

LEGISLATIVE BILL 959

Approved by the Governor April 10, 2012

Introduced by Janssen, 15; Coash, 27.

FOR AN ACT relating to labor; to provide immunity to employers for job references.

Be it enacted by the people of the State of Nebraska,

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

- (i) Date and duration of employment;
- (ii) Pay rate and wage history on the date of receipt of written consent;
- (iii) Job description and duties;
- (iv) The most recent written performance evaluation prepared prior to the date of the request and provided to the employee during the course of his or her employment;
- (v) Attendance information;
- (vi) Results of drug or alcohol tests administered within one year prior to the request;
- (vii) Threats of violence, harassing acts, or threatening behavior related to the workplace or directed at another employee;
- (viii) Whether the employee was voluntarily or involuntarily separated from employment and the reasons for the separation; and
- (ix) Whether the employee is eligible for rehire.

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

(2)(a) The consent required in subsection (1) of this section shall be on a separate form from the application form or, if included in the application form, shall be in bold letters and in larger typeface than the largest typeface in the text of the application form. The consent form shall state, at a minimum, language similar to the following:

I, (applicant), hereby give consent to any and all prior employers of mine to provide information with regard to my employment with prior employers to (prospective employer).

(b) The consent must be signed and dated by the applicant.

(c) The consent will be valid for no longer than six months.

(3) This section shall also apply to any current or former employee, agent, or other representative of the current or former employer who is authorized to provide and who provides information in accordance with this section.

(4)(a) This section does not require any prospective employer to request employment history on a prospective employee and does not require any current or former employer to disclose employment history to any prospective employer.

(b) Except as specifically amended in this section, the common law of this state remains unchanged as it relates to providing employment information on current and former employees.

(c) This section applies only to causes of action accruing on and after the effective date of this act.

(5) The immunity conferred by this section shall not apply when an employer discriminates or retaliates against an employee because the employee has exercised or is believed to have exercised any federal or state statutory right or undertaken any action encouraged by the public policy of this state.