

**As Introduced**

**132nd General Assembly  
Regular Session  
2017-2018**

**H. B. No. 187**

**Representative Dever**

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**A BILL**

To enact sections 4177.01, 4177.02, 4177.03, 1  
4177.04, and 4177.05 of the Revised Code to 2  
regulate the collection, use, and retention of 3  
certain information obtained from an applicant 4  
during the employee selection process. 5

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 4177.01, 4177.02, 4177.03, 6  
4177.04, and 4177.05 of the Revised Code be enacted to read as 7  
follows: 8

**Sec. 4177.01.** As used in this chapter: 9

(A) "Employee selection process" means the series of 10  
decisions that results in an employer making an offer of 11  
employment to an applicant and includes advertising a position, 12  
reviewing applications, interviewing applicants, and selecting 13  
an applicant to make an offer of employment. 14

(B) "Employer" means a person employing fifteen or more 15  
employees within the state for each working day in each of 16  
twenty or more calendar weeks in the current or preceding 17  
calendar year. 18

(C) "Initial selection process" means the first decision 19  
in the employee selection process in which the employer uses 20  
information received in a record from an applicant to determine 21  
whether the applicant will be considered for a second review for 22  
the position for which the applicant is applying. 23

(D) "Record" has the same meaning as in section 1301.201 24  
of the Revised Code. 25

**Sec. 4177.02.** (A) Except as provided in division (B) of 26  
this section, no employer shall request the following 27  
information from an applicant before making the applicant an 28  
offer of employment: 29

(1) The applicant's social security number; 30

(2) The applicant's date of birth; 31

(3) The applicant's driver's license number. 32

(B) An employer may request the information listed in 33  
division (A) of this section from an applicant before making the 34  
applicant an offer of employment for either of the following 35  
reasons: 36

(1) The employer requests the information to take one of 37  
the following actions during the employee selection process: 38

(a) To obtain a criminal records check of an applicant; 39

(b) To obtain a credit history of an applicant, subject to 40  
the requirements of the federal "Fair Credit Reporting Act," 15 41  
U.S.C. 1681 et seq., as amended; 42

(c) To obtain a driving record of an applicant from the 43  
bureau of motor vehicles; 44

(d) To conduct a review of the employer's internal records 45

to determine whether an applicant had previously been employed 46  
by or had previously applied for employment with the employer. 47

(2) The employer requests the information to provide to a 48  
government entity to determine an applicant's eligibility for or 49  
participation in a government service, benefit, or program that 50  
requires the information to be collected on or before the day on 51  
which an employer makes an offer of employment to an applicant. 52

(C) An employer who requests the information listed in 53  
division (A) of this section to conduct a review of the 54  
employer's internal records under division (B)(1)(d) of this 55  
section shall request only the information necessary to conduct 56  
the review. 57

(D) No employer shall take action for one of the reasons 58  
listed in division (B) of this section unless the employer has 59  
received written consent from an applicant. 60

(E) No employer shall fail to take action for one of the 61  
reasons listed in division (B) of this section after the 62  
employer has requested the information in division (A) of this 63  
section from an applicant. 64

**Sec. 4177.03.** (A) Except as provided in division (B) of 65  
this section, no employer shall do either of the following: 66

(1) Use information, including for marketing, profiling, 67  
or reselling, about an applicant obtained during the initial 68  
selection process for a purpose other than to determine whether 69  
the employer will make the applicant an offer of employment; 70

(2) Provide information about an applicant obtained 71  
through the initial selection process to a person other than the 72  
employer. 73

(B) An employer may provide information about an applicant 74  
to a person other than the employer for one of the following 75  
reasons: 76

(1) The information is required by law. 77

(2) The information is required by a government entity to 78  
determine eligibility for or participation in a government 79  
service, benefit, or program. 80

(3) The applicant applies for another position with the 81  
employer. 82

(4) The applicant is employed by the employer and the 83  
information is used for a performance review or a promotion 84  
application, if the employer uses that information for other 85  
similarly situated applicants. 86

**Sec. 4177.04.** (A) (1) Except as provided in division (B) of 87  
this section, an employer shall maintain a policy regarding the 88  
retention, disposition, access, and confidentiality of any 89  
information collected about an applicant during the initial 90  
selection process. 91

(2) An employer shall provide an applicant an opportunity 92  
to review the policy described in division (A) (1) of this 93  
section before requiring the applicant to provide information to 94  
the employer as a part of the initial selection process. 95

(B) No employer shall retain any information about an 96  
applicant collected during the initial selection process for 97  
longer than two years after the date on which the applicant 98  
provides the information if the employer does not hire the 99  
applicant during that period. 100

**Sec. 4177.05.** An individual claiming to be aggrieved by an 101

action of an employer in violation of section 4177.02, 4177.03, 102  
or 4177.04 of the Revised Code may bring a civil action in a 103  
court of competent jurisdiction against the employer. If the 104  
court finds that a violation has occurred, the employer shall be 105  
liable to the individual for the amount of actual damages 106  
sustained by the individual as a result of the employer's 107  
violation. 108