

PROHIBIT EMPLOYMENT DISCRIMINATION AGAINST VICTIMS OF VIOLENT CRIME

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 6238 as reported from committee
Sponsor: Rep. Jimmie Wilson, Jr.
Committee: Labor
Revised 12-13-24

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 6238 would create a new act to prohibit an employer from taking an *adverse employment action* against an individual who is the employer's employee, or an applicant for employment with the employer, for any of the following reasons:

- The individual is, or the employer perceives the individual to be, a victim of a *violent crime*.
- The individual attends, participates in, prepares for, or requests leave to attend, participate in, or prepare for a criminal or civil action regarding a violent crime the individual or their *family member* is a victim of.
- The individual requests an *adjustment* to their job because they are a victim of a violent crime.
- Someone who has committed a violent crime against the individual or their family member disrupts or threatens the employer's workplace.

Adverse employment action would include any of the following:

- Not hiring or recruiting an individual.
- Discharging an individual, including constructively discharging an individual.
- Harassing an individual.
- Otherwise discriminating or retaliating against an individual with respect to wages, hours, or any other term or condition of employment.

Violent crime would mean a violation of any of the following sections of the Michigan Penal Code:

- Section 81c(3) (assault of certain DHHS employee).
- Section 82 (felonious assault).
- Section 83 (assault with intent to commit murder).
- Section 84 (assault with intent to do great bodily harm).
- Section 86 (assault with intent to maim).
- Section 87 (assault with intent to commit a felony).
- Section 88 (assault with intent to rob while unarmed).
- Section 89 (assault with intent to rob while armed).
- Section 90a (aggravated assault of pregnant individual).
- Section 90b(a) or (b) (assault of pregnant individual).
- Section 91 (nonassaultive attempted murder).
- Sections 200 to 212a (explosives crimes).
- Section 316 (first-degree murder).

- Section 317 (second-degree murder).
- Section 321 (manslaughter).
- Section 349 (kidnapping).
- Section 349a (prisoner taking another person as hostage).
- Section 350 (kidnapping a child under the age of 14).
- Section 397 (mayhem).
- Section 411h(2)(b) or (3) (stalking minor victim).
- Section 411i (aggravated stalking).
- Section 520b (first-degree criminal sexual conduct).
- Section 520c (second-degree criminal sexual conduct).
- Section 520d (third-degree criminal sexual conduct).
- Section 520e (fourth-degree criminal sexual conduct).
- Section 520g (assault with intent to commit criminal sexual conduct).
- Section 529 (armed robbery).
- Section 529a (carjacking).
- Section 530 (unarmed robbery).
- Sections 543a to 543z (terrorism crimes).

Family member would mean any of the following:

- A spouse of the individual.
- A partner in a civil union of the individual.
- A parent of the individual.
- A grandparent of the individual.
- A child of the individual.
- A grandchild of the individual.
- A sibling of the individual.
- A person related to the individual by blood.
- A person related to the individual by a current or past marriage or civil union.
- A person with whom the individual shares a child.

Adjustment would include any of the following:

- A transfer to a different location.
- A reassignment to a different department.
- A modified work schedule.
- A different telephone number.
- A different email address.
- The installation of a lock on the door of the employee's primary work location.
- A change to a safety policy or procedure.

The director of the Department of Labor and Economic Opportunity (LEO) would have to prepare a notice that summarizes the provisions of the bill and provide it to an employer at no cost. An employer would have to post the notice, and keep it posted, in a conspicuous location that is accessible to employees at each of the employer's work sites. An employer would also have to provide a copy of the notice to each of the employer's employees in a language in which the employee is literate, or, if the employee is not literate, otherwise communicate to the employee the contents of the notice. An employer that willfully violates these provisions would

be subject to a civil fine of up to \$150. The attorney general or the prosecutor of the county where the violation took place could bring an action to collect the fine. Collected fines would be deposited in the general fund.

An individual aggrieved by a violation of the bill could do either of the following not later than three years after the date of the violation:

- Submit a complaint to the LEO director. The director would have to investigate and hold hearings regarding complaints.
- Bring a civil action for injunctive relief or damages, or both, in the circuit court for the county where the alleged violation occurred, the county where the individual resides, or the county where the employer's principal place of business is located. A court could award any of the following to a plaintiff who prevails in such an action:
 - Injunctive relief.
 - Equitable relief, including, but not limited to, rehiring, reinstatement, or promotion.
 - Actual damages.
 - Costs, including reasonable attorney fees.

The LEO director would have to administer and enforce the new act, and would have to develop and issue rules to implement the act.

FISCAL IMPACT:

House Bill 6238 would create additional costs for the Department of Labor and Economic Opportunity (LEO), though the magnitude of the costs is indeterminate and would depend on several factors. Under the bill, LEO would be required to create and distribute notices, investigate submitted complaints, and administer and enforce the act. The cost of these activities would largely depend on the volume of submitted complaints, the amount of required enforcement activity, and the method utilized to distribute the notices.

The bill also would have an indeterminate fiscal impact on the state and on local units of government. An employer who willfully violates provisions of the bill would be subject to a civil fine of not more than \$150. Under the bill, revenue from civil fines collected would be required to be deposited into the state's general fund. Local prosecuting attorneys and/or the attorney general would be authorized to bring civil actions against employers, which could result in increased costs for the state, local courts, local prosecutors' offices, and law enforcement agencies. Aggrieved individuals would also be authorized to bring civil actions. Because there is no practical way to know the number of employers that would be ordered to pay civil fines, or the number of civil actions that would be brought, the increase to the state general fund or potential costs to local courts and agencies is not known.

Legislative Analyst: Rick Yuille
Fiscal Analysts: Marcus Coffin
Robin Risko

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.