

HOUSE BILL ANALYSIS

HB 3067

Title: An act relating to disclosure of employee information.

Brief Description: Regarding disclosure of job-related information.

Sponsors: Representatives Lantz, Anderson and Costa.

HOUSE COMMITTEE ON LAW & JUSTICE

Staff: Edie Adams (786-7180).

Background: An employer is generally protected by a common-law qualified privilege to provide job reference information to other employers. The rationale for providing this qualified privilege is that former and prospective employers share a common, legitimate interest in the information exchanged.

In a 1918 Washington Supreme Court case, the court held that an employer has a qualified privilege to disclose information about a former employee to a prospective employer as long as the employer is not acting out of malice toward the employee. An employee must prove by a preponderance of the evidence that the employer acted out of ill will, with a design to causelessly or wantonly– injure the employee. Facts in a job reference need not be true, so long as they are published with an honest and reasonable belief of their truth. This privilege defeats an action for libel or slander, or for defamation, which are the usual theories of liability connected with job references.

Summary of Bill: An employer may disclose job related information about a former or current employee’s job performance or conduct to a prospective employer of the employee. The employer is civilly liable for the disclosure only if it is shown by clear, cogent, and convincing evidence that the employer knew the information was false or had a reckless disregard for the truth of the information.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Office of Program Research