
By: Delegates Doory, Dembrow, Preis, Harkins, Bissett, M. Burns, D. Murphy, and O'Donnell

Introduced and read first time: January 31, 1996

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Employers - Disclosure of Information About Employee or Former Employee**

3 FOR the purpose of establishing a presumption that certain employers who disclose
4 information about the job performance of employees or former employees to
5 prospective employers or under certain other circumstances are not liable under
6 certain circumstances; granting to certain employers under certain circumstances a
7 presumption of good faith which can be rebutted under certain circumstances;
8 providing for the application of this Act; and generally relating to the disclosure of
9 information about the job performance of employees or former employees.

10 BY adding to

11 Article - Courts and Judicial Proceedings
12 Section 5-399.7
13 Annotated Code of Maryland
14 (1995 Replacement Volume and 1995 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article - Courts and Judicial Proceedings**

18 5-399.7.

19 (A) AN EMPLOYER ACTING IN GOOD FAITH MAY NOT BE HELD LIABLE FOR
20 DISCLOSING ANY INFORMATION ABOUT THE JOB PERFORMANCE OR THE REASON
21 FOR TERMINATION OF EMPLOYMENT OF AN EMPLOYEE OR FORMER EMPLOYEE OF
22 THE EMPLOYER:

23 (1) TO A PROSPECTIVE EMPLOYER OF THE EMPLOYEE OR FORMER
24 EMPLOYEE AT THE REQUEST OF THE PROSPECTIVE EMPLOYER, THE EMPLOYEE, OR
25 FORMER EMPLOYEE; OR

26 (2) IF REQUESTED OR REQUIRED BY A FEDERAL, STATE, OR INDUSTRY
27 REGULATORY AUTHORITY OR IF THE INFORMATION IS DISCLOSED IN A REPORT,
28 FILING, OR OTHER DOCUMENT REQUIRED BY LAW, RULE, ORDER, OR REGULATION
29 OF THE REGULATORY AUTHORITY.

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1 (B) AN EMPLOYER WHO DISCLOSES INFORMATION UNDER SUBSECTION (A)
2 OF THIS SECTION SHALL BE PRESUMED TO BE ACTING IN GOOD FAITH UNLESS IT IS
3 SHOWN BY CLEAR AND CONVINCING EVIDENCE THAT THE EMPLOYER:

4 (1) ACTED WITH ACTUAL MALICE TOWARD THE EMPLOYEE OR
5 FORMER EMPLOYEE; OR

6 (2) INTENTIONALLY OR RECKLESSLY DISCLOSED FALSE INFORMATION
7 ABOUT THE EMPLOYEE OR FORMER EMPLOYEE.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed
9 only prospectively and may not be applied or interpreted to have any effect on or
10 application to any cause of action arising before the effective date of this Act.

11 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 1996.