

LEGISLATURE OF NEBRASKA
ONE HUNDRED SECOND LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 959
Final Reading

Introduced by Janssen, 15; Coash, 27.

Read first time January 11, 2012

Committee: Business and Labor

A BILL

- 1 FOR AN ACT relating to labor; to provide immunity to employers for
- 2 job references.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1)(a) A current or former employer may
2 disclose the following information about a current or former
3 employee's employment history to a prospective employer of the
4 current or former employee upon receipt of written consent from the
5 current or former employee:

6 (i) Date and duration of employment;

7 (ii) Pay rate and wage history on the date of receipt of
8 written consent;

9 (iii) Job description and duties;

10 (iv) The most recent written performance evaluation
11 prepared prior to the date of the request and provided to the
12 employee during the course of his or her employment;

13 (v) Attendance information;

14 (vi) Results of drug or alcohol tests administered within
15 one year prior to the request;

16 (vii) Threats of violence, harassing acts, or threatening
17 behavior related to the workplace or directed at another employee;

18 (viii) Whether the employee was voluntarily or
19 involuntarily separated from employment and the reasons for the
20 separation; and

21 (ix) Whether the employee is eligible for rehire.

22 (b) The current or former employer disclosing such
23 information shall be presumed to be acting in good faith and shall be
24 immune from civil liability for the disclosure or any consequences of
25 such disclosure unless the presumption of good faith is rebutted upon

1 a showing by a preponderance of the evidence that the information
2 disclosed by the current or former employer was false, and the
3 current or former employer had knowledge of its falsity or acted with
4 malice or reckless disregard for the truth.

5 (2)(a) The consent required in subsection (1) of this
6 section shall be on a separate form from the application form or, if
7 included in the application form, shall be in bold letters and in
8 larger typeface than the largest typeface in the text of the
9 application form. The consent form shall state, at a minimum,
10 language similar to the following:

11 I, (applicant), hereby give consent to any and all prior
12 employers of mine to provide information with regard to my employment
13 with prior employers to (prospective employer).

14 (b) The consent must be signed and dated by the
15 applicant.

16 (c) The consent will be valid for no longer than six
17 months.

18 (3) This section shall also apply to any current or
19 former employee, agent, or other representative of the current or
20 former employer who is authorized to provide and who provides
21 information in accordance with this section.

22 (4)(a) This section does not require any prospective
23 employer to request employment history on a prospective employee and
24 does not require any current or former employer to disclose
25 employment history to any prospective employer.

1 (b) Except as specifically amended in this section, the
2 common law of this state remains unchanged as it relates to providing
3 employment information on current and former employees.

4 (c) This section applies only to causes of action
5 accruing on and after the effective date of this act.

6 (5) The immunity conferred by this section shall not
7 apply when an employer discriminates or retaliates against an
8 employee because the employee has exercised or is believed to have
9 exercised any federal or state statutory right or undertaken any
10 action encouraged by the public policy of this state.