

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding a section numbered 8.01-46.1, relating to the*
3 *disclosure of certain employment information.*

4 [H 1126]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That the Code of Virginia is amended by adding a section numbered 8.01-46.1 as follows:**8 *§ 8.01-46.1. Disclosure of employment-related information; presumptions; causes of action;*
9 *definitions.*

10 *A. Any employer who, upon request by a person's prospective or current employer, furnishes*
11 *information about that person's professional conduct, reasons for separation or job performance,*
12 *including, but not limited to, information contained in any written performance evaluations, shall be*
13 *immune from civil liability for furnishing such information, provided that the employer is not acting in*
14 *bad faith. An employer shall be presumed to be acting in good faith. The presumption of good faith*
15 *shall be rebutted if it is shown by clear and convincing evidence that the employer disclosed such*
16 *information with knowledge that it was false, or with reckless disregard for whether it is false or not, or*
17 *with the intent to deliberately mislead.*

18 *B. In a civil action brought against an employer for disclosing the information described in*
19 *subsection A, if the trier of fact determines the employer acted in bad faith, punitive damages may be*
20 *awarded, as provided by § 8.01-38.1.*

21 *C. As used in this section, the following words and phrases shall have the following meanings:*22 *"Employee" means any person, paid or unpaid, in the service of an employer.*

23 *"Employer" means any person, firm or corporation, including the Commonwealth of Virginia and its*
24 *political subdivisions, and their agents, who has one or more employees or individuals performing*
25 *services under any contract of hire or service, express or implied, oral or written.*

26 *"Information" includes, but is not limited to, facts, data and opinions.*

27 *"Job performance" includes, but is not limited to, ability, attendance, awards, demotions, duties,*
28 *effort, evaluations, knowledge, skills, promotions, productivity and disciplinary actions.*

29 *"Professional conduct" includes, but is not limited to, the ethical standards which govern the*
30 *employee's profession, or lawful conduct which is expected of the employee by the employer.*

31 *"Prospective employer" means any employer who is considering a person for employment.*

32 **2. That the provisions of this act shall apply to any cause of action accruing on or after July 1,**
33 **2000.**

ENROLLED

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