

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

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4 By: Senator Mahony
5 *By: Representatives Sheppard, Broadway*

As Engrossed: S2/3/99
A Bill

SENATE BILL 229

For An Act To Be Entitled

8 "AN ACT TO PROVIDE QUALIFIED IMMUNITY FROM CIVIL
9 LIABILITY TO EMPLOYERS THAT PROVIDE INFORMATION ABOUT
10 CURRENT OR FORMER EMPLOYEES TO PROSPECTIVE EMPLOYERS;
11 AND FOR OTHER PURPOSES."

Subtitle

"QUALITY IN HIRING ACT."

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

19 SECTION 1. (a) A current or former employer may disclose the following
20 information about a current or former employee's employment history to a
21 prospective employer of the current or former employee upon receipt of written
22 consent from the current or former employee:

23 (1) Date and duration of employment;

24 (2) Current pay rate and wage history;

25 (3) Job description and duties;

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

28 (5) Attendance information;

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

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

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

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

36 (b) The current or former employer disclosing such information shall be

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1 presumed to be acting in good faith and shall be immune from civil liability
2 for the disclosure or any consequences of such disclosure unless the
3 presumption of good faith is rebutted upon a showing, by a preponderance of
4 the evidence, that the information disclosed by the current or former employer
5 was false and the current or former employer had knowledge of its falsity or
6 acted with malice or reckless disregard for the truth.

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8 SECTION 2. The consent required in Section 1 must be on a separate form
9 from the application form, or, if included in the application form, must be in
10 bold letters and in larger typeface than the largest typeface in the text of
11 the application form. The consent form must state, at a minimum, language
12 similar to the following:

13 "I, (Applicant), hereby give consent to any and all prior employers of
14 mine to provide information with regard to my employment with prior employers
15 to (Prospective Employer)." The consent must be signed and dated by the
16 Applicant. The consent will be valid only for the length of time that the
17 application is considered active by the prospective employer, but in no event
18 longer than six months.

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

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25 SECTION 4. (a) This act does not require any prospective employer to
26 request employment history on a prospective employee and does not require any
27 current or former employer to disclose employment history to any prospective
28 employer.

29 (b) The fact that an employer does not use the protections afforded by
30 this act cannot be used as evidence of negligence against the employer.

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

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34 SECTION 5. The immunity conferred by this act shall not apply when an
35 employer or prospective employer discriminates or retaliates against an
36 employee because the employee or the prospective employee has exercised, or is

1 believed to have exercised, any federal or state statutory right or undertaken
2 any action encouraged by the public policy of this state.

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4 SECTION 6. All provisions of this Act of a general and permanent nature
5 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
6 Revision Commission shall incorporate the same in the Code.

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8 SECTION 7. If any provision of this Act or the application thereof to
9 any person or circumstance is held invalid, such invalidity shall not affect
10 other provisions or applications of the Act which can be given effect without
11 the invalid provision or application, and to this end the provisions of this
12 Act are declared to be severable.

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14 SECTION 8. All laws and parts of laws in conflict with this Act are
15 hereby repealed.

16 /s/ Mahony
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