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HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 1

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO UNLAWFUL EMPLOYMENT PRACTICES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Chapter 7, Title 19 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline and redesignating accordingly:

3 § 710. Definitions.

4 For the purposes of this subchapter:

5 (3) "Compensation" includes monetary wages as well as benefits and other forms of compensation.

6 § 711. Unlawful employment practices; employer practices.

7 (j) (1) It shall be an unlawful employment practice for an employer or an employer's agent to:

8 a. Screen prospective employees based on their compensation histories, including by requiring that a
9 prospective employee's prior compensation satisfy minimum or maximum criteria.

10 b. Seek the compensation history of a prospective employee from the prospective employee or a current
11 or former employer.

12 (2) Nothing in this subsection prohibits an employer or an employer's agent and a prospective employee from
13 discussing and negotiating compensation expectations provided that the employer or employer's agent does not request
14 or require the prospective employee's compensation history.

15 (3) Nothing in this subsection prohibits an employer or an employer's agent from seeking the prospective
16 employee's compensation history after an offer of employment with terms of compensation has been extended to the
17 prospective employee and accepted, for the sole purpose of confirming the prospective employee's compensation
18 history. If the prospective employee authorizes such post-offer disclosure, the authorization must be in writing.

19 Section 2. This Act shall take effect 6 months after its enactment into law.

SYNOPSIS

This Act builds on some of the legislation passed by the 148th General Assembly that addressed the wage gap between men and women. When employers ask prospective employees for their wage or salary history, it perpetuates disparities in pay based on gender from one job into another. This Act prohibits employers from inquiring into a prospective employee's compensation history. A prospective employee may voluntarily disclose the information if he or she wishes to do so, and the bill explicitly permits discussion and negation of compensation expectations between an employer and prospective employee, so long as the employer does not affirmatively seek compensation history in the course of discussion and negotiation. An employer is permitted to seek and confirm such information after an offer, including compensation, has been negotiated, made, and accepted if the prospective employee authorizes disclosure of that information in writing. The effective date of the bill is delayed by 6 months to allow employers to update their policies.