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HOUSE BILL NO. 1458

Offered January 22, 1996

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

Patron—Cranwell (By Request)

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; definitions.

A. Any employer that, upon request by a prospective employer or a current or former employee, provides information about a current or former employee's job performance 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 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 and deliberately misleading.

B. Any prospective employer who reasonably relies on information pertaining to an employee's job performance or reasons for separation, disclosed by a 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 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, demotions, duties, effort, evaluations, knowledge, skills, promotions, and disciplinary actions.

"Prospective employee" means any person who has made an application, either oral or written, or has sent a resume or other correspondence indicating an interest in employment.

"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.

INTRODUCED

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