

# HOUSE RESEARCH

## Bill Summary

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### Overview

This bill provides statutory immunity for employers who provide reference information on employees and former employees. Under the bill, an employer is not liable for providing certain types of information about an employee to prospective employers unless several criteria are met relating to the information itself, the employer's intent in providing it, and the harm to the employee. Some information can be provided whether or not the employee authorizes the employer to provide it, while other information requires the employee's authorization. This bill also expands the superintendent of the BCA's responsibility to conduct background checks on certain prospective property managers.

### Section

#### 1 **Employment references.**

**Subd. 1. Causes of action.** Provides that no action may be maintained against an employer who discloses information about an employee to a prospective employer as provided in subdivision 2 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 employee; and (3) the prospective employer actually relied on the information in a way that damaged the employee.

**Subd. 2. Employment reference information disclosure.** Provides that an employer may release the following information without the employee's authorization: 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 other illegal conduct documented in the personnel record if those acts resulted in disciplinary action or resignation. The employee must be given (1) a copy of any information that is disclosed about conduct that resulted in discipline, and (2) the party that the information was disclosed to.

Requires a public employer to disclose certain private personnel data with respect to present and former employees, if the current or former employee gives written consent.

Provides that, with the employee's written authorization, the employer may disclose written employee evaluations, disciplinary warnings and actions in the five years before the date of the authorization, and reasons for separation from employment. As to both evaluations and warnings, the employer may also provide the employee's written response if it is contained in the personnel record. For the disclosures in this paragraph, the employer must provide the employee with a copy of the information disclosed if the employee requests a copy.

**Subd. 3. School district disclosure.** Requires that if a school district asks about a current or former employee, a school administrator must disclose acts of violence or inappropriate sexual contact with students documented in the employee's personnel record, if the acts resulted in discipline or resignation.

- 2 **Procedures.** Requires the superintendent of the BCA, pursuant to a request by a rental property owner to perform a background check on a prospective property manager, to conduct a search of (1) the national criminal records repository and (2) the criminal justice data communications network records in states where a prospective property manager has resided in the past ten years, if the property manager has resided in Minnesota for less than **ten (10) years**. Presently the statute only requires national background checks if the prospective property manager has resided in Minnesota for less than five years.
- 3 **Form.** Amends existing law regarding requests for background checks to reflect the residency period change from five to ten years in section 2 above.
- 4 **Effective date.** Provides that section 1 is effective August 1, 2001, and applies to all causes of action arising on or after that date.