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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Criminal Justice (King) recommended the following:

1 **Senate Amendment to Amendment (321972) (with title**
2 **amendment)**

3
4 Between lines 92 and 93
5 insert:

6 Section 3. Section 768.096, Florida Statutes, is amended to
7 read:

8 768.096 Employer presumption against negligent hiring.—

9 (1) In a civil action for the death of, or injury or damage
10 to, a third person caused by the intentional tort of an
11 employee, such employee's employer is presumed not to have been
12 negligent in hiring such employee if, before hiring the



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13 employee, the employer conducted a background investigation of
14 the prospective employee and the investigation did not reveal
15 any information that reasonably demonstrated the unsuitability
16 of the prospective employee for the particular work to be
17 performed or for the context of the employment in general. A
18 background investigation under this section must include:

19 (a) Obtaining a criminal background investigation on the
20 prospective employee under subsection (2);

21 (b) Making a reasonable effort to contact references and
22 former employers of the prospective employee concerning the
23 suitability of the prospective employee for employment;

24 (c) Requiring the prospective employee to complete a job
25 application form that includes questions concerning whether he
26 or she has ever been convicted of a crime, including details
27 concerning the type of crime, the date of conviction and the
28 penalty imposed, and whether the prospective employee has ever
29 been a defendant in a civil action for intentional tort,
30 including the nature of the intentional tort and the disposition
31 of the action;

32 (d) Obtaining, with written authorization from the
33 prospective employee, a check of the driver's license record of
34 the prospective employee if such a check is relevant to the work
35 the employee will be performing and if the record can reasonably
36 be obtained; and ~~or~~

37 (e) Interviewing the prospective employee.

38 (2) To satisfy the criminal-background-investigation
39 requirement of this section, an employer must request and obtain
40 from the Department of Law Enforcement a check of the
41 information as reported and reflected in the Florida Crime



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42 Information Center system as of the date of the request. The
43 employer must review and consider the results of the criminal
44 background investigation and, if the prospective employee has
45 engaged in past criminal conduct, assure that the employee will
46 not be assigned to particular work that would place the employee
47 in a position where conduct that is similar to the employee's
48 past criminal conduct is facilitated and determine that,
49 notwithstanding the past criminal conduct of the employee, any
50 information revealed by the investigation did not otherwise
51 demonstrate the unsuitability of the employee for the particular
52 work to be performed or context of the employment in general.

53 (3) The election by an employer not to conduct the
54 investigation specified in subsection (1) does not raise any
55 presumption that the employer failed to use reasonable care in
56 hiring an employee.

57
58 ===== T I T L E A M E N D M E N T =====

59 And the title is amended as follows:

60 Delete line 658

61 and insert:

62 civil rights; providing an exception; amending s. 768.096, F.S.;

63 requiring an employer to review the results of a criminal

64 background investigation; requiring an employer not to place an

65 employee with a criminal record in a position where conduct

66 similar to the employee's past criminal conduct would be

67 facilitated; requiring an employer to determine that the

68 criminal background investigation does not demonstrate that the

69 employee is unsuitable for the particular work to be performed

70 or the context of the employment in general; amending s.



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