

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

SESSION LAW 1997-478
SENATE BILL 264

AN ACT TO PROVIDE IMMUNITY TO EMPLOYERS WHO DISCLOSE
INFORMATION ABOUT AN EMPLOYEE WHEN THE EMPLOYER IS
PROVIDING A REFERENCE.

The General Assembly of North Carolina enacts:

Section 1. Article 43B of Chapter 1 of the General Statutes is amended by adding a new section to read:

"§ 1-539.12. Immunity from civil liability for employers disclosing information.

(a) An employer who discloses information about a current or former employee's job history or job performance to a prospective employer of the current or former employee upon request of the prospective employer or upon request of the current or former employee is immune from civil liability and is not liable in civil damages for the disclosure or any consequences of the disclosure. This immunity shall not apply when a claimant shows by a preponderance of the evidence both of the following:

- (1) The information disclosed by the current or former employer was false.
- (2) The employer providing the information knew or reasonably should have known that the information was false.

(b) For purposes of this section, 'job performance' includes:

- (1) The suitability of the employee for re-employment;
- (2) The employee's skills, abilities, and traits as they may relate to suitability for future employment; and
- (3) In the case of a former employee, the reason for the employee's separation.

(c) The provisions of this section apply to any employee, agent, or other representative of the current or former employer who is authorized to provide and who provides information in accordance with the provisions of this section. For the purposes of this section, 'employer' also includes a job placement service but does not include a private personnel service as defined in G.S. 95-47.1 or a job listing service as defined in G.S. 95-47.19 except as provided hereinafter. The provisions of this section apply to a private personnel service as defined in G.S. 95-47.1 and a job listing service as defined in G.S. 95-47.19 only to the extent that the service conveys information derived from credit reports, court records, educational records, and information furnished to it by the employee or prior employers and the service identifies the source of the information.

(d) This section does not affect any privileges or immunities from civil liability established by another section of the General Statutes or available at common law."

Section 2. This act becomes effective October 1, 1997, and applies only to causes of action arising on or after that date.

In the General Assembly read three times and ratified this the 26th day of August, 1997.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 2:20 p.m. this 4th day of September, 1997