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113TH CONGRESS
2D SESSION

H. R. 4954

To amend the Employee Polygraph Protection Act of 1988 to provide an exemption from the protections of that Act with regard to certain prospective employees whose job would include caring for or interacting with unsupervised children.

IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 2014

Mr. ROSS introduced the following bill; which was referred to the Committee on Education and the Workforce

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A BILL

To amend the Employee Polygraph Protection Act of 1988 to provide an exemption from the protections of that Act with regard to certain prospective employees whose job would include caring for or interacting with unsupervised children.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Protecting Our Children Act".

SEC. 2. EXEMPTION FOR EMPLOYERS OF EMPLOYEES WHO CARE FOR OR INTERACT WITH UNSUPERVISED CHILDREN.

(a) EXEMPTION.—Section 7 of the Employee Polygraph Protection Act of 1988 (29 U.S.C. 2006) is amended by adding at the end the following:

"(g) EXEMPTION FOR CERTAIN EMPLOYERS OF EMPLOYEES WHO CARE FOR OR INTERACT WITH UNSUPERVISED CHILDREN.—

"(1) EXEMPTION.—Subject to paragraph (2) and subsection (c) of section 8, this Act shall not prohibit the use of a polygraph test by any employer if the test is administered to a prospective employee—

"(A) whose activities would involve the care or supervision of children or regular access to children who are cared for or supervised by another employee;

"(B) whose job description indicates a high probability that the prospective employee will interact with unsupervised children on a frequent basis; or

"(C) where the employer reasonably believes there is a high probability of unsupervised interaction between the prospective employee and a child on a more than incidental basis.

"(2) CONDITIONS.—In addition to the requirements imposed by section 8(c), the exemption provided under paragraph (1) shall not apply unless the following conditions are met:

"(A) The prospective employee is provided with reasonable written notice of the date, time, and location of the polygraph test and of such examinee's right to obtain and consult with legal counsel or an employee representative before each phase of the test.

"(B) Following the polygraph test, before any adverse employment action is taken, the employer shall—

"(i) further interview the examinee on the basis of the results of the test; and

"(ii) provide the examinee with—

"(I) a written copy of any opinion or conclusion rendered as a result of the test; and

"(II) a copy of the questions asked during the test along with the corresponding charted responses.".

(b) CONFORMING AMENDMENT.—Section 8(c) of such Act (29 U.S.C. 2007(c)) is amended in the matter

1 preceding paragraph (1), by striking ''and (f)'' and insert-
2 ing ''(f) and (g)''.

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