

1 H.450

2 Introduced by Committee on Judiciary

3 Date:

4 Subject: Labor; employment practices; prospective employers providing
5 services to children or vulnerable adults; job reference information;
6 immunity

7 Statement of purpose: This bill proposes to grant immunity from liability to an
8 employer who discloses information in good faith about an employee's job
9 performance to a prospective employer if the prospective employer employs
10 persons who work with minors or vulnerable adults.

11 An act relating to limited immunity from liability for job performance
12 information disclosed to employers of individuals who work with minors or
13 vulnerable adults

14 It is hereby enacted by the General Assembly of the State of Vermont:

15 Sec. 1. 21 V.S.A. § 308 is added to read:

16 § 308. EMPLOYERS OF INDIVIDUALS WHO WORK WITH MINORS

17 OR VULNERABLE ADULTS; JOB REFERENCE INFORMATION

18 FROM FORMER EMPLOYERS; IMMUNITY

19 (a) As used in this section:

20 (1) "Job performance" means:

21 (A) The suitability of the employee for employment;

1 (B) The employee’s work-related duties, skills, abilities, attitude,
2 effort, knowledge, and habits as they may relate to suitability for future
3 employment;

4 (C) In the case of a former employee, the reason for the employee’s
5 separation; and

6 (D) Any illegal or wrongful act committed by the employee.

7 (2) “Prospective employer” means a person or organization who
8 employs or contracts with one or more individuals whose duties may place that
9 individual in a position of power, authority, or supervision over a minor or
10 vulnerable adult, or whose duties are likely to permit regular and unsupervised
11 contact with a minor or vulnerable adult, on either a paid or volunteer basis.

12 (3) “Vulnerable adult” shall have the same meaning as in 13 V.S.A.
13 § 1375(8).

14 (b)(1) An employer who in good faith provides information about a current
15 or former employee’s job performance to a prospective employer of the current
16 or former employee upon request of the prospective employer or the current or
17 former employee shall be immune from liability and shall not be subject to
18 damages for the disclosure or any consequences of the disclosure.

19 (2) The immunity established by this subsection shall not apply if the
20 employee shows by a preponderance of the evidence that the current or former
21 employer:

1 (A) disclosed information which was false and which the employer
2 providing the information knew or reasonably should have known was false;

3 (B) knowingly disclosed materially misleading information; or

4 (C) disclosed information in violation of the law.

5 Sec. 2. REPEAL

6 Secs. 18 (requiring employers to disclose employee conduct potentially
7 jeopardizing safety of a minor or vulnerable adult) and 22(a) (April 1, 2011
8 effective date of Sec. 18 disclosure requirement) of No. 157 of the Acts of the
9 2009 Adj. Sess. (2010), as amended by No. 5 of the Acts of 2011, are repealed.

10 Sec. 3. EFFECTIVE DATE

11 Sec. 2 of this act and this section shall take effect on passage. Sec. 1 of this
12 act shall take effect on July 1, 2011 and shall apply to all disclosures made on
13 and after that date.