Bill No. <u>CS for SB 2524</u>

Amendment No. <u>1</u> Barcode 745120

CHAMBER ACTION
<u>Senate</u>   <u>House</u>

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11   The Committee on Criminal Justice recommended the following

12   amendment:

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14   **Senate Amendment (with title amendment)**

15   On page 3, lines 15, through

16   page 9, line 3, delete those lines

17

18   and insert:

19   (3)(a) A fingerprint-based criminal history check

20   shall be performed on any applicant for employment, every

21   current employee, and other persons as designated <u>under</u>

22   pursuant to the seaport security plan for each seaport. The

23   criminal history check shall be performed in connection with

24   employment within or other authorized regular access to a

25   restricted access area or the entire seaport if the seaport

26   security plan does not designate one or more restricted access

27   areas. With respect to employees or others with regular

28   access, <u>the</u> such checks shall be performed at least once every

29   5 years or at other more frequent intervals as provided by the

30   seaport security plan. Each individual subject to the

31   background criminal history check shall file a complete set of

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1 fingerprints taken in a manner required by the Department of

2 Law Enforcement and the seaport security plan. Fingerprints

3 shall be submitted to the Department of Law Enforcement for

4 state processing and to the Federal Bureau of Investigation

5 for federal processing. The results of each fingerprint-based

6 check shall be reported to the requesting seaport. The costs

7 of the checks, consistent with s. 943.053(3), shall be paid by

8 the seaport or other employing entity or by the person

9 checked.

10   (b)<u>1.</u> By January 1, 2002, each seaport security plan

11 shall identify criminal convictions or other criminal history

12 factors consistent with paragraph<u>(e)</u><s>(c)</s> which shall

13 disqualify a person from either initial seaport employment or

14 new authorization for regular access to seaport property or to

15 a restricted access area. <u>These</u> <s>Such</s> factors shall be used to

16 disqualify all applicants for employment or others seeking

17 regular access to the seaport or restricted access area on or

18 after January 1, 2002, and may be used to disqualify all those

19 employed or authorized for regular access on that date. Each

20 seaport security plan may establish a procedure to appeal a

21 denial of employment or access based upon procedural

22 inaccuracies or discrepancies regarding criminal history

23 factors established pursuant to this paragraph. A seaport may

24 allow waivers on a temporary basis to meet special or

25 emergency needs of the seaport or its users. Policies,

26 procedures, and criteria for implementation of this subsection

27 shall be included in the seaport security plan. All waivers

28 granted pursuant to this paragraph must be reported to the

29 Department of Law Enforcement within 30 days of issuance.

30   <u>2. Notwithstanding this paragraph, when any person is</u>

31 <u>denied employment or access to a seaport on the basis that the</u>

1 <u>person does not meet the criminal history standards imposed by</u>

2 <u>this section, the person denied employment or access to the</u>

3 <u>seaport shall receive written notification of the denial from</u>

4 <u>the seaport stating the specific criminal history element or</u>

5 <u>factors forming the basis for the denial. The notification</u>

6 <u>shall include information explaining how the person may seek a</u>

7 <u>review of his criminal history through the Department of Law</u>

8 <u>Enforcement. The notice shall also inform the person that he</u>

9 <u>or she may request the seaport to reconsider the person's</u>

10 <u>request for employment or access if the person believes the</u>

11 <u>denial has been made in error or based upon an erroneous</u>

12 <u>criminal history entry that has subsequently been corrected.</u>

13 <u>The person may resubmit his or her request for employment or</u>

14 <u>access if the resubmission request demonstrates a belief that</u>

15 <u>the seaport made an error in initially interpreting the</u>

16 <u>person's criminal history, or the resubmission demonstrates</u>

17 <u>that the person's criminal history files have, subsequent to</u>

18 <u>the initial review and denial, been modified or corrected. A</u>

19 <u>request for resubmission must state with specificity the basis</u>

20 <u>upon which the person believes an error was made and why the</u>

21 <u>person believes he or she is not barred by the statutory</u>

22 <u>criminal history disqualifications. A seaport receiving a</u>

23 <u>resubmission shall promptly review the submission and</u>

24 <u>determine whether the person is or is not barred from</u>

25 <u>employment or access based on the person's criminal history</u>

26 <u>and the requirements of this section. The seaport's</u>

27 <u>determination after the secondary review shall be communicated</u>

28 <u>to the person in writing.</u>

29   (c) In addition to other requirements for employment

30 or access established by each seaport <u>under</u> ~~pursuant to~~ its

31 seaport security plan, each seaport security plan shall

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1 provide that:

2   1. Any person who has within the past 7 years been

3 convicted, regardless of whether adjudication was withheld,

4 for a forcible felony as defined in s. 776.08; an act of

5 terrorism as defined in s. 775.30; planting of a hoax bomb as

6 provided in s. 790.165; any violation involving the

7 manufacture, possession, sale, delivery, display, use, or

8 attempted or threatened use of a weapon of mass destruction or

9 hoax weapon of mass destruction as provided in s. 790.166;

10 dealing in stolen property; any violation of s. 893.135; any

11 violation involving the sale, manufacturing, delivery, or

12 possession with intent to sell, manufacture, or deliver a

13 controlled substance; burglary; robbery; any felony violation

14 of s. 812.014; any violation of s. 790.07; any crime an

15 element of which includes use or possession of a firearm; any

16 conviction for any similar offenses under the laws of another

17 jurisdiction; or conviction for conspiracy to commit any of

18 the listed offenses <u>is</u> ~~shall~~ not ~~be~~ qualified for initial

19 employment within or regular access to a seaport or restricted

20 access area; and

21   2. Any person who has at any time been convicted for

22 any of the listed offenses <u>is</u> ~~shall~~ not ~~be~~ qualified for

23 initial employment within or authorized regular access to a

24 seaport or restricted access area unless, after release from

25 incarceration and any supervision imposed as a sentence, the

26 person remained free from a subsequent conviction, regardless

27 of whether adjudication was withheld, for any of the listed

28 offenses for a period of at least 7 years prior to the

29 employment or access date under consideration. <u>Provided,</u>

30 <u>however, that any worker holding credentials allowing regular</u>

31 <u>access as provided herein on June 3, 2003, who, but for the</u>

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1 | <u>increase from 5 to 7 years as implemented by chapter 2003-96,</u>

2 | <u>Laws of Florida, and who is otherwise qualified for such</u>

3 | <u>regular access shall not have qualified access denied. This</u>

4 | <u>provision is repealed on June 4, 2005.</u>

5 | (d) By October 1 of each year, each seaport shall

6 | report to the Department of Law Enforcement each determination

7 | of denial of employment or access, and any determination to

8 | authorize employment or access after an appeal of a denial <u>and</u>

9 | <u>any determination to issue a waiver</u> made during the previous

10 | 12 months. The report shall include the identity of the

11 | individual affected, the factors supporting the determination,

12 | and any other material factors used in making the

13 | determination.

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16 | ================ T I T L E   A M E N D M E N T ===============

17 | And the title is amended as follows:

18 | On page 1, lines 8 through 15, delete those lines

19 |

20 | and insert:

21 | access area; providing that a person may

22 | request the seaport denying employment or

23 | access to reconsider its decision; providing

24 | conditions for requesting reconsideration;

25 | providing that certain

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