

Ohio House Proposes Hurdles To Hiring Process

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The Ohio House has proposed a bill designed to protect the privacy of employment applicants, but the bill also could making hiring more cumbersome for employers. House Bill 187 provides that no employer may request an applicant's Social Security number, date of birth, or driver's license number before making an offer of employment. This language is problematic for employers, because these are pieces of information an employer uses to check criminal records, driving history, credit history, and history of previous employment with the company. While the bill has a carve-out stating that an employer may obtain information for these background check purposes, but the carve-out is unrealistic because it forbids employers from providing the information to third parties, and many companies outsource these background checks to third-party vendors. If the bill becomes law, employers will have to conduct their own background checks or wait until after an offer has been extended to conduct background checks through third parties, thus slowing the hiring process and creating more situations in which employment offers must be revoked. The bill also requires employers to destroy all information collected about an applicant within two years of it being provided, whether the applicant is hired or not. This too is problematic for employers. Ohio's discrimination law has a six-year statute of limitations, and if this bill becomes law, then an unsuccessful applicant could sue a business five years after not receiving an offer and the employer would have no records of the application, because they would have been destroyed. Even if an applicant is hired, these records are often useful in future employment litigation, such as cases in which an employee is terminated because he or she was found to have lied on a job application or in a resume. In addition, the bill gives aggrieved individuals the right to file a civil action for actual damages, creating another path to the courtroom for employees and applicants. The bill currently is in the House Community and Family Advancement Committee. It is unclear at this point whether the bill will advance out of the House, but we will continue to provide relevant updates.

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