

As Introduced

**132nd General Assembly
Regular Session
2017-2018**

H. B. No. 187

Representative Dever

A BILL

To enact sections 4177.01, 4177.02, 4177.03, 1
4177.04, and 4177.05 of the Revised Code to 2
regulate the collection, use, and retention of 3
certain information obtained from an applicant 4
during the employee selection process. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4177.01, 4177.02, 4177.03, 6
4177.04, and 4177.05 of the Revised Code be enacted to read as 7
follows: 8

Sec. 4177.01. As used in this chapter: 9

(A) "Employee selection process" means the series of 10
decisions that results in an employer making an offer of 11
employment to an applicant and includes advertising a position, 12
reviewing applications, interviewing applicants, and selecting 13
an applicant to make an offer of employment. 14

(B) "Employer" means a person employing fifteen or more 15
employees within the state for each working day in each of 16
twenty or more calendar weeks in the current or preceding 17
calendar year. 18

(C) "Initial selection process" means the first decision 19
in the employee selection process in which the employer uses 20
information received in a record from an applicant to determine 21
whether the applicant will be considered for a second review for 22
the position for which the applicant is applying. 23

(D) "Record" has the same meaning as in section 1301.201 24
of the Revised Code. 25

Sec. 4177.02. (A) Except as provided in division (B) of 26
this section, no employer shall request the following 27
information from an applicant before making the applicant an 28
offer of employment: 29

(1) The applicant's social security number; 30

(2) The applicant's date of birth; 31

(3) The applicant's driver's license number. 32

(B) An employer may request the information listed in 33
division (A) of this section from an applicant before making the 34
applicant an offer of employment for either of the following 35
reasons: 36

(1) The employer requests the information to take one of 37
the following actions during the employee selection process: 38

(a) To obtain a criminal records check of an applicant; 39

(b) To obtain a credit history of an applicant, subject to 40
the requirements of the federal "Fair Credit Reporting Act," 15 41
U.S.C. 1681 et seq., as amended; 42

(c) To obtain a driving record of an applicant from the 43
bureau of motor vehicles; 44

(d) To conduct a review of the employer's internal records 45

to determine whether an applicant had previously been employed 46
by or had previously applied for employment with the employer. 47

(2) The employer requests the information to provide to a 48
government entity to determine an applicant's eligibility for or 49
participation in a government service, benefit, or program that 50
requires the information to be collected on or before the day on 51
which an employer makes an offer of employment to an applicant. 52

(C) An employer who requests the information listed in 53
division (A) of this section to conduct a review of the 54
employer's internal records under division (B)(1)(d) of this 55
section shall request only the information necessary to conduct 56
the review. 57

(D) No employer shall take action for one of the reasons 58
listed in division (B) of this section unless the employer has 59
received written consent from an applicant. 60

(E) No employer shall fail to take action for one of the 61
reasons listed in division (B) of this section after the 62
employer has requested the information in division (A) of this 63
section from an applicant. 64

Sec. 4177.03. (A) Except as provided in division (B) of 65
this section, no employer shall do either of the following: 66

(1) Use information, including for marketing, profiling, 67
or reselling, about an applicant obtained during the initial 68
selection process for a purpose other than to determine whether 69
the employer will make the applicant an offer of employment; 70

(2) Provide information about an applicant obtained 71
through the initial selection process to a person other than the 72
employer. 73

(B) An employer may provide information about an applicant 74
to a person other than the employer for one of the following 75
reasons: 76

(1) The information is required by law. 77

(2) The information is required by a government entity to 78
determine eligibility for or participation in a government 79
service, benefit, or program. 80

(3) The applicant applies for another position with the 81
employer. 82

(4) The applicant is employed by the employer and the 83
information is used for a performance review or a promotion 84
application, if the employer uses that information for other 85
similarly situated applicants. 86

Sec. 4177.04. (A) (1) Except as provided in division (B) of 87
this section, an employer shall maintain a policy regarding the 88
retention, disposition, access, and confidentiality of any 89
information collected about an applicant during the initial 90
selection process. 91

(2) An employer shall provide an applicant an opportunity 92
to review the policy described in division (A) (1) of this 93
section before requiring the applicant to provide information to 94
the employer as a part of the initial selection process. 95

(B) No employer shall retain any information about an 96
applicant collected during the initial selection process for 97
longer than two years after the date on which the applicant 98
provides the information if the employer does not hire the 99
applicant during that period. 100

Sec. 4177.05. An individual claiming to be aggrieved by an 101

action of an employer in violation of section 4177.02, 4177.03, 102
or 4177.04 of the Revised Code may bring a civil action in a 103
court of competent jurisdiction against the employer. If the 104
court finds that a violation has occurred, the employer shall be 105
liable to the individual for the amount of actual damages 106
sustained by the individual as a result of the employer's 107
violation. 108