

SENATE BILL NO. 908

February 24, 2022, Introduced by Senators BULLOCK, ALEXANDER, HOLLIER, HERTEL, GEISS, BAYER, CHANG, MOSS, MCMORROW, POLEHANKI, BRINKS, WOJNO, IRWIN and MCCANN and referred to the Committee on Government Operations.

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.