

By the Committee on Commerce and Economic Opportunities; and  
Senator King

310-1467-01

1                                   A bill to be entitled  
2           An act relating to release of employee  
3           information by employers; providing specified  
4           requirements of employers with respect to a  
5           background investigation of an applicant for  
6           employment or appointment as a full-time,  
7           part-time, or auxiliary law enforcement  
8           officer, correctional officer, or correctional  
9           probation officer; providing requirements  
10          relating to an authorization to release  
11          information; defining the terms "employing  
12          agency" and "employment information"; providing  
13          for injunctive relief; providing a presumption;  
14          providing qualified immunity from civil  
15          liability for release; providing for fees to  
16          cover certain costs incurred by the employer;  
17          providing an effective date.

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

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21           Section 1. Release of employee information by  
22 employers.--

23           (1) As used in this section, the term:

24           (a) "Employing agency" has the same meaning ascribed  
25 in section 943.10, Florida Statutes.

26           (b) "Employment information" includes, but is not  
27 limited to, written information relating to job applications,  
28 performance evaluations, attendance records, disciplinary  
29 matters, reasons for termination, eligibility for rehire, and  
30 other information relevant to an officer's performance, except  
31 information that any other state or federal law prohibits

1 disclosing or information that is subject to a legally  
2 recognized privilege the employer is otherwise entitled to  
3 invoke.

4 (2)(a) When a law enforcement officer, correctional  
5 officer, or correctional probation officer, or an agent  
6 thereof, is conducting a background investigation of an  
7 applicant for temporary or permanent employment or appointment  
8 as a full-time, part-time, or auxiliary law enforcement  
9 officer, correctional officer, or correctional probation  
10 officer with an employing agency, the applicant's current or  
11 former employer, or the employer's agent, shall provide to the  
12 officer or his or her agent conducting the background  
13 investigation employment information concerning the applicant.  
14 The investigating officer or his or her agent must present to  
15 the employer from whom the information is being sought  
16 credentials demonstrating the investigating officer's  
17 employment with the employing agency and an authorization form  
18 for release of information which is designed and approved by  
19 the Criminal Justice Standards and Training Commission.

20 (b) The authorization form for release of information  
21 must:

22 1. Be either the original authorization or a copy or  
23 facsimile of the original authorization;

24 2. Have been executed by the applicant no more than 1  
25 year before the request;

26 3. Contain a statement that the authorization has been  
27 specifically furnished to the employing agency presenting the  
28 authorization; and

29 4. Bear the authorized signature of the applicant.  
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1           (3) This section does not require an employer to  
2 maintain employment information other than that kept in the  
3 ordinary course of business.

4           (4) If an employer refuses to disclose information to  
5 an employing agency in accordance with this section, the  
6 employing agency has grounds for a civil action for injunctive  
7 relief requiring disclosure by the employer.

8           (5) An employer who releases employment information  
9 pursuant to this section is presumed to have acted in good  
10 faith and is not liable for that action without a showing that  
11 the employer maliciously falsified the information.

12           (6) An employer may charge a reasonable fee to cover  
13 the actual costs incurred by the employer in copying and  
14 furnishing documents to an employing agency as required by  
15 this section.

16           Section 2. This act shall take effect upon becoming a  
17 law.

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19                           STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
20   COMMITTEE SUBSTITUTE FOR  
21   SB 252

22 The committee substitute reorganizes the bill to place  
23 definitions at the beginning of the section; defines  
24 "employing agency"; replaces references to "law enforcement  
25 agency" with "employing agency"; clarifies that only the  
26 employing agency has grounds for civil action against an  
27 employer that refuses to disclose information; and exempts  
28 from disclosure information that is subject to a legally  
29 recognized privilege an employer is otherwise entitled to  
30 invoke.  
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