

1998 SESSION

INTRODUCED

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SENATE BILL NO. 272

Offered January 19, 1998

A BILL to amend the Code of Virginia by adding in Title 40.1 a section numbered 40.1-27.01, relating to employment references; employer liability.

Patrons—Ticer, Bolling, Colgan, Hanger, Hawkins, Holland, Howell, Quayle, Reasor, Saslaw and Williams; Delegates: Albo, Almand, Callahan, Devolites, Dillard, McClure, Scott and Watts

Referred to the Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 40.1 a section numbered 40.1-27.01 as follows:

§ 40.1-27.01. Employment references; employer liability.

A. Notwithstanding the provisions of § 40.1-27, an employer acting in good faith shall not be held liable for disclosing information about the job performance or the reason for termination of employment of an employee or former employee to a prospective employer of the employee or former employee if such information is disclosed (i) at the written request of a prospective employer, the employee, or former employee, and (ii) is documented in the official personnel file of the employee or former employee.

B. An employer who discloses information pursuant to subsection A shall be presumed to be acting in good faith unless it is shown by a preponderance of the evidence that the employer (i) acted with actual malice toward the employee or former employee, (ii) intentionally or recklessly disclosed false information about the employee or former employee, or (iii) disclosed information subject to a nondisclosure agreement that is confidential under federal or state law.

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