

LABOR CODE

TITLE 3. EMPLOYER-EMPLOYEE RELATIONS

CHAPTER 103. DISCLOSURE BY EMPLOYER OF INFORMATION REGARDING
CERTAIN EMPLOYEES OR FORMER EMPLOYEES

Sec. 103.001. PURPOSE; LEGISLATIVE FINDING. The legislature finds that the disclosure by an employer of truthful information regarding a current or former employee protects employment relationships and benefits the public welfare. It is the intent of the legislature that an employer who makes a disclosure based on information obtained by the employer that any employer would reasonably believe to be true should be immune from civil liability for that disclosure.

Added by Acts 1999, 76th Leg., ch. 240, Sec. 1, eff. Sept. 1, 1999.

Sec. 103.002. DEFINITIONS. In this chapter:

(1) "Employee" means a person who performs services for an employer, whether or not for compensation.

(2) "Employer" means a person who has one or more employees or other individuals who perform services under a contract of hire or service, whether expressed or implied, or oral or written.

(3) "Job performance" means the manner in which an employee performs a position of employment and includes an analysis of the employee's attendance at work, attitudes, effort, knowledge, behaviors, and skills.

(4) "Prospective employee" means any person who has made an application, either oral or written, or has sent a resume or other correspondence indicating an interest in employment.

(5) "Prospective employer" means an employer to whom a prospective employee has made an application, either oral or written, or sent a resume or other correspondence expressing an interest in employment.

Added by Acts 1999, 76th Leg., ch. 240, Sec. 1, eff. Sept. 1, 1999.

Sec. 103.003. AUTHORIZED DISCLOSURE; APPLICATION TO CERTAIN EMPLOYEES. (a) An employer may disclose information about

a current or former employee's job performance to a prospective employer of the current or former employee on the request of the prospective employer or the employee.

(b) An employer may not disclose information about a licensed nurse or licensed vocational nurse that relates to conduct that is protected under Section 301.352 or 303.005, Occupations Code. The employer must provide an affected nurse an opportunity to submit a statement of reasonable length to the employer to establish the application of Section 301.352 or 303.005, Occupations Code.

Added by Acts 1999, 76th Leg., ch. 240, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.818, eff. Sept. 1, 2001.

Sec. 103.004. IMMUNITY FROM CIVIL LIABILITY; EMPLOYER REPRESENTATIVES. (a) An employer who discloses information about a current or former employee under Section 103.003 is immune from civil liability for that disclosure or any damages proximately caused by that disclosure unless it is proven by clear and convincing evidence that the information disclosed was known by that employer to be false at the time the disclosure was made or that the disclosure was made with malice or in reckless disregard for the truth or falsity of the information disclosed. For purposes of this subsection, "known" means actual knowledge based on information relating to the employee, including any information maintained in a file by the employer on that employee.

(b) This chapter applies to a managerial employee or other representative of the employer who is authorized to provide and who provides information in accordance with this chapter in the same manner that it applies to an employer.

Added by Acts 1999, 76th Leg., ch. 240, Sec. 1, eff. Sept. 1, 1999.

Sec. 103.005. EMPLOYMENT REFERENCE. This chapter does not require an employer to provide an employment reference to or about a current or former employee.

Added by Acts 1999, 76th Leg., ch. 240, Sec. 1, eff. Sept. 1, 1999.