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## HOUSE BILL NO. 1313

Offered January 26, 1998

A BILL to amend the Code of Virginia by adding a section numbered 8.01-46.1, relating to disclosure of employee information.

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Patron—Wilkins

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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 8.01-46.1 as follows:**

§ 8.01-46.1. Disclosure of employment-related information; presumptions; causes of action; immunity; definitions.

A. Any employer, agent or other representative of such employer who, upon request by a prospective employer, provides information about a current or former employee's job performance, professional conduct or reasons for separation, shall be immune from civil liability and other consequences of such disclosure provided such employer is not acting in bad faith. An employer shall be presumed to be acting in good faith, and shall be considered to be acting in bad faith only if it can be shown by clear and convincing evidence that the information disclosed was knowingly false, deliberately misleading, or rendered with reckless disregard for the truth.

B. Any prospective employer who reasonably relies on information pertaining to an employee's job performance, professional conduct, or reasons for separation, disclosed by a current or former employer, shall be immune from civil liability including liability for negligent hiring, negligent retention, and other causes of action related to the hiring of or failure to hire said employee, based upon such reasonable reliance, unless further investigation, including but not limited to a criminal background check, is required by law.

C. As used in this section, the following words and phrases shall have the meaning contained herein unless the context clearly requires otherwise:

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

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

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

"Professional conduct" includes, but is not limited to, the ethical standards which govern the employee's profession; or the professional conduct which is reasonably expected of the employee by the employer.

"Prospective employer" means any "employer," as defined herein, to which a prospective employee has made application, either oral or written, or forwarded a resume or other correspondence expressing an interest in employment.

**2. That the provisions of this act shall apply to any cause of action accruing on or after July 1, 1998.**

INTRODUCED

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