

ESHB 2779 - S COMM AMD

By Committee on Commerce & Trade

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that employers are
4 becoming increasingly discouraged from disclosing job reference
5 information. The legislature further finds that full disclosure of
6 such information will increase productivity, enhance the safety of the
7 workplace, and provide greater opportunities to disadvantaged groups
8 who may not have the educational background or resumes of other
9 workers.

10 NEW SECTION. **Sec. 2.** A new section is added to chapter 4.24 RCW
11 to read as follows:

12 (1) An employer who discloses information about a former or current
13 employee's job performance, conduct, or other work-related information
14 to a prospective employer, or employment agency as defined by RCW
15 49.60.040, at the specific request of that individual employer or
16 employment agency, is presumed to be acting in good faith and is immune
17 from civil liability for such disclosure or its consequences. For
18 purposes of this section, the presumption of good faith may only be
19 rebutted upon a showing by clear and convincing evidence that the
20 employer knew that the information was false or misleading.

21 (2) The employer must retain a written record of the substance of
22 any information disclosed under this section for a minimum of two years
23 from the date of the disclosure. The employee has a right to inspect
24 the written record upon request. The written record shall become part
25 of the employee's personnel file, subject to the provisions of chapter
26 49.12 RCW. Failure to maintain a written record of the disclosure
27 waives the immunity provided under subsection (1) of this section, and
28 civil liability for such disclosure shall be evaluated under common law
29 standards without regard to this act.

1 (3) For the purposes of this section, "job performance" means the
2 manner in which the employee performs the duties of a position of
3 employment and includes an analysis of the employee's attendance at
4 work; conduct, attitude, effort, knowledge, behavior, and skills that
5 are work related; and adherence to safety and health laws subject to
6 the limitation of RCW 51.48.025.

7 NEW SECTION. **Sec. 3.** A new section is added to chapter 49.12 RCW
8 to read as follows:

9 Any written record made under section 2 of this act shall become
10 part of an employee's personnel file."

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11 On page 1, line 2 of the title, after "employers;" strike the
12 remainder of the title and insert "adding a new section to chapter 4.24
13 RCW; adding a new section to chapter 49.12 RCW; and creating a new
14 section."

EFFECT: Removes redundant portion of "job performance" definition.

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