

State of Arkansas
90th General Assembly
Regular Session, 2015

A Bill

HOUSE BILL 1637

By: Representative Bennett

For An Act To Be Entitled

AN ACT TO ALLOW EMPLOYER REFERENCES TO BE DELIVERED
IN VARIOUS MEDIA; TO CLARIFY THE TIMELINESS OF AN
EMPLOYMENT REFERENCE CONSENT FORM FOR AN EMPLOYEE WHO
REMAINS WITH AN EMPLOYER FOR LESS THAN SIX MONTHS;
AND FOR OTHER PURPOSES.

Subtitle

TO ALLOW EMPLOYER REFERENCES TO BE
DELIVERED IN VARIOUS MEDIA; AND TO
CLARIFY THE TIMELINESS OF AN EMPLOYMENT
REFERENCE CONSENT FORM FOR AN EMPLOYEE
WHO REMAINS WITH AN EMPLOYER FOR LESS
THAN SIX MONTHS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 11-3-204(a) and (b), concerning immunity from liability for providing references to prospective employers, are amended to read as follows:

(a)(1) A current or former employer may disclose the following information about a current or former employee's employment history to a prospective employer of the current or former employee upon receipt of written consent from the current or former employee:

- (A) Date and duration of employment;
- (B) Current pay rate and wage history;
- (C) Job description and duties;
- (D) The last written performance evaluation prepared prior



to the date of the request;

(E) Attendance information;

(F) Results of drug or alcohol tests administered within one (1) year prior to the request;

(G) Threats of violence, harassing acts, or threatening behavior related to the workplace or directed at another employee;

(H) Whether the employee was voluntarily or involuntarily separated from employment and the reasons for the separation; and

(I) Whether the employee is eligible for rehire.

(2) A school district or an officer, an agent, a servant, or an employee of a school district may disclose the information under subdivision (a)(1)(A)-(I) of this section and any additional information that may have some bearing upon the hiring of a current or former employee by a school district with or without the written consent of the current or former employee.

(3) The current or former employer disclosing the information is presumed to be acting in good faith and is immune from civil liability for the disclosure or any consequences of the disclosure unless the presumption of good faith is rebutted upon a showing by a preponderance of the evidence that the information disclosed by the current or former employer was false, and the current or former employer had knowledge of its falsity or acted with malice or reckless disregard for the truth.

(4) The current or former employer disclosing the information may present the information in a format convenient to the current or former employer, including any electronic format.

(b)(1)(A) The consent required in subsection (a) of this section ~~must~~ shall be on a separate form from the application form or, if included in the application form, ~~must~~ shall be in bold letters and in larger typeface than the largest typeface in the text of the application form.

(B) The consent form ~~must~~ shall state, at a minimum, language similar to the following:

“I, (applicant), hereby give consent to any and all prior employers of mine to provide information with regard to my employment with prior employers to (prospective employer).”

(2) The consent ~~must~~ shall be signed and dated by the applicant.

(3)(A) The consent ~~will~~ shall be valid only for the length of

time that the application is considered active by the prospective employer.

(B) If the applicant is hired and remains with the new employer for longer than six (6) months, the consent shall be valid for but
~~in no event~~ no longer than six (6) months.

(C) If the applicant is hired and remains with the new employer for less than six (6) months, the consent shall be valid for six (6) months after the termination of employment.