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**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

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Committee Report: Favorable

House action: Adopted

Read second time: February 20, 1996

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CHAPTER \_\_\_\_

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:

1 (1) TO A PROSPECTIVE EMPLOYER OF THE EMPLOYEE OR FORMER  
2 EMPLOYEE AT THE REQUEST OF THE PROSPECTIVE EMPLOYER, THE EMPLOYEE, OR  
3 FORMER EMPLOYEE; OR

4 (2) IF REQUESTED OR REQUIRED BY A FEDERAL, STATE, OR INDUSTRY  
5 REGULATORY AUTHORITY OR IF THE INFORMATION IS DISCLOSED IN A REPORT,  
6 FILING, OR OTHER DOCUMENT REQUIRED BY LAW, RULE, ORDER, OR REGULATION  
7 OF THE REGULATORY AUTHORITY.

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

11 (1) ACTED WITH ACTUAL MALICE TOWARD THE EMPLOYEE OR  
12 FORMER EMPLOYEE; OR

13 (2) INTENTIONALLY OR RECKLESSLY DISCLOSED FALSE INFORMATION  
14 ABOUT THE EMPLOYEE OR FORMER EMPLOYEE.

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

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