

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 6236

BILL NUMBER: HB 1022

DATE PREPARED: Nov 15, 2000

BILL AMENDED:

SUBJECT: Civil Rights Remedies and Age Discrimination.

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FUNDS AFFECTED: X **GENERAL**
DEDICATED
X **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill transfers jurisdiction over age discrimination proceedings from the commissioner of Labor to the Indiana Civil Rights Commission. The bill adds references to age discrimination to various statutes dealing with discriminatory activity.

The bill allows the Indiana Civil Rights Commission to impose a civil penalty, punitive damages, reasonable attorney's fees, and costs against a person who has been found to have engaged in an unlawful discriminatory practice. The bill allows a complainant or a respondent to elect to commence a civil action concerning a discriminatory practice in a state court without the consent of the other party. This bill limits the time in which a civil action may be brought. The bill allows the Indiana Civil Rights Commission to bring a civil action concerning a discriminatory practice in a state court and it allows the Commission to intervene as a party in a civil action concerning a discriminatory practice.

The bill makes other changes.

Effective Date: July 1, 2001.

Explanation of State Expenditures: This bill transfers jurisdiction over age discrimination proceedings from the Commissioner of Labor to the Indiana Civil Rights Commission. The bill also authorizes the Indiana Civil Rights Commission to award punitive damages, reasonable attorney's fees, and costs against a person who has been found to have engaged in an unlawful discriminatory practice. (The ability to award punitive damages is not limited to cases of age discrimination. Punitive damages could be awarded, when justified, in any case for which the Commission has jurisdiction, which, under current law, includes cases of discrimination based on race, religion, color, sex, disability, national origin, or ancestry.) Currently, the Commission may only award losses incurred by a complainant as a result of the discriminatory treatment.

Providing for punitive damages and for jurisdiction over age discrimination cases will increase the caseload

and, consequently, the costs to the Commission. The Commission estimates the additional costs as follows:

2 entry-level staff at \$30,082 each	\$ 60,164
Fringe Benefits at 19.56%	11,756
Insurance Flat Rate for 2 Staff	<u>9,704</u>
Total Personnel Increases	\$ 81,624
2 Computers	\$ 3,595
Costs for Initial Set-up for 2 Telephones	500
Annual Cost for 2 Phone Lines	408
Voice Mail Charge for 2 Phones	<u>180</u>
Total Telephone Charges	\$ 1,088
Initial Administrative Increases to the Commission:	\$ 86,307
Annual Administrative Increases to the Commission:	\$ 82,212

The funds and resources required for the above could be supplied through a variety of sources, including: (1) existing resources not currently being used to capacity; (2) funds that, otherwise, would be reverted; or (3) new appropriations. As of June 30, 2000, there were 7 personnel vacancies within the Commission. The Commission reverted \$15,760 in FY 2000. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions. The bill does not contain an appropriation.

The Department of Labor reports that fewer than 10 cases of age discrimination are filed each year, noting that the majority of cases are filed at the federal level. At the federal office, over 1,000 cases involving age discrimination are filed each year. This proposal should not decrease staffing expenses for the Department because the caseload is minimal and staff currently used to work on age discrimination cases would be used in other areas in the Department. On the other hand, the number of cases of age discrimination filed could increase significantly if the Civil Rights Commission receives jurisdiction because of the reparation that the Commission is able to offer. (If the Commissioner of the Department of Labor finds that an employer has discriminated against an employee because of the employee's age, the only redress available to the Commissioner is to issue a finding. The Commissioner may collect wages that might have been due through other employment laws. In practice, the Department of Labor often refers complainants to the state or federal level.)

This bill allows a complainant or respondent to commence a civil action concerning a discriminatory practice in a state court without the consent of the other party. Currently, without the consent of both parties, the parties must exhaust all state administrative procedures before the case can be taken to a state court. This provision could decrease the caseload at the Commission while increasing the caseload of state courts. The impact of this provision, however, is not expected to be significant.

The Commission may bring a civil action concerning a discriminatory practice in a state court, and the Commission may intervene as a party in a civil action concerning a discriminatory practice. This provision

may increase administrative activity by the Commission; however, the Commission will probably be able to handle any increase in expenses resulting from this provision given its current budget.

This bill limits the time in which a civil action may be brought. This provision could decrease expenses to the Commission to the extent that cases that might have been filed after the new time frame will no longer be filed. The impact of this provision would depend on the number and nature of cases that would have been filed had the proposed time frame not been imposed. The impact is indeterminable but not expected to be significant.

Explanation of State Revenues: This bill could increase state revenue only to the extent that the Commission receives federal reimbursement for certain cases. If the proposal increases the number of cases for which the Commission receives federal reimbursement, revenues could increase. The impact is indeterminable.

Explanation of Local Expenditures: The above provision would affect local civil rights entities if the changes in the law encourage complainants to file at the state level as opposed to at the local level. Currently, a complainant may file locally or with the state.

Explanation of Local Revenues:

State Agencies Affected: Indiana Civil Right Commission; Department of Labor.

Local Agencies Affected: Local Civil Rights Commissions.

Information Sources: Joann Williams, Legislative Liaison, Indiana Civil Rights Commission; Indiana Department of Labor.