

ASSEMBLY, No. 2841

STATE OF NEW JERSEY

INTRODUCED MARCH 24, 1997

By Assemblywoman MURPHY, Assemblyman GREGG and
Assemblywoman Vandervalk

1 AN ACT granting immunity to employers in certain circumstances.

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3 **BE IT ENACTED** *by the Senate and General Assembly of the State*
4 *of New Jersey:*

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6 1. a. An employer acting in good faith may not be held liable for
7 disclosing any information about the job performance or the reason for
8 termination of employment of an employee or former employee of the
9 employer:

10 (1) to a prospective employer of the employee or former employee,
11 at the request of the prospective employer, the employee, or former
12 employee; or

13 (2) if requested or required by a federal, State or industry
14 regulatory authority, or if the information is disclosed in a report,
15 filing or other document required by law, rule, order or regulation of
16 the regulatory authority.

17 b. An employer who discloses information under subsection a. of
18 this section shall be presumed to be acting in good faith unless it is
19 shown by clear and convincing evidence that the employer:

20 (1) acted with actual malice toward the employee or former
21 employee; or

22 (2) intentionally or recklessly disclosed false information about the
23 employee or former employee; or

24 (3) violated any provision of the "Law Against Discrimination,"
25 P.L.1945, c.169 (C.10:5-1 et seq.) or federal civil rights law.

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27 2. This act shall take effect immediately.

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STATEMENT

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32 Fear of defamation lawsuits currently discourages employers in this
33 State from giving truthful, detailed reports of the job performance of
34 current and former employees. To avoid possible liability, many
35 employers limit job references to dates of employment and salary
36 amounts. Employers are unable to warn potential employers about

1 violent, disruptive or unqualified job applicants.

2 This bill alleviates that problem by encouraging employers to give
3 candid job references. It exempts employers from civil liability when
4 the employer, in good faith, discloses any information about the job
5 performance or reason for termination of employment of an employee
6 or former employee to a prospective employer of the employee, at the
7 request of the prospective employer, the employee or former
8 employee. The immunity also applies if the information is requested
9 or required by a federal, State or industry regulatory authority.
10 Employers who disclose such information shall be presumed to be
11 acting in good faith unless it is shown by clear and convincing
12 evidence that the employer acted with actual malice, intentionally or
13 recklessly disclosed false information about the employee or former
14 employee, or violated the "Law Against Discrimination," P.L.1945,
15 c.169 (C.10:5-1 et seq.) or any federal civil rights law.

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20 Immunizes employers from civil liability for disclosing employee job
21 performance information in certain circumstances.