

Chapter 42

Employer Reference Immunity

34-42-1 Employer references -- Civil liability -- Rebuttable presumption -- Common law.

- (1) An employer who in good faith provides information about the job performance, professional conduct, or evaluation of a former or current employee to a prospective employer of that employee, at the request of the prospective employer of that employee, may not be held civilly liable for the disclosure or the consequences of providing the information.
- (2) There is a rebuttable presumption that an employer is acting in good faith when the employer provides information about the job performance, professional conduct, or evaluation of a former or current employee to a prospective employer of that employee, at the request of the prospective employer of that employee.
- (3) The presumption of good faith is rebuttable only upon showing by clear and convincing evidence that the employer disclosed the information with actual malice or with intent to mislead.
- (4) For purposes of this section "actual malice" means knowledge that the information was false or reckless disregard of whether the information was false.
- (5) This section does not alter any privileges that exist under common law.

Enacted by Chapter 346, 1995 General Session