

1 Department of Law Enforcement for a state criminal history
2 record check and to the Federal Bureau of Investigation for a
3 national criminal history record check. The information
4 obtained from the criminal history record checks conducted
5 pursuant to the ordinance may be used by the county to
6 determine an applicant's eligibility for employment or
7 appointment and to determine an employee's eligibility for
8 continued employment. This section is not intended to preempt
9 or prevent any other background screening, including, but not
10 limited to, criminal history record checks, which a county may
11 lawfully undertake. The information obtained from a criminal
12 history record check conducted pursuant to this section is
13 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
14 of the State Constitution. This section is subject to the Open
15 Government Sunset Review Act in accordance with s. 119.15, and
16 shall stand repealed on October 2, 2011, unless reviewed and
17 saved from repeal through reenactment by the Legislature.

18 Section 2. Section 166.0442, Florida Statutes, is
19 amended to read:

20 166.0442 Criminal history record checks for certain
21 municipal employees and appointees.--Notwithstanding any
22 categorical limitations within chapter 435, a municipality may
23 require, by ordinance, employment screening for any position
24 of municipal employment or appointment which the governing
25 body of the municipality finds is critical to security or
26 public safety, or for any private contractor, employee of a
27 private contractor, vendor, repair person, or delivery person
28 who has access to any public facility or publicly operated
29 facility that the governing body of the municipality finds is
30 critical to security or public safety. The ordinance must
31 require each person applying for, or continuing employment in,

1 any such position or having access to any such facility to be
2 fingerprinted. The fingerprints shall be submitted to the
3 Department of Law Enforcement for a state criminal history
4 record check and to the Federal Bureau of Investigation for a
5 national criminal history record check. The information
6 obtained from the criminal history record checks conducted
7 pursuant to the ordinance may be used by the municipality to
8 determine an applicant's eligibility for employment or
9 appointment and to determine an employee's eligibility for
10 continued employment. This section is not intended to preempt
11 or prevent any other background screening, including, but not
12 limited to, criminal history background checks, that a
13 municipality may lawfully undertake. The information obtained
14 from a criminal history record check conducted pursuant to
15 this section is confidential and exempt from s. 119.07(1) and
16 s. 24(a), Art. I of the State Constitution. This section is
17 subject to the Open Government Sunset Review Act in accordance
18 with s. 119.15, and shall stand repealed on October 2, 2011,
19 unless reviewed and saved from repeal through reenactment by
20 the Legislature.

21 Section 3. The Legislature finds that it is a public
22 necessity to protect the confidentiality of the criminal
23 background information obtained by a local government under
24 ss. 125.5801 and 166.0442, Florida Statutes, because a local
25 government may not otherwise use the authority granted therein
26 to obtain the criminal background for an applicant, employee,
27 or appointee who is critical to security or public safety for
28 fear that the criminal history information would be made
29 public which would otherwise not have been brought into the
30 public record and would not disqualify the applicant,
31 employee, or appointee in question from being employed by or

1 otherwise conducting business with the local government.
2 Public employees and other persons have the right of privacy
3 to protect personal and sensitive information as provided by
4 s. 23, Art. I of the State Constitution. This right should be
5 recognized when allowing local governments broadened authority
6 to conduct background checks. It is for this reason that the
7 Legislature has recognized an equivalent exemption in s.
8 435.09, Florida Statutes, regarding criminal background
9 records of certain public employees. In addition, to the
10 extent federal law regulates the limitations concerning the
11 use and dissemination of federal criminal background records,
12 these superior laws must be recognized in order to avoid a
13 conflict with the state's public-records laws.

14 Section 4. This act shall take effect October 1, 2006.

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17 SENATE SUMMARY

18 Provides exemptions from public-records requirements for
19 information contained in a criminal background check for
20 certain local government applicants, employees, and
21 appointees. Provides for future legislative review and
22 repeal of the exemptions.
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