

2018 Regular Session

HOUSE BILL NO. 402

BY REPRESENTATIVE EDMONDS

EMPLOYMENT: Provides for the reimbursement of the cost of certain preemployment examinations, testing, or background checks

1 AN ACT

2 To amend and reenact R.S. 23:634(B) and to enact R.S. 23:897(N), relative to
3 preemployment criminal background checks; to provide for reimbursement of costs
4 associated with employment in certain circumstances; and to provide for related
5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 23:634(B) is hereby amended and reenacted and R.S. 23:897(N) is
8 hereby enacted to read as follows:

9 §634. Contract forfeiting wages on discharge unlawful

10 * * *

11 B. Nothing in Subsection A of this Section or in R.S. 23:631(A) shall
12 prohibit an employer from requiring an applicant for employment who becomes an
13 employee or an employee, provided the employee is compensated at a rate equivalent
14 to not less than one dollar above the existing federal minimum wage and is not a
15 part-time or seasonal employee as defined in R.S. 23:1021, to sign a contract
16 providing that the costs of such individual's preemployment medical examination,
17 criminal background check, or drug test may be withheld from his wages if he
18 resigns within ninety working days from his first day of work, and, upon resignation,
19 withholding such costs, unless such resignation is attributable to a substantial change

- (1) Fingerprinting.
- (2) Medical examination or a drug test.
- (3) The furnishing of any records available to the employer or required by the employer as a condition of employment.

Present law provides that whoever violates present law will be fined not more than \$100 or imprisoned for not more than 90 days, or both.

Present law provides that, in addition to criminal penalties, present law provides that the employer who violates present law shall be subject to a civil penalty of up to \$500 and liable for reasonable litigation expenses not exceeding \$7,500.

Proposed law retains present law.

Present law provides an exception in that an employer has a right of reimbursement from an employee or an applicant for the costs of the employee's preemployment medical examination or drug test provided that the employee meets all of the following criteria:

- (1) The employee is compensated at a rate equivalent to not less than \$1 above the existing federal minimum wage.
- (2) The employee is not a part-time or seasonal employee.
- (3) The employee terminates the employment relationship sooner than 90 working days after his first day of work or never reports to work, unless such termination is attributable to a substantial change made to the employment by the employer for purpose of unemployment compensation.

Proposed law retains present law but adds the costs attributable to criminal background checks to the list of costs for which an employee may be charged if the criminal background check is required by law as a condition of employment.

Present law provides that an employer may ask an employee to sign a contract which allows the employer to withhold the costs associated with a medical examination or drug test if the employee resigns within 90 working days, unless the resignation is attributable to a substantial change in the employment and if the employee's pay rate is at least one dollar above the federal minimum wage rate. Proposed law retains present law and adds costs associated with a criminal background check to costs that may be withheld pursuant to present law.

(Amends R.S. 23:634(B); Adds R.S. 23:897(N))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Labor and Industrial Relations to the original bill:

1. Provide that an employer may ask an employee to sign a contract that would allow the employer to withhold the costs associated with conducting a criminal background check if the employee resigns within 90 days, unless the resignation is pursuant to a substantial change in the employment, if the employee earns at least one dollar above the federal minimum wage rate.