AS INTRODUCED

An Act relating to definitions and general provisions; amending 25 O.S. 2021, Sections 1302 and 1350, which relate to discrimination in employment; adding criminal history to discriminatory practices; providing for indemnification; amending 24 O.S. 2021, Section 148, which relates to the Credit Services Organization Act; requiring compliance with federal law; making certain information confidential; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 25 O.S. 2021, Section 1302, is amended to read as follows:

Section 1302. A. It is a discriminatory practice for an employer:

1. To fail or refuse to hire, to discharge, or otherwise to discriminate against an individual with respect to compensation or the terms, conditions, privileges or responsibilities of employment, because of race, color, religion, sex, national origin, age, genetic information, prior criminal history, or disability, unless the employer can demonstrate that accommodation for the disability would

1 impose an undue hardship on the operation of the business of such
2 employer or that the prior criminal history directly bears upon the
3 performance of the job responsibilities in a way that demonstrably
4 and reasonably endangers co-workers, the business, or the general
5 public; or

6 2. To limit, segregate, or classify an employee or applicant
7 for employment in a way which would deprive or tend to deprive an
8 individual of employment opportunities or otherwise adversely affect
9 the status of an employee, because of race, color, religion, sex,
10 national origin, age, genetic information, prior criminal history,
11 or disability, unless the employer can demonstrate that
12 accommodation for the disability would impose an undue hardship on
13 the operation of the business of such employer or that the prior
14 criminal history directly bears upon the performance of the job
15 responsibilities in a way that demonstrably and reasonably endangers
16 co-workers, the business, or the general public.

17 B. This section does not apply to the employment of an
18 individual by his or her parents, spouse, or child or to employment
19 in the domestic service of the employer.

20 SECTION 2. AMENDATORY 25 O.S. 2021, Section 1350, is
21 amended to read as follows:

22 Section 1350. A. A cause of action for employment-based
23 discrimination is hereby created and any common law remedies are
24 hereby abolished.

1 B. In order to have standing in a court of law to allege
2 discrimination arising from an employment-related matter, in a cause
3 of action against an employer for discrimination based on race,
4 color, religion, sex, national origin, age, prior criminal history,
5 disability, genetic information with respect to the employee, or
6 retaliation, an aggrieved party must, within one hundred eighty
7 (180) days from the last date of alleged discrimination, file a
8 charge of discrimination in employment with the Attorney General's
9 Office of Civil Rights Enforcement or the Equal Employment
10 Opportunity Commission alleging the basis of discrimination believed
11 to have been perpetrated on the aggrieved party. Upon completion of
12 any investigation, the Attorney General's Office of Civil Rights
13 Enforcement may transmit the results of any administrative hearing
14 and determination to the Equal Employment Opportunity Commission or
15 issue the complaining party a Notice of a Right to Sue.

16 C. Should a charge of discrimination be filed with the Attorney
17 General's Office of Civil Rights Enforcement and not be resolved to
18 the satisfaction of the charging party within one hundred eighty
19 (180) days from the date of filing of such charge, the Attorney
20 General's Office of Civil Rights Enforcement, upon request of any
21 party shall issue a Notice of a Right to Sue, which must be first
22 obtained in order to commence a civil action under this section.

23 D. All civil actions brought pursuant to a Notice of a Right to
24 Sue from the Attorney General's Office of Civil Rights Enforcement

1 for redress against any person who is alleged to have discriminated
2 against the charging party and against any person named as
3 respondent in the charge shall be commenced in the district court of
4 this state for the county in which the unlawful employment practice
5 is alleged to have been committed.

6 E. Either party in any such action shall be entitled to a jury
7 trial of any facts in dispute in the action.

8 F. The defending party may allege any defense that is available
9 under Title VII of the Civil Rights Act of 1964, the Age
10 Discrimination in Employment Act, the Pregnancy Discrimination Act,
11 the Rehabilitation Act, the Americans with Disabilities Act, or the
12 Genetic Information Nondiscrimination Act.

13 G. If it is determined in such action that the defendant or
14 defendants in such action have discriminated against the charging
15 party as charged in the petition, the court may enjoin the defendant
16 or defendants from engaging in such unlawful employment practice
17 charged in the petition, the court may enjoin respondent from
18 engaging in such unlawful practice and order such affirmative action
19 as reinstatement or hiring of employees. A prevailing aggrieved
20 party shall also be entitled to backpay and an additional amount as
21 liquidated damages. Interim earnings or amounts earnable with
22 reasonable diligence by the person discriminated against shall
23 operate to reduce the backpay otherwise allowable. If an individual
24 was refused employment or advancement, was suspended and/or was

1 discharged for legitimate reasons other than discrimination as
2 provided by this act, then no order of the court shall require the
3 hiring, reinstatement or promotion of that individual as an
4 employee, nor shall it order payment of any backpay.

5 H. In any action or proceeding under this section, the court
6 may allow a prevailing plaintiff or defendant a reasonable attorney
7 fee.

8 I. No action may be filed in district court as provided in this
9 section more than ninety (90) days after receiving a Notice of a
10 Right to Sue from the Attorney General's Office of Civil Rights
11 Enforcement.

12 J. Any employer who makes an employment hire under the
13 provisions of this statute shall be indemnified from civil liability
14 for causes of action directly stemming from said hire unless it can
15 be shown the employer in some way acted with reckless disregard for
16 public or personal safety while in some direct violation of this
17 act.

18 SECTION 3. AMENDATORY 24 O.S. 2021, Section 148, is
19 amended to read as follows:

20 Section 148. A. Prior to requesting a consumer report for
21 employment purposes, the requestor or user of the consumer report
22 shall provide written notice to the person who is the subject of the
23 consumer report. The notice shall inform the consumer that a
24 consumer report will be used and the notice shall contain a box that

1 the consumer may check to receive a copy of the consumer report. If
2 the consumer requests a copy of the report, the user of the consumer
3 report shall request that a copy be provided to the consumer when
4 the user of the consumer report requests its copy from the credit
5 reporting agency. The report sent to the consumer shall be provided
6 at no charge to the consumer. As used in this section, "consumer
7 report" shall have the same meaning as that term is defined in the
8 federal Fair Credit Reporting Act, 15 U.S.C., Sections 1681 et seq.

9 B. Consumer background reports as defined by 15 U.S.C., Section
10 1681 et seq., including criminal history background reports,
11 provided for any purpose other than law enforcement investigation or
12 a pending judicial proceeding provided by any consumer reporting
13 agency as defined by 15 U.S.C., Section 1681 et seq., including
14 state agencies and political subdivisions, shall comply with the
15 provisions of 15 U.S.C., Section 1681 et seq., except in cases where
16 an applicant is seeking employment in any care or educational type
17 facility.

18 C. Prohibitions on disclosure of certain background information
19 and criminal history information as provided by 15 U.S.C., Section
20 1681 et seq. shall be considered a confidential privilege under the
21 Oklahoma Open Records Act.

22 D. No person shall be held liable for any violation of this
23 section if such person shows by a preponderance of the evidence
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1 that, at the time of the alleged violation, such person maintained
2 reasonable procedures to assure compliance with this section.

3 SECTION 4. This act shall become effective November 1, 2023.
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