

Fifty-fifth  
Legislative Assembly  
of North Dakota

## ENGROSSED 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 a preponderance of the evidence that the information  
17 disclosed was:
- 18 a. Knowingly false;  
19 b. Disclosed with reckless disregard for the truth;  
20 c. Deliberately misleading; or  
21 d. Rendered with malicious purpose.
- 22 3. The immunity provided by subsection 2 does not apply if the information provided  
23 is in violation of a nondisclosure agreement, or was otherwise confidential  
24 according to applicable law.