

By Representative Flanagan

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 verifiable  
18 information which would lead one to believe that the applicant  
19 fails to meet the minimum qualifications as set forth in s.  
20 943.13. The investigating officer must present to the current  
21 or former employer credentials demonstrating employment with  
22 the employing agency. Upon the presentation of an  
23 authorization for release of information form that must be  
24 designed and approved by the Criminal Justice Standards and  
25 Training Commission, the employer shall provide to the  
26 investigating officer the requested information, which may  
27 include a copy of the complete employment record or portion  
28 thereof. The form must:

29       (a) Be either the original authorization or a copy or  
30 facsimile of the original authorization.

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

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

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

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

10       Section 3. This act shall take effect upon becoming a  
11 law.

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14   HOUSE SUMMARY

15       With respect to the release of employee information by  
16 employers, expands provisions relating to employer  
17 immunity from liability and disclosure of information  
18 regarding former employees to include immunity from  
19 liability for current employers and disclosure of  
20 information with respect to current employees. Provides  
21 specified requirements of employers with respect to a  
22 background investigation of an applicant for employment  
23 or appointment as a full-time, part-time, or auxiliary  
24 law enforcement officer, correctional officer, or  
25 correctional probation officer. Provides requirements  
26 with respect to an authorization to release information.  
27 Provides a penalty for noncompliance.  
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