

**NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.**

# An Act

SENATE BILL 11-193

BY SENATOR(S) Aguilar, Boyd, Foster, Giron, Guzman, Heath, Hudak, King S., Morse, Newell, Nicholson, Schwartz, Williams S.;  
also REPRESENTATIVE(S) Gardner B. and Kerr J., Beezley, Conti, Fields, Labuda, Schafer S., Stephens, Summers, Todd.

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

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

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

**8-2-111.7. Employees working with persons with developmental disabilities - immunity from civil liability - requirements - exception to blacklisting prohibition - legislative declaration - definitions.** (1) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT THE INTENT AND PURPOSE OF SECTIONS 8-2-110 AND 8-2-111, WHICH PROHIBIT THE MAINTENANCE OR USE OF BLACKLISTS, IS TO PROTECT EMPLOYEES FROM

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

RETRIBUTION AND HARASSMENT IN THE PURSUIT OF THEIR LAWFUL ACTIVITIES. THE GENERAL ASSEMBLY FURTHER FINDS, DETERMINES, AND DECLARES THAT THESE PROHIBITIONS AGAINST BLACKLISTING HAVE IN SOME INSTANCES BEEN ABUSED AND HAVE BEEN USED AS A SHIELD BY CAREGIVERS RESPONSIBLE FOR MISTREATMENT, EXPLOITATION, NEGLECT, OR ABUSE OF PERSONS WITH DEVELOPMENTAL DISABILITIES.

(2) IN RESPONSE TO A REQUEST BY A CURRENT OR PROSPECTIVE EMPLOYER OF A CAREGIVER, IT IS NEITHER UNLAWFUL NOR A VIOLATION OF THE PROHIBITIONS AGAINST BLACKLISTING SPECIFIED IN SECTIONS 8-2-110 AND 8-2-111 FOR AN EMPLOYER, WHEN ACTING IN GOOD FAITH, TO DISCLOSE INFORMATION KNOWN ABOUT ANY INVOLVEMENT IN THE MISTREATMENT, EXPLOITATION, NEGLECT, OR ABUSE OF PERSONS WITH DEVELOPMENTAL DISABILITIES AS PROHIBITED BY SECTION 27-10.5-115, C.R.S., BY A CAREGIVER.

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

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

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

(4) AN EMPLOYER OR ANY OFFICER, DIRECTOR, EMPLOYEE, OR REPRESENTATIVE OF THE EMPLOYER WHO DISCLOSES INFORMATION UNDER THIS SECTION IS PRESUMED TO BE ACTING IN GOOD FAITH UNLESS IT IS SHOWN BY A PREPONDERANCE OF THE EVIDENCE THAT THE FACILITY,

OFFICER, DIRECTOR, EMPLOYEE, OR REPRESENTATIVE OF THE EMPLOYER INTENTIONALLY OR RECKLESSLY DISCLOSED FALSE INFORMATION ABOUT THE CAREGIVER.

(5) FOR THE PURPOSES OF THIS SECTION:

(a) "CAREGIVER" MEANS AN INDIVIDUAL CURRENTLY OR FORMERLY EMPLOYED TO WORK WITH A PERSON WITH A DEVELOPMENTAL DISABILITY OR A PERSON WHO PROVIDES HOST HOME SERVICES BY CONTRACT AS PART OF RESIDENTIAL SERVICES AND SUPPORTS AS DESCRIBED IN SECTION 27-10.5-104 (1) (f), C.R.S. "CAREGIVER" DOES NOT MEAN A PERSON WHO IS EMPLOYED BY OR WHO HAS CONTRACTED TO WORK WITH A SCHOOL DISTRICT.

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

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

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

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Brandon C. Shaffer  
PRESIDENT OF  
THE SENATE

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Frank McNulty  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Cindi L. Markwell  
SECRETARY OF  
THE SENATE

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Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

APPROVED \_\_\_\_\_

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John W. Hickenlooper  
GOVERNOR OF THE STATE OF COLORADO