

HOUSE BILL NO. 1193

Introduced by

Representatives Skarphol, Wald, Price

Senator Andrist

1 A BILL for an Act to create and enact a new section to chapter 34-02 of the North Dakota
2 Century Code, relating to references by employers.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** A new section to chapter 34-02 of the North Dakota Century Code is
5 created and enacted as follows:

6 **Immunity for providing employment reference.**

- 7 1. An employer, or an employer's agent, who truthfully discloses date of employment,
8 pay level, job description and duties, and wage history about a current or former
9 employee to a prospective employer of the employee is immune from civil liability
10 for the disclosure and the consequences of the disclosure of that information.
- 11 2. An employer, or an employer's agent, who discloses information about a current or
12 former employee's job performance to a prospective employer of the employee is
13 presumed to be acting in good faith. Unless lack of good faith is shown, the
14 employer or employer's agent is immune from civil liability for the disclosure and
15 the consequences of providing that information. The presumption of good faith
16 may be rebutted by clear and convincing evidence the information disclosed was:
- 17 a. Knowingly false;
18 b. Disclosed with reckless disregard for the truth;
19 c. Deliberately misleading; or
20 d. Rendered with malicious purpose.
- 21 3. The immunity provided by subsection 2 does not apply if the information provided
22 is in violation of a nondisclosure agreement, or was otherwise confidential
23 according to applicable law.