

By the Committee on Law Enforcement & Public Safety and Representative Arnall

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, correctional officer, or
 15 correctional probation officer; providing
 16 requirements with respect to an authorization
 17 to release information; providing a penalty for
 18 noncompliance; providing an effective date.

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 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, correctional,
9 or correctional probation officer is conducting a background
10 investigation of an applicant for temporary or permanent
11 employment or appointment as a full-time, part-time, or
12 auxiliary law enforcement, correctional, or correctional
13 probation officer with an employing agency as defined in ss.
14 943.10(4), the applicant's current or former employer, or the
15 employer's agent, shall provide to the officer conducting the
16 background investigation the complete employment record of the
17 applicant and, to the extent known, any other such information
18 requested about the applicant. The investigating officer must
19 present to the current or former employer credentials
20 demonstrating employment with the employing agency. Upon the
21 presentation of an authorization for release of information
22 form that must be designed and approved by the Criminal
23 Justice Standards and Training Commission, the employer shall
24 provide to the investigating officer the requested
25 information, which may include a copy of the complete
26 employment record or portion thereof. The form must:

27 (a) Be either the original authorization or a copy or
28 facsimile of the original authorization.

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

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1 (c) Contain a statement that the authorization has
2 been specifically furnished to the presenting law enforcement
3 agency.

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

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

8 Section 3. This act shall take effect upon becoming a
9 law.

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