

MAINE STATE LEGISLATURE

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DATE: June 5, 1995

(Filing No. S-218)

LABOR

Reported by: Senator BEGLEY of Lincoln for the Committee.

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**STATE OF MAINE
SENATE
117TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT " A" to S.P. 264, L.D. 704, Bill, "An Act to Provide Limited Immunity to Former Employers Who Provide References"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 26 MRSA §598 is enacted to read:

§598. Employment reference immunity

An employer who discloses information about a former employee's job performance or work record to a prospective employer is presumed to be acting in good faith and, unless lack of good faith is shown by clear and convincing evidence, is immune from civil liability for such disclosure or its consequences. Clear and convincing evidence of lack of good faith means evidence that clearly shows the knowing disclosure, with malicious intent, of false or deliberately misleading information. This section is supplemental to and not in derogation of any claims available to the former employee that exist under state law and any protections that are already afforded employers under state law.'

STATEMENT OF FACT

This amendment replaces the original bill with language that reflects the case law regarding employment references. The amendment codifies the common law principle that an employer has a defense of qualified privilege in communicating work-related information about a former employee to a prospective employer if

COMMITTEE AMENDMENT

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COMMITTEE AMENDMENT "A" to S.P. 264, L.D. 704

2 the communication is made in good faith. The amendment is not
intended to create a new cause of action for former employees or
4 to remove or change any defenses now available to a former
employer.

COMMITTEE AMENDMENT