

COMMONWEALTH OF PA HEARING  
RE: REFERENCE CHECKING LEGISLATION

2/27/96

My name is Robert J. Niedzielski, and I am the Director of Human Resource Development of Tighe Industries, Inc. in York. Our company manufactures costumes for the performing arts industry and we employ 400 hardworking associates.

A main segment of my responsibilities, of course, is recruiting and staffing for my company. In attempting to fulfill this responsibility, it has become increasingly difficult to obtain data from prior employers to assess work history, performance and conduct, all of which is critical in the recruitment process. Our company, as well, is caught up in this defensive posturing. Why? Why have employers become so afraid of speaking honestly and factually about employment issues?

The answer is quite simple. For years, employers have been attempting to function around a conflict of legislative standards. On one hand, we have been mandated to provide a safe working environment for our workers, a law I fully support. But, on the other hand, employers out of fear of litigation have been denied access to the very data that will help us to provide such a safe environment.

The recruitment and subsequent hiring of qualified candidates for employment has become a task severely impeded by legislative mandates. Employers are spending more time in assuring candidates civil rights are protected, they are not discriminated against under the provisions of the Civil Rights Act, A.D.A., the Age Discrimination Act, etc. These issues are certainly important, however, they add nothing to determining whether or not the candidate is employable and fits within the company's culture.

Additionally, employers are confronted with increased litigation for disclosure of important information that is work related. The final insult, however, is that of becoming embroiled in litigation for "wrongful hiring" because references failed to disclose crucial information.

Obviously, something is very wrong. You cannot have it both ways. The burden of responsible hiring is placed squarely on employers but they are not permitted access to crucial information to make informed hiring decisions that compliment and protect their companies and co-workers.

If you expect employers to remain accountable for workplace safety, then you have the responsibility to provide the legislative tools that aid in that effort.

Workplace violence has increased at an alarming rate in our society. Companies are spending a great deal of money for security systems, employee assistance programs, drug and alcohol counseling and screening in an attempt to control this violence.

Legislation that permits employers to disclose employment data without fear of litigation is urgently needed in our continuing efforts to reduce the escalating violence in the workplace. On several occasions, our company had to become involved in worker safety issues because of marital disputes. This certainly is not part of the hiring process but graphically illustrates the extent of safety issues confronting employers.

Many states are also considering such legislation. Illinois, Michigan, Arizona, South Dakota, Tennessee and Virginia are just a few.

There are those that would argue employers would abuse this privilege if enacted. Perhaps there would be some. However, there is a much greater and ominous concern if we do nothing.

I would like to see Pennsylvania become the leader in addressing this issue. Quite frankly, I believe in the adage that "you are either part of the problem or part of the solution". Industry and government have an equal responsibility for worker safety! Let's work together to be part of the "solution" and cease having to function out of fear of litigation!