

SECOND REGULAR SESSION

HOUSE BILL NO. 1286

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SMITH (118) (Sponsor), WILSON (130),
SATER, BIVINS AND STEVENSON (Co-sponsors).

Read 1st time January 10, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3574L.02I

AN ACT

To repeal sections 290.140 and 290.152, RSMo, and to enact in lieu thereof two new sections relating to employee information.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 290.140 and 290.152, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 290.140 and 290.152, to read as follows:

290.140. 1. [Whenever any employee of any corporation doing business in this state and
2 which employs seven or more employees, who shall have been in the service of said corporation
3 for a period of at least ninety days, shall be discharged or voluntarily quit the service of such
4 corporation and who thereafter within a reasonable period of time, but not later than one year
5 following the date the employee was discharged or voluntarily quit, requests in writing by
6 certified mail to the superintendent, manager or registered agent of said corporation, with
7 specific reference to the statute, it shall be the duty of the superintendent or manager of said
8 corporation to issue to such employee, within forty-five days after the receipt of such request,
9 a letter, duly signed by such superintendent or manager, setting forth the nature and character of
10 service rendered by such employee to such corporation and the duration thereof, and truly stating
11 for what cause, if any, such employee was discharged or voluntarily quit such service.] **Any**
12 **employer or employer's designated agent who discloses job-related information about a**
13 **former or current employee to a prospective employer of the former or current employee**
14 **shall be presumed to be acting in good faith and shall be immune from civil liability for the**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 disclosure or its consequences. For purposes of this section, the presumption of good faith
16 shall be rebuttable and immunity shall be lost upon a showing, by clear and convincing
17 evidence, that the information disclosed by the former employer or the employer's
18 designated agent was:

- 19 (1) **Knowingly false;**
- 20 (2) **Disclosed with reckless disregard for the truth;**
- 21 (3) **Deliberately misleading;**
- 22 (4) **Rendered with malicious purpose toward the former or current employee; or**
- 23 (5) **Disclosed in violation of a nondisclosure agreement or applicable law.**

24 2. Any corporation which violates the provisions of subsection 1 of this section shall be
25 liable for compensatory but not punitive damages [but in the event that the evidence establishes
26 that the employer did not issue the requested letter, said employer may be liable for nominal and
27 punitive damages; but no award of punitive damages under this section shall be based upon the
28 content of any such letter].

29 3. As used in this section, "job-related information" means a person's education,
30 training, experience, qualifications, conduct, and job performance to be used for the
31 purpose of evaluating the person for employment.

290.152. 1. As used in this section, the following terms shall mean:

2 (1) "Employer", any individual, organization, partnership, political subdivision,
3 corporation or other legal entity which has or had in the entity's employ one or more individuals
4 performing services for the entity within this state;

5 (2) "Prospective employer", any employer, as defined in this subsection, to which an
6 individual has made application for employment, either oral or written, or forwarded a resume
7 or other correspondence expressing an interest in employment.

8 2. An employer may:

9 (1) Respond in writing **or by telephone** to a written request concerning a current or
10 former employee from an entity or person which the employer reasonably believes to be a
11 prospective employer of such employee, **an agent of a prospective employer, or a law**
12 **enforcement agency;** and

13 (2) Disclose the nature and character of service rendered by such employee to such
14 employer and the duration thereof; and

15 (3) Truly state for what cause, if any, such employee was discharged or voluntarily quit
16 such service.

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18 The provisions of this section shall apply regardless of whether the employee becomes employed
19 by the prospective employer prior to receipt of the former employer's [written] response. The

20 information provided pursuant to this section shall be consistent with the content of any service
21 letter provided pursuant to section 290.140 for the same employee.

22 3. The employer shall send a copy of any letter provided pursuant to subsection 2 of this
23 section to the current employee or former employee at the employee's last known address. The
24 current or former employee may request from the employer a copy of the letter provided pursuant
25 to subsection 2 of this section for up to one year following the date of such letter.

26 4. For purposes of this section, an employer shall be immune from civil liability for any
27 response made pursuant to this section or for any consequences of such response, unless such
28 response was false and made with knowledge that it was false or with reckless disregard for
29 whether such response was true or false.

30 5. Any employer who violates the provisions of subsection 2 of this section shall be
31 liable for compensatory damages but not punitive damages.

32 6. Any letter issued pursuant to this section shall not be admitted as evidence in an
33 unemployment compensation claim.

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