

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

5 Be it enacted by the Legislature of Louisiana:

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

7 §897. Medical and other examinations; fingerpinting; background checks;
8 ~~requiring employee to pay for, prohibited;~~ costs paid; enforcement of
9 provisions; civil and criminal penalties

10 * * *

11 N.(1) Notwithstanding any other provision of law to the contrary, an
12 employer shall have a right of reimbursement for the costs of a preemployment
13 criminal background check if all of the following conditions are met:

- 14 (a) The background check is required by law.
- 15 (b) The employee terminates the employment relationship sooner than ninety
16 working days after his first day of work or never reports to work.
- 17 (c) The employee is compensated at a rate equivalent to not less than one
18 dollar above the federal minimum hourly wage rate set by Section 6 of the federal
19 Fair Labor Standards Act of 1938, or a successor federal law.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

- 1 (d) The employee is not a part-time or seasonal employee as defined in R.S.
2 23:1021.
- 3 (2) The provisions of this Subsection shall not apply and no reimbursement
4 shall be owed if an employee terminates the employment relationship due to a
5 substantial change to the employment situation pursuant to the Louisiana
6 Employment Security Law.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 402 Original

2018 Regular Session

Edmonds

Abstract: Provides for reimbursement of the costs associated with a preemployment criminal background check in certain circumstances.

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.

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