

# HOUSE BILL No. 1162

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 22-2-18.

**Synopsis:** Wage history and wage range inquiries. Prohibits, with certain exceptions, an employer from using an applicant's wage history in the hiring process. Prohibits, in certain situations, an employer from relying on the wage history of an applicant for employment. Prohibits employers from failing or refusing to provide an applicant for employment the wage range for the position for which the applicant is applying. Requires an employer to provide to an employee the wage range for the employee's job under certain circumstances. Provides for a private right of action. Allows the department of labor to investigate violations and enforce compliance.

**Effective:** July 1, 2020.

---

---

## Errington, Boy

---

---

January 7, 2020, read first time and referred to Committee on Employment, Labor and Pensions.

---

---



Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

# HOUSE BILL No. 1162



A BILL FOR AN ACT to amend the Indiana Code concerning civil rights.

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

1 SECTION 1. IC 22-2-18 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2020]:  
4 **Chapter 18. Wage History and Wage Range Inquiries**  
5 **Sec. 1. "Employer" means any individual, partnership,**  
6 **association, limited liability company, corporation, business trust,**  
7 **the state, or other governmental entity or political subdivision**  
8 **during any work week in which it has two (2) or more employees.**  
9 **Sec. 2. (a) For purposes of this section, "wage history" means**  
10 **the wages paid to an applicant for employment by the applicant's**  
11 **current employer or previous employers.**  
12 **(b) Except as provided in subsection (c), it is an unlawful**  
13 **employment practice for an employer to do any of the following:**  
14 **(1) Rely on the wage history of an applicant for employment**  
15 **in considering an applicant for employment, including**  
16 **requiring that the applicant's prior wages satisfy minimum or**  
17 **maximum criteria as a condition of being hired for**



- 1           **employment.**
- 2           **(2) Rely on the wage history of an applicant for employment**
- 3           **in determining the wages of an applicant for employment to**
- 4           **be paid by the employer upon hire.**
- 5           **(3) Seek the wage history of an applicant for employment**
- 6           **from the applicant for employment.**
- 7           **(c) After the employer makes an initial offer of employment**
- 8           **with an offer of compensation to an applicant for employment, an**
- 9           **employer may:**
- 10           **(1) rely on the wage history to support a wage higher than the**
- 11           **wage offered by the employer, if the wage history is**
- 12           **voluntarily provided by the applicant for employment without**
- 13           **prompting from the employer; and**
- 14           **(2) seek to confirm the wage history of the applicant for**
- 15           **employment to support a wage higher than the wage offered**
- 16           **by the employer when relying on the wage history as**
- 17           **permitted in subdivision (1).**
- 18           **(d) An employer may rely on the wage history under the**
- 19           **circumstances described in this section only to the extent that the**
- 20           **higher wage does not create an unlawful pay differential based on**
- 21           **a protected characteristic as provided in IC 22-2-2-4.**
- 22           **(e) An employer may not conduct a search of publicly available**
- 23           **records or reports for the purpose of obtaining an applicant's wage**
- 24           **history.**
- 25           **(f) 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 because the applicant did not provide**
- 33           **the employer with a wage history.**
- 34           **(g) This section may not be construed to prohibit an applicant**
- 35           **for employment from sharing a wage history with an employer**
- 36           **voluntarily and without prompting from the employer.**
- 37           **Sec. 3. (a) For purposes of this section, "wage range":**
- 38                   **(1) means the wage range on which the employer anticipates**
- 39                   **relying in setting wages for a position, and may include**
- 40                   **reference to:**
- 41                           **(A) any applicable pay scale;**
- 42                           **(B) a previously determined range of wages for the**



- 1 position;  
 2 (C) the actual range of wages for those currently holding  
 3 comparable positions; or  
 4 (D) the budgeted amount of the position, as applicable; and  
 5 (2) may, for purposes of subsection (b), include reference to:  
 6 (A) any applicable pay scale;  
 7 (B) a previously determined range of wages for the  
 8 position; or  
 9 (C) the range of wages for incumbents in equivalent  
 10 positions, as applicable.
- 11 (b) An employer may not fail or refuse to provide to an  
 12 applicant for employment the wage range for the position for  
 13 which the applicant is applying upon the earliest of the following:  
 14 (1) At the applicant's request.  
 15 (2) Prior to or at the time the employer inquires about the  
 16 applicant's wage expectations.  
 17 (3) Prior to or at the time the employer provides the applicant  
 18 with an offer of compensation.
- 19 (c) An employer must provide to an employee the wage range  
 20 for the employee's job:  
 21 (1) at the time of hiring;  
 22 (2) annually after the date of hire; and  
 23 (3) upon the employee's request.
- 24 **Sec. 4. (a)** An applicant may file a complaint alleging a violation  
 25 of this chapter with the department of labor. Upon receiving a  
 26 complaint under this section, the department of labor may:  
 27 (1) investigate the complaint; and  
 28 (2) enforce compliance if a violation of this chapter is found.
- 29 (b) In addition to any other remedy available under this section,  
 30 if the department of labor determines that a violation of this  
 31 section occurred, the department of labor may issue an  
 32 administrative order providing for any of the civil remedies  
 33 described in section 5 of this chapter. The department of labor may  
 34 adopt rules under IC 4-22-2, including emergency rules in the  
 35 manner provided under IC 4-22-2-37.1, to carry out its  
 36 responsibilities under this section.
- 37 **Sec. 5. (a)** An:  
 38 (1) applicant for employment; or  
 39 (2) employee;  
 40 who is subject to a violation of this chapter may bring a civil  
 41 action.  
 42 (b) A court may order an award of any or all of the following to



- 1 **an individual who prevails in an action under subsection (a):**
- 2 **(1) The greater of:**
- 3 **(A) actual damages resulting from the violation; or**
- 4 **(B) statutory damages in an amount not to exceed ten**
- 5 **thousand dollars (\$10,000).**
- 6 **(2) Reasonable attorney's fees, litigation expenses, and costs.**
- 7 **(3) Declaratory or equitable relief, including injunctive relief.**
- 8 **(c) The remedies and penalties set forth in subsection (b) are:**
- 9 **(1) cumulative; and**
- 10 **(2) in addition to other remedies and penalties imposed for a**
- 11 **violation of this chapter.**

