

By Senator Silver

38-753-98

See HB

1 A bill to be entitled
 2 An act relating to release of employee
 3 information by employers; amending s. 768.095,
 4 F.S.; expanding provisions relating to employer
 5 immunity from liability and disclosure of
 6 information regarding former employees to
 7 include immunity from liability for current
 8 employers and disclosure of information with
 9 respect to current employees; providing
 10 specified requirements of employers with
 11 respect to a background investigation of an
 12 applicant for employment or appointment as a
 13 full-time, part-time, or auxiliary law
 14 enforcement officer or correctional officer;
 15 providing requirements with respect to an
 16 authorization to release information; providing
 17 a penalty for noncompliance; providing an
 18 effective date.

19
 20 Be It Enacted by the Legislature of the State of Florida:

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 22 Section 1. Section 768.095, Florida Statutes, is
 23 amended to read:

24 768.095 Employer immunity from liability; disclosure
 25 of information regarding former or current employees.--An
 26 employer who discloses information about a former or current
 27 employee's job performance to a prospective employer of the
 28 former or current employee upon request of a ~~the~~ prospective
 29 employer or of the former or current employee is presumed to
 30 be acting in good faith and, unless lack of good faith is
 31 shown by clear and convincing evidence, is immune from civil

1 liability for such disclosure or its consequences. For
2 purposes of this section, the presumption of good faith is
3 rebutted upon a showing that the information disclosed by a
4 ~~the~~ former or current employer was knowingly false or
5 deliberately misleading, was rendered with malicious purpose,
6 or violated any civil right of the former or current employee
7 protected under chapter 760.

8 Section 2. (1) When a law enforcement background
9 investigator is conducting a background investigation of an
10 applicant for temporary or permanent employment, or
11 appointment as a full-time, part-time, or auxiliary law
12 enforcement officer or correctional officer, the applicant's
13 current or former employer, or the employer's agent, shall
14 provide to the background investigator the complete employment
15 history of the applicant with the employer and such other
16 information requested about the applicant, to the extent known
17 by the employer. The employer shall provide such information
18 upon the presentation by the investigator of an authorization
19 for the release of information, which authorization shall:

20 (a) Be either the original authorization or a copy or
21 facsimile of the original authorization.

22 (b) Have been executed by the applicant no more than 1
23 year prior to the request.

24 (c) Contain a statement that the authorization has
25 been specifically furnished to the presenting law enforcement
26 agency.

27 (d) Bear the notarized signature of the applicant.

28 (2) Whoever fails to comply with the provisions of
29 this section commits a noncriminal violation, punishable by a
30 fine of up to \$500.

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