

2018 Regular Session

SENATE BILL NO. 256

BY SENATOR PEACOCK

EMPLOYMENT. Allows employers to receive reimbursement for the costs of employee criminal background checks when certain employees terminate employment in less than ninety days. (8/1/18)

1 AN ACT

2 To enact R.S. 23:897(N), relative to employment; to provide for conditions of employment;
3 to provide for costs associated with employment; to provide for reimbursement of
4 costs associated with employment in certain circumstances; and to provide for
5 related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 23:897(N) is hereby enacted to read as follows:

8 §897. Medical and other examinations, fingerprinting, requiring employee to pay
9 for, prohibited; enforcement of provisions; civil and criminal
10 penalties

11 * * *

12 **N. Notwithstanding any other provision of law, an employer shall have**
13 **a right of reimbursement from an employee or an applicant who becomes an**
14 **employee, provided the employee is compensated at a rate equivalent to not less**
15 **than one dollar above the existing federal minimum wage and is not a part-time**
16 **or seasonal employee as defined in R.S. 23:1021, for the costs of such employee's**
17 **or applicant's preemployment criminal background check if the background**

1 check is required by law and the employee terminates the employment
 2 relationship sooner than ninety working days after his first day of work or
 3 never reports to work, unless such termination is attributable to a substantial
 4 change made to the employment by the employer as applied in the Louisiana
 5 Employment Security Law.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Jerry J. Guillot.

DIGEST

SB 256 Original

2018 Regular Session

Peacock

Present law provides that it is unlawful for any public or private employer to require any employee to pay for any of the following costs:

- (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.

Effective August 1, 2018.

(Adds R.S. 23:897(N))