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HOUSE BILL NO. 1169

Offered January 10, 2018

Prefiled January 10, 2018

A *BILL to amend the Code of Virginia by adding a section numbered 15.2-1709.1, relating to disclosure of employment-related information to law-enforcement agency.*

Patron—LaRock

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

- 1. That the Code of Virginia is amended by adding a section numbered 15.2-1709.1 as follows:**
§ 15.2-1709.1. Disclosure of employment-related information to law-enforcement agency.

A. For purposes of this section, unless the context requires otherwise:

"Employee" means any person, paid or unpaid, in the service of an employer.

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

"Information" includes facts, data, and opinions.

"Job performance" includes ability, attendance, awards, demotions, duties, effort, evaluations, knowledge, skills, promotions, productivity, and disciplinary actions.

"Law-enforcement agency" means any agency that employs law-enforcement officers as defined in § 9.1-101.

"Professional conduct" includes the ethical standards that govern the employee's profession or lawful conduct that is expected of the employee by the employer.

"Prospective employer" means any employer that is considering a person for employment.

B. Upon request, an employer shall furnish information about a person's professional conduct, reasons for separation, and job performance, including information contained in any written performance evaluations, to a law-enforcement agency that is such person's prospective or current employer, provided that the law-enforcement agency provides to the employer a written release signed by such person authorizing the employer's disclosure of the information to the law-enforcement agency. An employer who furnishes such information shall be immune from civil liability, provided that the employer is not acting in bad faith. An employer shall be presumed to be acting in good faith. The presumption of good faith shall be rebutted if it is shown by clear and convincing evidence that the employer disclosed such information with knowledge that it was false, or with reckless disregard for whether it was false or not, or with the intent to deliberately mislead.

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

INTRODUCED

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