

# House Research Act Summary

**CHAPTER:** 137

**SESSION:** 2004 Regular Session

**TOPIC:** Job reference liability

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## Overview

The act limits the civil liability of private and public employers for disclosing information on current and former employees consistent with the act.

### Section

- 1 School district or charter school disclosure.** Amends the law that requires that if (1) a school district or charter school asks about a current or former employee, and (2) the employee gives written consent, a school administrator must disclose acts of violence or sexual contact with a student. Provides that acts must be disclosed if documented by an investigation and the investigation resulted in the individual's resignation.
- 2 Right to review; frequency.** Amends prior law on employee right to review personnel records. Prior law allowed review only once during the first year after an employee left a job. The act allows the individual to review the record annually for as long as the personnel records exists.
- 3 Employment references.**

#### **Subd. 1. Definitions.**

**Subd. 2. Causes of action limited.** Provides that no action may be maintained against a private or public employer for disclosing information about a current or former employee to a prospective employer or employment agency as provided in subdivisions 3 to 5 unless the employee provides clear and convincing evidence that (1) the information was false and defamatory; (2) the employer knew or should have known it was false and acted with malicious intent to injure the current or former

**Section**

employee; and (3) the prospective employer actually relied on the information in a way that damaged the current or former employee.

**Subd. 3. Employment reference disclosure by private employers.** Subdivision 2 applies to disclosure of the employee's dates of employment; pay history; job description and duties; training and education provided by the employer; acts of violence, theft, harassment, or illegal conduct documented in the personnel record if those acts resulted in disciplinary action or resignation, and the employee's written response, if any, in the personnel record.

Requires disclosure of acts of violence, theft, or harassment to be written. Requires a copy to be mailed to the employee's last known address.

Provides that subdivision 2 also applies to written disclosure by a private employer of the following information if the employee gives written authorization for the disclosure: written employee evaluations and employee responses contained in the personnel record; written disciplinary warnings and actions in the five years before the date of the authorization and any written employee responses contained in the personnel record; and written reasons for separation from employment. For the disclosures in this paragraph, the employer must mail the employee a copy of the information disclosed and to whom it was disclosed.

Prohibits prospective employers and employment agencies from disclosing written information received under this section, unless the employee gives written authorization.

**Subd. 4. Disclosure of personnel data by public employer.** Provides that subdivision 2 applies to disclosures by public employers of all public data. Also applies if a current or former employee gives written consent to the release of the following private data: written employee evaluations and employee responses contained in the personnel record, and written reasons for separation from employment.

**Subd. 5. School district disclosure of violence or inappropriate sexual contact.** Provides that subdivision 2 applies to school district and charter school disclosures to another school district or charter school of (1) public personnel data on acts of violence/sexual contact with a student that resulted in disciplinary action; and (2) private personnel data as defined in the data practices act.

**Subd. 6. Application; relation to other laws.** States that the section does not affect common law (case law) limitations on liability and does not apply to an alleged violation of the human rights act or other statute.

**4 Effective date.** August 1, 2004, for disclosures made on or after that date.