STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

SENATE BILL 275

By: Pittman

AS INTRODUCED

An Act relating to labor; creating the Job Opportunity and Protection Act; providing short title; defining terms; prohibiting inquiry of job applicant's criminal history until interview or conditional offer of employment; providing exceptions; authorizing the Department of Labor to investigate violations; providing a warning for a first violation; establishing administrative fines for certain violations; setting fine amounts; setting time period or remedy violations after notice; allowing recovery of certain fines by civil action or under the Administrative Procedures Act; directing the Attorney General to represent the Department of labor in certain civil actions; directing deposit of fines into certain fund; limiting use of certain funds for certain purpose; authorizing rulemaking; requiring procedures in Administrative Procedures Act for administrative actions; creating the Job Opportunities Enforcement Fund; providing for deposits and expenditures; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 161.1 of Title 40, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Job
Opportunity and Protection Act”.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 161.2 of Title 40, unless there is created a duplication in numbering, reads as follows:

A. For purposes of this act:

1. "Applicant" means any person pursuing employment with an employer or with or through an employment agency;

2. "Employer" means any person or private entity that has fifteen or more employees in the current or preceding calendar year, and any agent of such an entity or person;

3. "Employment agency" means any person or entity regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person;

4. "Employment" means any occupation or vocation.

B. An employer or employment agency may not inquire about or into, consider, or require disclosure of the criminal record or criminal history of an applicant until the applicant has been determined qualified for the position and notified that the applicant has been selected for an interview by the employer or employment agency or, if there is not an interview, until after a conditional offer of employment is made to the applicant by the employer or employment agency.
C. The requirements set forth in subsection A of this section do not apply for positions where:

1. Employers are required to exclude applicants with certain criminal convictions from employment due to federal or state law; or

2. A standard fidelity bond or an equivalent bond is required and an applicant's conviction of one or more specified criminal offenses would disqualify the applicant from obtaining such a bond, in which case an employer may include a question or otherwise inquire whether the applicant has ever been convicted of any of those offenses; or

D. This section does not prohibit an employer from notifying applicants in writing of the specific offenses that will disqualify an applicant from employment in a particular position due to federal or state law or the employer's policy.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 161.3 of Title 40, unless there is created a duplication in numbering, reads as follows:

A. The Department of Labor shall investigate any alleged violations of this act by an employer or employment agency. If the Department finds that a violation has occurred, the Commissioner of Labor may impose the following administrative fines:

1. For the first violation, the Commissioner shall issue a written warning to the employer or employment agency that includes
notice regarding fines for subsequent violations and the employer shall have thirty (30) days to remedy the violation;

2. For the second violation, or if the first violation is not remedied within the thirty-day period of notice by the Department, the Commissioner may impose a an administrative fine on an amount up to Five Hundred Dollars ($500.00);

3. For the third violation, or if the first violation is not remedied within a sixty-day period of notice by the Department, the Commissioner may impose an additional administrative fine in an amount up to One Thousand Five Hundred Dollars ($1,500.00);

4. For any subsequent violation, or if the first violation is not remedied within a ninety-day period of notice by the Department, the Commissioner may impose an additional administrative fine in an amount up to One Thousand Five Hundred Dollars ($1,500.00) for every thirty (30) days that passes thereafter without compliance.

B. Penalties stated under this section may be assessed by the Department and recovered in a civil action brought by the Department in any district court or in any administrative adjudicative proceeding pursuant to this act. In any such civil action, the Department shall be represented by the Attorney General.

C. All moneys recovered as administrative fines under this section shall be deposited into the Job Opportunity and Protection Enforcement Fund, a special fund which is created in the State
Treasury. Moneys in the Fund may be used only to enforce employer or employment agency violations of this act.

D. The Department may adopt rules necessary to administer this act and shall use the administrative procedures to adjudicate claims and issue final and binding decisions found in the Administrative Procedures Act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 161.4 of Title 40, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a fund for the Department of Labor to be designated the "Job Opportunity and Protection Enforcement Fund". The fund shall consist of all administrative fines recovered or collected for violations of the Job Opportunities Act by the Department of Labor. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Department of Labor for enforcing the provisions of this act against employers and employment agencies in this state. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Office of Management and Enterprise Services for approval and payment.

SECTION 5. This act shall become effective November 1, 2015.