

# HOUSE BILL NO. 5830

February 23, 2022, Introduced by Reps. Thanedar, Weiss, Brenda Carter, Sabo, Clemente, Coleman, Haadsma, Hope, Stone, Neeley, Brabec, Sowerby, Garza, Liberati, O'Neal, Pohutsky, Steckloff, Cavanagh, Rabhi, Cherry, Steenland, Tyrone Carter, Manoogian, Cynthia Johnson, Bolden, Kuppa, Rogers, Ellison, Peterson, Aiyash, Scott, Koleszar, Young, Shannon, Hood, Tate, Morse, Hertel, Brixie, Jones and Whitsett and referred to the Committee on Commerce and Tourism.

A bill to prohibit employers from making employment decisions based on certain conduct that is unrelated to employment; and to provide remedies.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1           Sec. 1. This act shall be known and may be cited as the
- 2 "employee privacy protection act".
- 3           Sec. 3. As used in this act:
- 4           (a) "Employee" means an individual who receives compensation
- 5 for performing services for an employer under an express or implied

1 contract of hire.

2 (b) "Employer" means an individual or entity that permits 1 or  
3 more individuals to work, that accepts applications for employment,  
4 or that is an agent of an employer.

5 Sec. 5. (1) Subject to subsection (2), and except as otherwise  
6 allowed under law, an employer shall not discharge, fail or refuse  
7 to hire or recruit, or otherwise discriminate against an individual  
8 with respect to employment, compensation, or a term, condition, or  
9 privilege of employment because the individual engages in, or is  
10 regarded as engaging in, an activity that is lawful under state law  
11 and that is off the employer's premises and during nonwork hours.

12 (2) The prohibition in subsection (1) does not apply to any of  
13 the following activities:

14 (a) An activity that directly impairs an established bona fide  
15 occupational requirement or an employment activity or  
16 responsibility of a particular employee or a particular group of  
17 employees.

18 (b) An activity that creates a substantial conflict of  
19 interest with the core mission of the employer or violates a  
20 written bona fide conflict of interest policy that has been  
21 disseminated to employees.

22 (c) An activity that involves use of property that the  
23 employer owns or leases in violation of an established company  
24 policy.

25 (d) An activity that is addressed under state or federal law,  
26 regulation, or rule regulating the particular type of employment,  
27 if the employee's action is not in accord with the law, regulation,  
28 or rule.

29 (e) An activity that occurs during an employee's rest or meal

1 period that impairs the employee's ability to perform an  
2 established bona fide occupational requirement or an employment  
3 activity or responsibility.

4 Sec. 7. A person shall not retaliate or discriminate against a  
5 person because the person has done or was about to do any of the  
6 following:

7 (a) Testify, assist, or participate in an investigation,  
8 proceeding, or action concerning a violation of this act.

9 (b) Oppose a violation of this act.

10 Sec. 9. An employer shall not require an individual to waive  
11 any right under this act. An agreement by an individual to waive  
12 any right under this act is invalid and unenforceable.

13 Sec. 11. (1) A person who is injured by a violation of this  
14 act may bring a civil action to obtain injunctive relief and  
15 damages.

16 (2) The court shall award costs and reasonable attorney fees  
17 to a person who prevails as a plaintiff in an action authorized  
18 under subsection (1).

19 Sec. 13. This act applies to a collective bargaining agreement  
20 or employment agreement entered into, renewed, or extended on or  
21 after the effective date of this act.