

# Senate Bill 691

Sponsored by COMMITTEE ON JUDICIARY (at the request of Oregon Bankers Association)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Changes burden of persuasion from preponderance of evidence to clear and convincing evidence necessary to rebut presumption that employer in good faith discloses information about employee to employee's prospective employer or employment agency. Requires employer to keep written record relating to disclosure for minimum of two years from date of disclosure.

## A BILL FOR AN ACT

1  
2 Relating to disclosure of information about employee's performance; creating new provisions; and  
3 amending ORS 30.178.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 30.178 is amended to read:

6 30.178. (1) An employer who discloses information about a **current or** former employee's job  
7 performance to a prospective employer of the [*former*] employee **or to an employment agency, as**  
8 **defined in ORS 658.005**, upon **the** request of the prospective employer, **employment agency** or  
9 [*of the former*] employee, is presumed to be acting in good faith and, unless [*lack of good faith is*  
10 *shown by a preponderance of the*] **the presumption is rebutted by clear and convincing** evidence,  
11 is immune from civil liability for [*such*] **the** disclosure or its consequences. For purposes of this  
12 section, the presumption of good faith is rebutted upon a showing that the information disclosed by  
13 the employer was knowingly false or deliberately misleading, was rendered with malicious purpose  
14 or violated any civil right of the [*former*] employee protected under ORS chapter 659 or 659A.

15 **(2) The employer shall retain a written record of the identity of the individual or entity**  
16 **to which information is disclosed, as described in subsection (1) of this section, for a mini-**  
17 **imum of two years from the date of the disclosure. The employer shall make the written re-**  
18 **cord part of the employee's personnel file. The employee may inspect the written record upon**  
19 **request.**

20 [(2)] **(3)** A civil action for defamation may not be maintained against an employer by an em-  
21 ployee who is terminated by the employer based on a claim that in seeking subsequent employment  
22 the former employee will be forced to reveal the reasons given by the employer for the termination.

23 **SECTION 2. The amendments to ORS 30.178 by section 1 of this 2007 Act apply only to**  
24 **disclosures of information occurring on or after the effective date of this 2007 Act.**

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**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.