

By Senator Silver

38-1689-99

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.

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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 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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1           Section 3. This act shall take effect upon becoming a  
2 law.

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5                           LEGISLATIVE SUMMARY

6           Expands provisions relating to employer immunity from  
7 liability and disclosure of information regarding former  
8 employees to include immunity from liability for current  
9 employers and disclosure of information with respect to  
10 current employees. Provides specified requirements of  
11 employers with respect to a background investigation of  
12 an applicant for employment or appointment as a  
13 full-time, part-time, or auxiliary law enforcement  
14 officer or correctional officer. Provides requirements  
15 with respect to an authorization to release information.  
16 Provides a \$500 noncriminal fine for noncompliance.  
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