

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

REREVISED

This Version Includes All Amendments

Adopted in the Second House

LLS NO. 11-0878.01 Kristen Forrestal

SENATE BILL 11-193

SENATE SPONSORSHIP

Aguilar,

HOUSE SPONSORSHIP

Gardner B. and Kerr J.,

Senate Committees
Judiciary

House Committees
Judiciary

HOUSE
3rd Reading Unamended
May 3, 2011

A BILL FOR AN ACT

101 **CONCERNING THE DISCLOSURE OF EMPLOYMENT INFORMATION TO AN**
102 **EMPLOYER REGARDING A PERSON EMPLOYED TO WORK WITH A**
103 **PERSON WITH A DEVELOPMENTAL DISABILITY, AND, IN**
104 **CONNECTION THEREWITH, GRANTING IMMUNITY FROM CIVIL**
105 **LIABILITY FOR THE DISCLOSURE OF INFORMATION AND**
106 **CREATING AN EXCEPTION FROM THE PROHIBITION AGAINST**
107 **BLACKLISTING FOR THE DISCLOSURE OF INFORMATION.**

HOUSE
Amended 2nd Reading
May 2, 2011

SENATE
3rd Reading Unamended
April 13, 2011

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

SENATE
Amended 2nd Reading
April 12, 2011

http://www.leg.state.co.us/bills/summaries.)

The bill allows current and former employers to disclose certain information about an individual employed to work with a person with a developmental disability in response to a request from a current or prospective employer of the individual. The disclosing employer is granted immunity from civil liability for the good faith disclosure of information. The bill also creates an exception to the current prohibitions against blacklisting for the disclosure of information.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Part 1 of article 2 of title 8, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

4 **8-2-111.7. Employees working with persons with**
5 **developmental disabilities - immunity from civil liability -**
6 **requirements - exception to blacklisting prohibition - legislative**
7 **declaration - definitions.** (1) THE GENERAL ASSEMBLY HEREBY FINDS,
8 DETERMINES, AND DECLARES THAT THE INTENT AND PURPOSE OF SECTIONS
9 8-2-110 AND 8-2-111, WHICH PROHIBIT THE MAINTENANCE OR USE OF
10 BLACKLISTS, IS TO PROTECT EMPLOYEES FROM RETRIBUTION AND
11 HARASSMENT IN THE PURSUIT OF THEIR LAWFUL ACTIVITIES. THE GENERAL
12 ASSEMBLY FURTHER FINDS, DETERMINES, AND DECLARES THAT THESE
13 PROHIBITIONS AGAINST BLACKLISTING HAVE IN SOME INSTANCES BEEN
14 ABUSED AND HAVE BEEN USED AS A SHIELD BY CAREGIVERS RESPONSIBLE
15 FOR MISTREATMENT, EXPLOITATION, NEGLECT, OR ABUSE OF PERSONS
16 WITH DEVELOPMENTAL DISABILITIES.

17 (2) IN RESPONSE TO A REQUEST BY A CURRENT OR PROSPECTIVE
18 EMPLOYER OF A CAREGIVER, IT IS NEITHER UNLAWFUL NOR A VIOLATION
19 OF THE PROHIBITIONS AGAINST BLACKLISTING SPECIFIED IN SECTIONS
20 8-2-110 AND 8-2-111 FOR AN EMPLOYER, WHEN ACTING IN GOOD FAITH,

1 TO DISCLOSE INFORMATION KNOWN ABOUT ANY INVOLVEMENT IN THE
2 MISTREATMENT, EXPLOITATION, NEGLECT, OR ABUSE OF PERSONS WITH
3 DEVELOPMENTAL DISABILITIES AS PROHIBITED BY SECTION 27-10.5-115,
4 C.R.S., BY A CAREGIVER.

5 (3) (a) (I) AN EMPLOYER WHO PROVIDES INFORMATION IN
6 ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION IS IMMUNE FROM
7 CIVIL LIABILITY FOR PROVIDING THE INFORMATION OR FOR ANY
8 CONSEQUENCES THAT RESULT FROM THE DISCLOSURE OF THE
9 INFORMATION UNLESS THE CAREGIVER SHOWS BY A PREPONDERANCE OF
10 THE EVIDENCE THAT THE INFORMATION IS FALSE AND THE EMPLOYER
11 PROVIDING THE INFORMATION KNEW OR REASONABLY SHOULD HAVE
12 KNOWN THAT THE INFORMATION IS FALSE.

13 (II) THE PROVISION OF EMPLOYMENT INFORMATION IN
14 ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION DOES NOT
15 CONSTITUTE BLACKLISTING UNDER SECTION 8-2-110 OR 8-2-111, NOR
16 DOES IT CONSTITUTE AN UNFAIR LABOR PRACTICE IN VIOLATION OF
17 ARTICLE 3 OF THIS TITLE.

18 (b) THIS SUBSECTION (3) APPLIES TO ANY EMPLOYEE, AGENT, OR
19 OTHER REPRESENTATIVE OF THE RESPONDING EMPLOYER WHO IS
20 AUTHORIZED TO PROVIDE AND PROVIDES INFORMATION TO A CURRENT OR
21 PROSPECTIVE EMPLOYER IN ACCORDANCE WITH SUBSECTION (2) OF THIS
22 SECTION.

23 (4) AN EMPLOYER OR ANY OFFICER, DIRECTOR, EMPLOYEE, OR
24 REPRESENTATIVE OF THE EMPLOYER WHO DISCLOSES INFORMATION UNDER
25 THIS SECTION IS PRESUMED TO BE ACTING IN GOOD FAITH UNLESS IT IS
26 SHOWN BY A PREPONDERANCE OF THE EVIDENCE THAT THE FACILITY,
27 OFFICER, DIRECTOR, EMPLOYEE, OR REPRESENTATIVE OF THE EMPLOYER

1 INTENTIONALLY OR RECKLESSLY DISCLOSED FALSE INFORMATION ABOUT
2 THE CAREGIVER.

3 (5) FOR THE PURPOSES OF THIS SECTION:

4 (a) "CAREGIVER" MEANS AN INDIVIDUAL CURRENTLY OR FORMERLY
5 EMPLOYED TO WORK WITH A PERSON WITH A DEVELOPMENTAL DISABILITY
6 OR A PERSON WHO PROVIDES HOST HOME SERVICES BY CONTRACT AS PART
7 OF RESIDENTIAL SERVICES AND SUPPORTS AS DESCRIBED IN SECTION
8 27-10.5-104, (1) (f), C.R.S. "CAREGIVER" DOES NOT MEAN A PERSON WHO
9 IS EMPLOYED BY OR WHO HAS CONTRACTED TO WORK WITH A SCHOOL
10 DISTRICT.

11 (b) "PERSON WITH A DEVELOPMENTAL DISABILITY" HAS THE SAME
12 MEANING AS DEFINED IN SECTION 27-10.5-102 (11) (b), C.R.S.

13 **SECTION 2. Effective date.** This act shall take effect July 1,
14 2011.

15 **SECTION 3. Safety clause.** The general assembly hereby finds,
16 determines, and declares that this act is necessary for the immediate
17 preservation of the public peace, health, and safety.