



Ohio Legislative Service Commission

Bill Analysis

Julie A. Rishel

H.B. 424

129th General Assembly
(As Introduced)

Reps. Celeste and Foley, R. Hagan, Ramos, Driehaus, Antonio, Cera, Clyde, Letson, Goyal, Yuko, Barnes, Reece, Garland, Murray, Patmon, Ashford

BILL SUMMARY

- Prohibits an employer, employment agency, personnel placement service, or labor organization from knowingly or purposely printing or publishing a notice or advertisement for an employment position that discriminates on the basis of an individual's unemployment status.
- Makes the prohibited advertising an unlawful discriminatory practice under Ohio's Civil Rights Law, thus allowing an individual to file a charge with the Civil Rights Commission or a court for the remedies available under that law for other prohibited discriminatory practices.
- Requires the Civil Rights Commission or a court, in addition to remedies available under continuing law, to fine individuals found to be engaging in unlawful advertising under the bill up to \$1,000 for the first offense, up to \$5,000 for the second offense, and up to \$10,000 for each subsequent offense.

CONTENT AND OPERATION

Under the bill, an employer, employment agency, personnel placement service, or labor organization engages in an unlawful discriminatory practice under Ohio's Civil Rights Law¹ if, prior to employment or admission to membership, it knowingly or purposely prints or publishes or causes to be printed or published any notice or advertisement relating to employment that states or suggests any of the following, except where based on bona fide occupational qualification criteria, certified by the Ohio Civil Rights Commission in advance:

¹ R.C. Chapter 4112.

- That current employment is a job qualification;
- That an application from a job applicant who is currently unemployed will not be reviewed or that the applicant will not be considered for an interview or be hired;
- That only applications for employment from applicants who are currently employed will be considered or reviewed.

Under the bill, as under criminal law a person acts purposely when it is the person's specific intention to cause a certain result, or, when the gist of the offense is a prohibition against conduct of a certain nature, regardless of what the offender intends to accomplish thereby, it is the offender's specific intention to engage in conduct of that nature. A person acts knowingly, regardless of the person's purpose, when the person is aware that the person's conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when the person is aware that such circumstances probably exist.²

The bill clarifies that an employer is not prohibited from printing or publishing or causing to be printed or published any notice or advertisement relating to employment that includes any provision granting a preference in employment decisions to current employees of the employer or requiring previous experience that is relevant to the employment, such as the holding of a current and valid professional or occupational license or other credential or a minimum level of education or training or professional, occupational, or field experience.³

Under continuing law, a complainant files a charge with the Ohio Civil Rights Commission, which then investigates the complaint. If the Commission finds it probable that an unlawful discriminatory practice has been or is being engaged in, it tries to eliminate the practice by informal methods. If those fail, it holds a hearing, and, if it determines that the employer, employment agency, personnel placement service, or labor organization has engaged in, or is engaging in, an unlawful discriminatory practice, the Commission issues a cease and desist order. The order also must require the employer, employment agency, personnel placement service, or labor organization to take any further action that will effectuate the purposes of the Civil Rights Law, including hiring employees with or without back pay. Both sides have the opportunity to appeal the Commission's decision to the court of common pleas in the county where the discrimination occurred.⁴ An individual who is discriminated against also has a

² R.C. 4112.01(A), by reference to R.C. 2901.22, not in the bill.

³ R.C. 4112.02(E)(7).

⁴ R.C. 4112.05 and 4112.06, not in the bill.

cause of action against any person who violates the Civil Rights Law, bypassing the Commission and going directly to the courts, and may be entitled to damages, injunctive relief, or any other appropriate relief.⁵ Under the bill, in addition to these remedies, both the courts and the Commission are required to impose a fine on an employer, employment agency, personnel placement service, or labor organization found to be engaging in discriminatory advertising as described in the bill. The amount of the fine is up to \$1,000 for the first violation, up to \$5,000 for the second violation, and up to \$10,000 for each subsequent violation.⁶ All such fines are to be deposited in the Civil Rights Commission General Reimbursement Fund.⁷

HISTORY

ACTION	DATE
Introduced	01-24-12

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⁵ R.C. 4112.99(A).

⁶ R.C. 4112.05(G)(1) and 4112.99(B).

⁷ R.C. 4112.15.