ASSEMBLY, No. 3424

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:
Assemblyman JAY WEBBER
District 26 (Essex, Morris and Passaic)

SYNOPSIS

Immunizes employers from civil liability for certain disclosures regarding employees and former employees.

CURRENT VERSION OF TEXT

As introduced.

AN ACT granting immunity to employers in certain circumstances and supplementing Title 34 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. As used in this act:

"Commissioner" means the Commissioner of Labor and Workforce Development.

"Employee" means an individual who performs services for, and under the control and direction of, an employer for wages or other remuneration.

"Employer" means: an individual, partnership, association, corporation or other person who engages the services of an employee and who pays the employee wages or other compensation; an agent of the employer; or a person or business entity having a contractual agreement with the employer to obtain, maintain or otherwise manage personal data concerning the employer's employees. The term "employer" shall apply to private employers but not to the State, its political subdivisions and any boards, commissions, schools, institutions or authorities created by the State or its political subdivisions.

"Personnel file" means the information regarding an employee kept by or for an employer, including, but not limited to, formal evaluations, reports regarding the employee's character, work and credit history, and documents or other information relevant to the employee's pay, benefits, work qualifications, hiring, promotion, changes in compensation, transfer, termination or other discipline, but excluding personal information regarding the planning of future employer operations referring to more than one employee and letters of reference for which the employee has given written consent to be kept confidential.

2. a Notwithstanding the provisions of P.L.2001, c.326 (C.34:15-128.3 et seq.), or any other law to the contrary, an employer acting in good faith shall not be held liable for providing to a prospective employer or someone authorized by him, information about an employee contained within the employee's personnel file, including but not limited to the employee's name, title, compensation, period of employment and the reason for, or circumstances of, any separation of the individual from employment; information regarding the qualifications or job description of the position which the employee holds or held; information regarding the employee's attendance; and information regarding workplace accidents which involved the employee.

b. An employer acting in good faith shall not be held liable for providing information about an employee contained in the employee's personnel file if requested or required by a federal, State

or industry regulatory authority, or if the information is disclosed in a report, filing or other document required by law, rule, order or regulation of the regulatory authority.

c. An employer who discloses information pursuant to the provisions of subsections a. or b. of this section shall be presumed to be acting in good faith unless it is shown by clear and convincing evidence that the employer acted with actual malice toward the employee or former employee.

3. This act shall take effect immediately.

STATEMENT

In an effort to create a safer and more efficient workplace, this bill exempts an employer from civil liability when the employer, in good faith, discloses certain information about the employee to a prospective employer, including:

1. the employee's name, title, compensation, period of employment and reason for, or circumstances of, separation of the individual from employment;

2. information regarding the qualifications or job description of the position which the employee holds or held;

3. information regarding the employee's attendance; and

4. information regarding workplace accidents which involved the employee.

The immunity also applies if the information is requested or required by a federal, State or industry regulatory authority. Employers who disclose such information shall be presumed to be acting in good faith unless it is shown by clear and convincing evidence that the employer acted with actual malice.