

**Senate File 2259 - Introduced**

SENATE FILE 2259  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 2028)

**A BILL FOR**

1 An Act prohibiting employment discrimination based on  
2 unemployment status and providing penalties.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. FINDINGS — PURPOSE.

2 1. The general assembly finds that denial of employment  
3 opportunities to individuals because of their status as  
4 unemployed is discriminatory and burdens commerce by doing one  
5 or more of the following:

6 a. Reducing personal consumption and undermining economic  
7 stability and growth.

8 b. Squandering human capital essential to the state's  
9 economic vibrancy and growth.

10 c. Increasing demands for unemployment insurance benefits,  
11 reducing unemployment trust fund assets, and leading to higher  
12 payroll taxes for employers, or cuts in unemployment insurance  
13 benefits for jobless workers, or both.

14 d. Imposing additional burdens on publicly funded health  
15 and welfare programs.

16 e. Depressing income, property, and other tax revenues that  
17 the states and local governments rely on to support operations  
18 and institutions essential to commerce.

19 2. The purposes of this Act are all of the following:

20 a. To prohibit employers and employment agencies from  
21 disqualifying an individual from employment opportunities  
22 because of that individual's status as unemployed.

23 b. To prohibit employers and employment agencies from  
24 publishing or posting any advertisement or announcement for  
25 an employment opportunity that indicates that an individual's  
26 status as unemployed disqualifies that individual for the  
27 opportunity.

28 c. To eliminate the burdens imposed on commerce due to the  
29 exclusion of such individuals from employment.

30 Sec. 2. NEW SECTION. 730A.1 Unemployment status  
31 discrimination in employment prohibited.

32 1. For the purposes of this section, "*status as unemployed*"  
33 means that an individual, at the time of application for  
34 employment or at the time of action alleged to violate this  
35 section, does not have a job, is available for work, and is

1 searching for work.

2 2. It shall be unlawful for an employer to do any of the  
3 following:

4 a. Publish in print, on the internet, or in any other  
5 medium, an advertisement or announcement for an employee for  
6 any job that includes any of the following:

7 (1) Any provision stating or indicating that an  
8 individual's status as unemployed disqualifies the individual  
9 for any employment opportunity.

10 (2) Any provision stating or indicating that the employer  
11 will not consider or hire an individual for any employment  
12 opportunity based on that individual's status as unemployed.

13 b. Fail or refuse to consider for employment, or fail or  
14 refuse to hire, an individual as an employee because of the  
15 individual's status as unemployed.

16 c. Direct or request that an employment agency take an  
17 individual's status as unemployed into account to disqualify  
18 an applicant for consideration, screening, or referral for  
19 employment as an employee.

20 3. It shall be unlawful for an employment agency to do any  
21 of the following:

22 a. Publish in print, on the internet, or in any other  
23 medium, an advertisement or announcement for any vacancy in a  
24 job, as an employee, that includes any of the following:

25 (1) Any provision stating or indicating that an  
26 individual's status as unemployed disqualifies the individual  
27 for any employment opportunity.

28 (2) Any provision stating or indicating that the employment  
29 agency or an employer will not consider or hire an individual  
30 for any employment opportunity based on that individual's  
31 status as unemployed.

32 b. Screen, fail or refuse to consider, or fail or refuse to  
33 refer an individual for employment as an employee because of  
34 the individual's status as unemployed.

35 c. Limit, segregate, or classify any individual in any

1 manner that would limit or tend to limit the individual's  
2 access to information about jobs, or consideration, screening,  
3 or referral for jobs, as an employee, solely because of an  
4 individual's status as unemployed.

5 4. a. An employer who violates this section shall cease  
6 and desist from further violations and shall pay the following  
7 civil penalty:

8 (1) For a first violation, not more than one thousand  
9 dollars.

10 (2) For a second violation, not more than five thousand  
11 dollars.

12 (3) For a third or subsequent violation, not more than ten  
13 thousand dollars.

