

SENATE BILL No. 158

January 29, 2009, Introduced by Senators ANDERSON, GLEASON, CHERRY, OLSHOVE, SWITALSKI, BRATER, CLARK-COLEMAN, JACOBS, HUNTER and BASHAM and referred to the Committee on Commerce and Tourism.

A bill to prohibit employers from making employment decisions based upon certain factors that are unrelated to employment; to prohibit certain inquiries; to prohibit retaliation; 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 family health privacy 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
6 contract of hire.

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

10 Sec. 5. (1) Except as provided in this section, an employer

1 shall not do either of the following:

2 (a) Fail or refuse to hire or recruit, discharge, or otherwise
3 discriminate against an individual with respect to employment,
4 compensation, or a term, condition, or privilege of employment
5 because of a known or believed illness or health condition of a
6 member of an employee's family.

7 (b) Inquire as to the physical condition or health status of a
8 member of an employee's family.

9 (2) The prohibition in subsection (1) does not apply to
10 prevent any of the following inquiries:

11 (a) An inquiry to obtain information necessary to verify the
12 employee's eligibility for use of sick leave.

13 (b) An inquiry to obtain information necessary to verify the
14 employee's eligibility for family and medical leave.

15 (c) An inquiry to obtain information necessary to process an
16 employee's health coverage claim.

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

20 (a) File a complaint under this act.

21 (b) Testify, assist, or participate in an investigation,
22 proceeding, or action concerning a violation of this act.

23 (c) Oppose a violation of this act.

24 Sec. 9. An employer shall not require an applicant for
25 employment or employee to waive any right under this act. An
26 agreement by an applicant or employee to waive any right under this
27 act is invalid and unenforceable.

1 Sec. 11. (1) A person who is injured by a violation of this
2 act may bring a civil suit in a court of competent jurisdiction to
3 obtain injunctive relief and damages.

4 (2) The court shall award costs and reasonable attorney fees
5 to a person who prevails as a plaintiff in a suit authorized under
6 subsection (1).