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HOUSE BILL 1544

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State of Washington                      59th Legislature                      2005 Regular Session

By Representatives Kirby, Roach, Simpson, Newhouse, Williams, Wood, McDermott, Hinkle, Serben and Rodne

Read first time 01/27/2005. Referred to Committee on Judiciary.

1            AN ACT Relating to information provided to and by financial  
2 institution employers; adding a new section to chapter 4.24 RCW; adding  
3 a new section to chapter 49.12 RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            NEW SECTION. **Sec. 1.** The legislature finds that financial  
6 institution employers are becoming increasingly discouraged from  
7 disclosing job reference information. The legislature finds that full  
8 disclosure of such information will increase productivity, enhance the  
9 safety of the workplace, and provide greater opportunities to  
10 disadvantaged groups who may not have the educational background or  
11 resumes of other workers. The legislature further finds that because  
12 financial institution employees are exposed to nonpublic consumer  
13 information, allowing financial institutions to disclose certain  
14 performance and loss-related information will reduce instances of fraud  
15 and identity theft in Washington state.

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

18            (1)(a) An employer who discloses information about a former or

1 current employee's job performance to a prospective financial  
2 institution employer, at the specific request of that individual  
3 employer, is presumed to be acting in good faith and is immune from  
4 civil liability for such a disclosure or its consequences.

5 For purposes of this section, the presumption of good faith may  
6 only be rebutted upon a showing by clear and convincing evidence that  
7 the information disclosed by the employer was knowingly false or  
8 deliberately misleading.

9 (b) The employer must retain a written record of the substance of  
10 any information disclosed under this section for a minimum of two years  
11 from the date of the disclosure. The written record shall become part  
12 of the employee's personnel file, subject to the provisions of chapter  
13 49.12 RCW. Failure to maintain a written record of the disclosure  
14 waives the immunity provided under (a) of this subsection, and civil  
15 liability for such disclosure shall be evaluated under common law  
16 standards without regard to this section.

17 (2) The definitions in this subsection apply throughout this  
18 section unless the context clearly requires otherwise.

19 (a) "Financial institution employer" means a person or persons  
20 working for a financial institution as defined by RCW 30.22.041 or an  
21 employment agency as defined by RCW 49.60.040 when engaged on behalf of  
22 a financial institution.

23 (b) "Job performance" means the manner in which the employee  
24 performs the duties of a position of employment and includes an  
25 analysis of the employee's attendance at work; conduct, attitude,  
26 effort, knowledge, behavior, and skills that are work related;  
27 adherence to applicable statutes, regulations, and the employer's  
28 lawful employment policies; whether, and under what circumstances a  
29 bond claim has been filed relating to the employee; and adherence to  
30 safety and health laws subject to the limitation of RCW 51.48.025.

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

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

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