14 b. In addition, an employer found to have violated  
15 this section shall be assessed the costs of the action to  
16 enforce the civil penalty, including the reasonable costs of  
17 investigation and attorney fees.

18 5. A civil action to enforce this provision shall be by  
19 equitable proceedings instituted by the attorney general.

20 6. Penalties ordered pursuant to this section shall be paid  
21 to the treasurer of state for deposit in the general fund of  
22 the state.

23 7. a. This section shall not be construed to preclude  
24 an employer or employment agency from considering an  
25 individual's employment history, or from examining the reasons  
26 underlying an individual's status as unemployed, in assessing  
27 an individual's ability to perform a job or in otherwise  
28 making employment decisions about that individual. Such  
29 consideration or examination may include an assessment of  
30 whether an individual's employment history in a similar or  
31 related job for a period of time reasonably proximate to the  
32 time of consideration of the individual for new employment is  
33 job-related or consistent with business necessity in relation  
34 to that new employment.

35 b. This section shall not be construed to create a private

1 right of action against an employer who has violated, or is  
2 alleged to have violated, this section.

3 EXPLANATION

4 This bill prohibits employment discrimination based on an  
5 individual's status as unemployed. The bill defines "status as  
6 unemployed" as an individual who, at the time of application  
7 for employment or at the time of an alleged violation, does not  
8 have a job, is available for work, and is searching for work.

9 The bill prohibits an employer from engaging in certain  
10 employment practices. An employer is prohibited from  
11 publishing an advertisement or announcement for employment that  
12 includes any provision stating that an individual's status  
13 as unemployed disqualifies the individual for any employment  
14 opportunity or any provision stating that the employer  
15 will not consider or hire an individual for any employment  
16 opportunity based on that individual's status as unemployed.  
17 An employer is prohibited from failing or refusing to consider  
18 for employment or failing or refusing to hire an individual  
19 because of the individual's status as unemployed. An employer  
20 is prohibited from directing or requesting that an employment  
21 agency take an individual's status as unemployed into account  
22 to disqualify an applicant for consideration, screening, or  
23 referral for employment.

24 The bill also prohibits an employment agency from engaging  
25 in certain employment practices. An employment agency is  
26 prohibited from publishing an advertisement or announcement  
27 for any vacancy in a job that includes any provision stating  
28 that an individual's status as unemployed disqualifies the  
29 individual for any employment opportunity or any provision  
30 stating that the employment agency or an employer will not  
31 consider or hire an individual for any employment opportunity  
32 based on that individual's status as unemployed. An employment  
33 agency is prohibited from screening, or failing or refusing to  
34 consider, or failing or refusing to refer an individual for  
35 employment because of the individual's status as unemployed.

1 An employment agency is prohibited from limiting, segregating,  
2 or classifying an individual in any manner that would limit  
3 the individual's access to information about jobs, or  
4 consideration, screening, or referral for jobs solely because  
5 of the individual's status as unemployed.

6 The bill provides that a first violation carries a civil  
7 penalty of not more than \$1,000, a second violation not more  
8 than \$5,000, and a third or subsequent violation not more  
9 than \$10,000. In addition to the civil penalty, an employer  
10 shall be assessed the costs of enforcement. The bill shall be  
11 enforced by a civil action instituted by the attorney general.

12 The bill is not to be construed to preclude an employer  
13 or employment agency from considering an individual's  
14 employment history, or from examining the reasons underlying  
15 an individual's status as unemployed, in assessing an  
16 individual's ability to perform a job or in otherwise making  
17 employment decisions about that individual. Such consideration  
18 or examination may include an assessment of whether an  
19 individual's employment history in a similar or related job  
20 for a period of time reasonably proximate to the time of  
21 consideration for new employment is job-related or consistent  
22 with business necessity in relation to that new employment.

23 The bill is not to be construed to create a private right  
24 of action against an employer for a violation or alleged  
25 violation.