

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: S4/7/99

A Bill

Act 1474 of 1999
HOUSE BILL 1820

5 By: Representatives Sheppard, Broadway
6 By: Senator Mahony
7
8

For An Act To Be Entitled

9
10 "AN ACT TO PROVIDE CURRENT AND FORMER BUSINESS
11 EMPLOYERS WITH PROTECTION FOR PROVIDING JOB
12 INFORMATION ABOUT CURRENT OR FORMER EMPLOYEES TO
13 PROSPECTIVE EMPLOYERS; AND FOR OTHER PURPOSES. "
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Subtitle

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16 "AN ACT TO PROVIDE CURRENT AND FORMER
17 BUSINESS EMPLOYERS WITH PROTECTION FOR
18 PROVIDING JOB INFORMATION ABOUT CURRENT
19 OR FORMER EMPLOYEES TO PROSPECTIVE
20 EMPLOYERS. "
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 SECTION 1. (a) A current or former employer may disclose the following
26 information about a current or former employee's employment history to a
27 prospective employer of the current or former employee upon receipt of written
28 consent from the current or former employee:

29 (1) Date and duration of employment;

30 (2) Current pay rate and wage history;

31 (3) Job description and duties;

32 (4) The last written performance evaluation prepared prior to the
33 date of the request;

34 (5) Attendance information;

35 (6) Results of drug or alcohol tests administered within one (1)
36 year prior to the request;

1 (7) Threats of violence, harassing acts, or threatening behavior
2 related to the workplace or directed at another employee;

3 (8) Whether the employee was voluntarily or involuntarily
4 separated from employment and the reasons for the separation; and

5 (9) Whether the employee is eligible for rehire.

6 (b) The current or former employer disclosing such information shall be
7 presumed to be acting in good faith and shall be immune from civil liability
8 for the disclosure or any consequences of such disclosure unless the
9 presumption of good faith is rebutted upon a showing, by a preponderance of
10 the evidence, that the information disclosed by the current or former employer
11 was false and the current or former employer had knowledge of its falsity or
12 acted with malice or reckless disregard for the truth.

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14 SECTION 2. The consent required in Section 1 must be on a separate form
15 from the application form, or, if included in the application form, must be in
16 bold letters and in larger typeface than the largest typeface in the text of
17 the application form. The consent form must state, at a minimum, language
18 similar to the following:

19 "I, (applicant), hereby give consent to any and all prior employers of
20 mine to provide information with regard to my employment with prior employers
21 to (prospective employer)." The consent must be signed and dated by the
22 applicant. The consent will be valid only for the length of time that the
23 application is considered active by the prospective employer, but in no event
24 longer than six (6) months.

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26 SECTION 3. The provisions of this act shall also apply to any current
27 or former employee, agent, or other representative of the current or former
28 employer who is authorized to provide and who provides information in
29 accordance with the provisions of this act.

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31 SECTION 4. (a) This act does not require any prospective employer to
32 request employment history on a prospective employee and does not require any
33 current or former employer to disclose employment history to any prospective
34 employer.

35 (b) Except as specifically amended herein, the common law of this state
36 remains unchanged as it relates to providing employment information on present

1 and former employees.

2 (c) This act shall only apply to causes of action accruing on and after
3 the effective date of this act.

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5 SECTION 5. The immunity conferred by this act shall not apply when an
6 employer or prospective employer discriminates or retaliates against an
7 employee because the employee or the prospective employee has exercised, or is
8 believed to have exercised, any federal or state statutory right or undertaken
9 any action encouraged by the public policy of this state.

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11 SECTION 6. All provisions of this act of a general and permanent nature
12 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
13 Revision Commission shall incorporate the same in the Code.

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15 SECTION 7. If any provision of this act or the application thereof to
16 any person or circumstance is held invalid, such invalidity shall not affect
17 other provisions or applications of the act which can be given effect without
18 the invalid provision or application, and to this end the provisions of this
19 act are declared to be severable.

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21 SECTION 8. All laws and parts of laws in conflict with this act are
22 hereby repealed.

23 */s/ Sheppard*

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26 APPROVED: 4/15/1999
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