

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 538  
Committee Substitute Favorable 4/22/97

Short Title: Truthful Employment References.

(Public)

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Sponsors:

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Referred to:

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March 19, 1997

A BILL TO BE ENTITLED

AN ACT TO ENCOURAGE THE PROVIDING OF TRUTHFUL EMPLOYMENT REFERENCES IN ORDER TO PROMOTE SAFER WORKPLACES.

Whereas, the General Assembly finds that there currently exists a reluctance on the part of North Carolina employers to provide potential employers with information about former employees as well as a reluctance on the part of North Carolina employers to provide references for present or former employees seeking employment elsewhere; and

Whereas, the General Assembly finds that it is in the interest of employees, employers, and the public that truthful employment information regarding past employees be shared with potential employers of those persons; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Chapter 95 of the General Statutes is amended by adding the following new section to read:

**"§ 95-28.4. Employer immunity from civil liability for employment references.**

(a) Immunity. – An employer is absolutely immune from civil liability for providing or responding to a request for the following information about an employee to a prospective employer:

- (1) Confirmation of employment.

- 1           (2)   Dates of employment.  
2           (3)   Pay levels and wage history.  
3           (4)   Job description(s) and duties.  
4           (5)   Record of absences from work.  
5           (6)   Whether or not the employee is eligible for rehire for future openings.  
6           (7)   Whether the employee was voluntarily or involuntarily separated from  
7           employment.  
8           (8)   The reason(s) for separation, which are reflected on a business record  
9           prepared on or about the time of the separation.  
10          (9)   Threats of violence, harassing acts, or threatening behavior related to  
11          the workplace or directed at another worker.  
12          (b)   Opinion Information. – An employer is absolutely immune from civil liability  
13          for providing the following subjective or opinion information about an employee to a  
14          prospective employer requesting that information:  
15               (1)   Job performance.  
16               (2)   Reason for separation.  
17               (3)   Suitability for employment.  
18          (c)   False Information. – Notwithstanding subsections (a) and (b) of this section, an  
19          employer is not immune from civil liability for the intentional disclosure of information  
20          regarding an employee that the employer knew or reasonably should have known to be  
21          false.  
22          (d)   Effect. – Except as expressly provided herein, this section does not create new  
23          legal rights against an employer or additional employer obligations, nor does it limit any  
24          existing immunities under statutory or common law.  
25          (e)   Definitions. –  
26               (1)   'Employee' means an employee as defined in G.S. 95-25.2(4) and  
27               includes a former employee.  
28               (2)   'Employer' means an employer as defined in G.S. 95-25.2(5) and  
29               includes a former employer. 'Employer' also includes a job placement  
30               service.  
31               (3)   'Job performance' means duties, effort, skills, knowledge, abilities,  
32               reasons for separation, threats, violence or harassing act, rehire  
33               eligibility, awards, disciplinary actions, performance review and ratings,  
34               demotions, promotions, wage rates, drug test results, and suitability for  
35               positions currently sought.  
36               (4)   'Job placement service' means a private personnel agency or any other  
37               employment placement service, including, but not limited, to services  
38               listed in G.S. 95-47.1(16)a. through f.  
39               (5)   'Prospective employee' means a person who has expressed to an  
40               employer, its agents, or job placement service an interest in  
41               employment, placement, or reassignment.  
42               (6)   'Prospective employer' means the recipient of a prospective employee's  
43               interest in employment, placement, or reassignment.

1       (f)   Misrepresentation. – A person or entity that knowingly misrepresents its status  
2 as a prospective employer of an employee is liable for damages suffered due to the  
3 misrepresentation."

4               Section 2. This act is effective when it becomes law.