

First Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 11-0878.01 Kristen Forrestal

SENATE BILL 11-193

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SENATE SPONSORSHIP

Aguilar,

HOUSE SPONSORSHIP

Gardner B. and Kerr J.,

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Senate Committees  
Judiciary

House Committees

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A BILL FOR AN ACT

101 CONCERNING THE DISCLOSURE OF EMPLOYMENT INFORMATION TO AN  
102 EMPLOYER REGARDING A PERSON EMPLOYED TO WORK WITH A  
103 PERSON WITH A DEVELOPMENTAL DISABILITY, AND, IN  
104 CONNECTION THEREWITH, GRANTING IMMUNITY FROM CIVIL  
105 LIABILITY FOR THE DISCLOSURE OF INFORMATION AND  
106 CREATING AN EXCEPTION FROM THE PROHIBITION AGAINST  
107 BLACKLISTING FOR THE DISCLOSURE OF INFORMATION.

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at*

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

*http://www.leg.state.co.us/bills/summaries.)*

The bill allows current and former employers to disclose certain information about an individual employed to work with a person with a developmental disability in response to a request from a current or prospective employer of the individual. The disclosing employer is granted immunity from civil liability for the good faith disclosure of information. The bill also creates an exception to the current prohibitions against blacklisting for the disclosure of information.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Part 1 of article 2 of title 8, Colorado Revised  
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
4 read:

5 **8-2-111.7. Employees working with persons with**  
6 **developmental disabilities - immunity from civil liability -**  
7 **requirements - exception to blacklisting prohibition - legislative**  
8 **declaration - definitions.** (1) THE GENERAL ASSEMBLY HEREBY FINDS,  
9 DETERMINES, AND DECLARES THAT THE INTENT AND PURPOSE OF SECTIONS  
10 8-2-110 AND 8-2-111, WHICH PROHIBIT THE MAINTENANCE OR USE OF  
11 BLACKLISTS, IS TO PROTECT EMPLOYEES FROM RETRIBUTION AND  
12 HARASSMENT IN THE PURSUIT OF THEIR LAWFUL ACTIVITIES. THE  
13 GENERAL ASSEMBLY FURTHER FINDS, DETERMINES, AND DECLARES THAT  
14 THESE PROHIBITIONS AGAINST BLACKLISTING HAVE IN SOME INSTANCES  
15 BEEN ABUSED AND HAVE BEEN USED AS A SHIELD BY CAREGIVERS  
16 RESPONSIBLE FOR MISTREATMENT, EXPLOITATION, NEGLECT, OR ABUSE OF  
17 PERSONS WITH DEVELOPMENTAL DISABILITIES.

18 (2) IN RESPONSE TO A REQUEST BY A CURRENT OR PROSPECTIVE  
19 EMPLOYER OF A CAREGIVER, IT IS NEITHER UNLAWFUL NOR A VIOLATION  
20 OF THE PROHIBITIONS AGAINST BLACKLISTING SPECIFIED IN SECTIONS

1 8-2-110 AND 8-2-111 FOR AN EMPLOYER, WHEN ACTING IN GOOD FAITH, TO  
2 DISCLOSE INFORMATION KNOWN ABOUT ANY INVOLVEMENT IN THE  
3 MISTREATMENT, EXPLOITATION, NEGLECT, OR ABUSE OF PERSONS WITH  
4 DEVELOPMENTAL DISABILITIES AS PROHIBITED BY SECTION 27-10.5-115,  
5 C.R.S., BY A CAREGIVER WHO IS AN EMPLOYEE OR A FORMER EMPLOYEE  
6 OF THE RESPONDING EMPLOYER.

7 (3) (a) (I) AN EMPLOYER WHO PROVIDES INFORMATION IN  
8 ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION IS IMMUNE FROM  
9 CIVIL LIABILITY FOR PROVIDING THE INFORMATION OR FOR ANY  
10 CONSEQUENCES THAT RESULT FROM THE DISCLOSURE OF THE  
11 INFORMATION UNLESS THE CAREGIVER SHOWS BY A PREPONDERANCE OF  
12 THE EVIDENCE THAT THE INFORMATION IS FALSE AND THE EMPLOYER  
13 PROVIDING THE INFORMATION KNEW OR REASONABLY SHOULD HAVE  
14 KNOWN THAT THE INFORMATION IS FALSE.

15 (II) THE PROVISION OF EMPLOYMENT INFORMATION IN  
16 ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION DOES NOT  
17 CONSTITUTE BLACKLISTING UNDER SECTION 8-2-110 OR 8-2-111, NOR  
18 DOES IT CONSTITUTE AN UNFAIR LABOR PRACTICE IN VIOLATION OF  
19 ARTICLE 3 OF THIS TITLE.

20 (b) THIS SUBSECTION (3) APPLIES TO ANY EMPLOYEE, AGENT, OR  
21 OTHER REPRESENTATIVE OF THE RESPONDING EMPLOYER WHO IS  
22 AUTHORIZED TO PROVIDE AND PROVIDES INFORMATION TO A CURRENT OR  
23 PROSPECTIVE EMPLOYER IN ACCORDANCE WITH SUBSECTION (2) OF THIS  
24 SECTION.

25 (4) AN EMPLOYER OR ANY OFFICER, DIRECTOR, EMPLOYEE, OR  
26 REPRESENTATIVE OF THE EMPLOYER WHO DISCLOSES INFORMATION UNDER  
27 THIS SECTION IS PRESUMED TO BE ACTING IN GOOD FAITH UNLESS IT IS

1 SHOWN BY A PREPONDERANCE OF THE EVIDENCE THAT THE FACILITY,  
2 OFFICER, DIRECTOR, EMPLOYEE, OR REPRESENTATIVE OF THE EMPLOYER  
3 INTENTIONALLY OR RECKLESSLY DISCLOSED FALSE INFORMATION ABOUT  
4 THE EMPLOYEE OR FORMER EMPLOYEE.

5 (5) FOR THE PURPOSES OF THIS SECTION:

6 (a) "CAREGIVER" MEANS AN INDIVIDUAL EMPLOYED TO WORK  
7 WITH A PERSON WITH A DEVELOPMENTAL DISABILITY.

8 (b) "PERSON WITH A DEVELOPMENTAL DISABILITY" HAS THE SAME  
9 MEANING AS DEFINED IN SECTION 27-10.5-102 (11) (b), C.R.S.

10 **SECTION 2. Effective date.** This act shall take effect July 1,  
11 2011.

12 **SECTION 3. Safety clause.** The general assembly hereby finds,  
13 determines, and declares that this act is necessary for the immediate  
14 preservation of the public peace, health, and safety.