

# HOUSE BILL No. 1046

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 22-2-19.

**Synopsis:** Wage history and wage range. Prohibits, with certain exceptions, an employer from relying on the wage history of an applicant in the hiring process and in determining wages. Prohibits an employer from failing or refusing to: (1) disclose the wage or wage range and a general description of benefits in a posting for a job, promotion, transfer, or other employment opportunity; and (2) provide an employee with the current wage or wage range and a general description of the benefits upon hire, promotion, transfer, and the employee's request. Prohibits an employer from retaliating against an applicant under the wage history provisions and an applicant or employee under the wage range provisions. Provides that an applicant or employee may file a complaint alleging a violation with the department of labor (department), or the department on its own may initiate an investigation and file a complaint alleging a violation. Sets forth civil penalties for a violation. Requires the department to provide a list of employers that have four or more violations to the office of the chief equity, inclusion, and opportunity officer (office). Requires the office to post the list on the equity data portal.

**Effective:** July 1, 2024.

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## Errington, Garcia Wilburn, Pfaff

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January 8, 2024, read first time and referred to Committee on Employment, Labor and Pensions.

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Second Regular Session of the 123rd General Assembly (2024)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2023 Regular Session of the General Assembly.

# HOUSE BILL No. 1046

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 22-2-19 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2024]:  
4 **Chapter 19. Wage History and Wage Range Inquiries**  
5 **Sec. 1. As used in this chapter, "department" refers to the**  
6 **department of labor created by IC 22-1-1-1.**  
7 **Sec. 2. As used in this chapter, "employer" means:**  
8 **(1) any individual, partnership, association, limited liability**  
9 **company, corporation, business trust, the state, or other**  
10 **governmental entity or political subdivision; or**  
11 **(2) an agent of an individual or entity described in subdivision**  
12 **(1).**  
13 **Sec. 3. (a) As used in this section, "wage history" means the**  
14 **wages paid to an applicant for employment by the applicant's**  
15 **current employer or previous employers.**  
16 **(b) Except as provided in subsection (c), it is an unlawful**  
17 **employment practice for an employer to do any of the following:**



- 1           **(1) Rely on the wage history of an applicant for employment**  
 2           **in considering an applicant for employment, including**  
 3           **requiring that the applicant's prior wages satisfy minimum or**  
 4           **maximum criteria as a condition of being hired for**  
 5           **employment.**
- 6           **(2) Rely on the wage history of an applicant for employment**  
 7           **in determining the wages of an applicant for employment to**  
 8           **be paid by the employer upon hire.**
- 9           **(3) Seek the wage history of an applicant for employment.**
- 10          **(c) After the employer makes an initial offer of employment**  
 11          **with an offer of compensation to an applicant for employment, an**  
 12          **employer may:**
- 13               **(1) rely on the wage history to support a wage higher than the**  
 14               **wage offered by the employer, if the wage history is**  
 15               **voluntarily provided by the applicant for employment without**  
 16               **prompting from the employer; and**
- 17               **(2) seek to confirm the wage history of the applicant for**  
 18               **employment to support a wage higher than the wage offered**  
 19               **by the employer when relying on the wage history as**  
 20               **permitted in subdivision (1).**
- 21          **(d) An employer may rely on the wage history under the**  
 22          **circumstances described in this section only to the extent that the**  
 23          **higher wage does not create an unlawful pay differential based on**  
 24          **a protected characteristic as provided in IC 22-2-2-4.**
- 25          **(e) An employer may not conduct a search of publicly available**  
 26          **records or reports for the purpose of obtaining an applicant's wage**  
 27          **history.**
- 28          **(f) An employer may not:**
- 29               **(1) refuse to:**
- 30                       **(A) interview;**  
 31                       **(B) hire;**  
 32                       **(C) promote; or**  
 33                       **(D) employ; or**
- 34               **(2) retaliate against;**
- 35          **an applicant for employment because the applicant did not provide**  
 36          **the employer with a wage history.**
- 37          **(g) This section may not be construed to prohibit an applicant**  
 38          **for employment from sharing a wage history with an employer**  
 39          **voluntarily and without prompting from the employer.**
- 40          **Sec. 4. (a) For purposes of this section, "wage range" means the**  
 41          **minimum and maximum wage for a position set in good faith by**  
 42          **reference to:**



- 1 (1) any applicable pay scale;
- 2 (2) the previously determined range of wages for the position;
- 3 (3) the actual range of wages for individuals currently holding
- 4 equivalent positions; or
- 5 (4) the budgeted amount for the position, if applicable.

6 The breadth of the wage range is one (1) factor relevant to the  
7 analysis of whether the wage range has been set in good faith.

8 (b) It is an unlawful employment practice for an employer to do  
9 any of the following:

- 10 (1) Fail or refuse to disclose in each public and internal  
11 posting for a job, promotion, transfer, or other employment  
12 opportunity the following:

13 (A) The wage or wage range for the position.

14 (B) A general description of the benefits and other  
15 compensation offered for the position.

- 16 (2) Fail or refuse to provide an employee with the current  
17 wage or wage range and a general description of the benefits  
18 and other compensation offered for the position in which the  
19 employee is employed upon the occurrence of any of the  
20 following:

21 (A) Hire.

22 (B) Promotion.

23 (C) Transfer.

24 (D) The employee's request.

25 (c) An employer may not:

- 26 (1) refuse to:

27 (A) interview;

28 (B) hire;

29 (C) promote; or

30 (D) employ; or

- 31 (2) retaliate against;

32 an applicant for employment or an employee for exercising any  
33 rights under this section.

34 Sec. 5. (a) An applicant for employment or employee may file a  
35 complaint alleging a violation of this chapter with the department,  
36 or the department on its own may initiate an investigation and file  
37 a complaint alleging a violation of this chapter.

38 (b) If the department finds that an employer has violated this  
39 chapter, the department may do the following:

- 40 (1) Issue a warning for the first violation.

41 (2) Impose a civil penalty of one hundred dollars (\$100) for  
42 the second violation.



- 1           **(3) Impose a civil penalty of five hundred dollars (\$500) for**  
2           **the third violation and each subsequent violation.**
- 3           **Sec. 6. All civil penalties collected under section 5 of this chapter**  
4           **shall be deposited in the state general fund.**
- 5           **Sec. 7. (a) The department shall maintain a list of employers**  
6           **that have four (4) or more violations under section 5 of this**  
7           **chapter. The list must specify the number of violations committed**  
8           **by an employer.**
- 9           **(b) Before January 1 of each year, the department shall provide**  
10          **a copy of the list described in this section to the office of the chief**  
11          **equity, inclusion, and opportunity officer.**
- 12          **(c) The office of the chief equity, inclusion, and opportunity**  
13          **officer shall post the list described in this section on the equity data**  
14          **portal.**
- 15          **Sec. 8. If an employer is found to have violated this chapter, the**  
16          **employer shall notify its employees of the violation.**
- 17          **Sec. 9. (a) The department has the power to administer, carry**  
18          **out, and enforce this chapter.**
- 19          **(b) The department may adopt rules under IC 4-22-2 to**  
20          **implement this chapter.**

