



OHIO CHAMBER OF COMMERCE

BEFORE THE SENATE WORKFORCE DEVELOPMENT COMMITTEE INTERESTED PARTY TESTIMONY ON SENATE BILL 143

Chairman Koehler, Vice-Chair Reynolds, Ranking Member Ingram, and members of the Senate Workforce Development Committee, thank you for the opportunity to provide interested party testimony on Senate Bill 143 (SB 143). My name is Kevin Shimp and I am a Partner at the law firm Dickinson Wright testifying on behalf of the Ohio Chamber of Commerce.

When this committee held a third hearing on Senate Bill 143 in October, the Ohio Chamber testified as an opponent. We are now an interested party due to the adoption of its substitute bill (AM_136_0934-3). This substitute bill is the product of collaboration between the Ohio Chamber and the bill sponsors, and it takes significant strides in the right direction to strike the appropriate balance of promoting second-chance hiring while ensuring employers do not face additional liability or administrative burdens. There are two main components of the substitute bill:

Elimination of Interactive Process

The as-introduced version of SB 143 required employers to engage in a multi-step interactive process with applicants who have a criminal record when the employer decided not to hire them. This burdensome process mandated employers perform an individualized assessment of the applicant's criminal history, provide the applicant with a preliminary written notice detailing the disqualifying conviction, and deliver a copy of the background check to the applicant before issuing a final written denial of a job.

The substitute bill eliminates these requirements, while maintaining the prohibition on employers asking for an applicant's criminal history on an initial application.

Creation of Employer Protections

The new substitute bill inserts liability protections for employers who hire reformed citizens by preventing an employee's criminal record from being evidence in a negligent hiring or negligent supervision lawsuit. Removing this liability risk is key because it helps eliminate a major factor for why employers forgo hiring applicants with a criminal history. Simultaneously, it may encourage more second-chance hiring since employers will be able to avail themselves of this legal protection should a reformed citizen re-offend.

Request for Additional Amendments

This substitute bill makes important changes that resulted in the Ohio Chamber moving from opponent to interested party, but we still believe additional revisions are necessary to prevent employers from facing civil penalties for performing background checks after the initial application.

Under the substitute bill, employers cannot request information about an applicant's arrests that were not followed by a conviction on **any** application. This is potentially problematic since this restriction would diverge from federal law, which enables commercial background check companies to report "records of arrest" without differentiation for what occurs after the arrest.

This lack of uniformity with federal law can drive up the cost of hiring since a background check complying with a specific state law may be more expensive than a background check that needs to only comply with the federal law. Adopting this provision would also make Ohio's employment laws an outlier since only a handful of states prohibit employers and background check companies from requesting or maintaining information about arrests not followed by convictions.

In closing, the Ohio Chamber commends the bill sponsors and this committee for working with us on the substitute bill adopted today, but we ask this committee to consider further revisions to prevent Ohio employers from facing added cost and liability before advancing Senate Bill 143.

Thank you for the opportunity to provide this Interested Party testimony, and I welcome any questions from the committee.