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1 A bill to be entitled
2 An act relating to criminal justice; providing a short
3 title; providing legislative intent; requiring state
4 agencies and regulatory boards to prepare reports that
5 identify and evaluate restrictions on licensing and
6 employment for ex-offenders; amending s. 112.011,
7 F.S.; prohibiting state agencies from denying an
8 application for a license, permit, certificate, or
9 employment based on a person's lack of civil rights;
10 providing an exception; amending s. 768.096, F.S.;
11 revising the presumption against negligent hiring of
12 an employee in circumstances in which a background
13 investigation of a prospective employee revealed that
14 the employee was unsuitable for the context of the
15 employment in general; providing an effective date.

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

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19 Section 1. This act may be cited as the "Jim King Keep
20 Florida Working Act."

21 Section 2. Restrictions on the employment of ex-offenders;
22 legislative intent; state agency reporting requirements.-

23 (1) The Legislature declares that a goal of this state is
24 to clearly identify the occupations from which ex-offenders are
25 disqualified based on their specific offenses. The Legislature
26 intends to make employment opportunities available to ex-
27 offenders in a manner that encourages them to become productive
28 members of society and preserves the safety of the public. To
29 this end, all state agencies shall identify all restrictions on

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30 employment imposed by the agencies or by boards that regulate
31 professions and occupations and attempt to define each
32 restriction as narrowly as possible while continuing to maintain
33 public safety.

34 (2) Each state agency, including, but not limited to,
35 professional and occupational regulatory boards, shall, by
36 December 31, 2011, and every 8 years thereafter, submit to the
37 Governor, the President of the Senate, and the Speaker of the
38 House of Representatives a report that includes:

39 (a) A list of all agency or board policies that disqualify
40 from employment or licensure persons who have been convicted of
41 a crime and have completed any incarceration and restitution to
42 which they have been sentenced for such a crime.

43 (b) A determination of whether the disqualifying policies
44 are readily available to prospective employers and licensees.

45 (c) The identification and evaluation of alternatives to
46 the disqualifying policies which promote the employment of ex-
47 offenders and protect the public.

48 (d) An evaluation of whether the disqualifying polices are
49 too broad and whether crimes or acts of moral turpitude that
50 disqualify a person from licensure should be more specifically
51 or narrowly identified.

52 Section 3. Section 112.011, Florida Statutes, is amended to
53 read:

54 112.011 Disqualification from licensing and public
55 employment based on criminal conviction ~~Felons; removal of~~
56 ~~disqualifications for employment, exceptions.-~~

57 (1) (a) Except as provided in s. 775.16, a person may ~~shall~~
58 not be disqualified from employment by the state, any of its

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59 agencies or political subdivisions, or any municipality solely
60 because of a prior conviction for a crime. However, a person may
61 be denied employment by the state, any of its agencies or
62 political subdivisions, or any municipality by reason of the
63 prior conviction for a crime if the crime was a felony or first
64 degree misdemeanor and directly related to the position of
65 employment sought.

66 (b) Except as provided in s. 775.16, a person ~~whose civil~~
67 ~~rights have been restored shall not be disqualified to practice,~~
68 ~~pursue, or engage in any occupation, trade, vocation,~~
69 ~~profession, or business for which a license, permit, or~~
70 ~~certificate is required to be issued by the state, any of its~~
71 ~~agencies or political subdivisions, or any municipality solely~~
72 ~~because of a prior conviction for a crime. However, a person~~
73 ~~whose civil rights have been restored may be denied a license,~~
74 ~~permit, or certification to pursue, practice, or engage in an~~
75 ~~occupation, trade, vocation, profession, or business by reason~~
76 ~~of the prior conviction for a crime if the crime was a felony or~~
77 first-degree first-degree misdemeanor that is relevant to the
78 standards normally associated with, or determined by the
79 regulatory authority to be necessary for the protection of the
80 public or other parties for, and directly related to the
81 specific occupation, trade, vocation, profession, or business
82 for which the license, permit, or certificate is sought.

83 (c) Notwithstanding any law to the contrary, a state agency
84 may not deny an application for a license, permit, certificate,
85 or employment based on the applicant's lack of civil rights.
86 However, this paragraph does not apply to applications for a
87 license to carry a concealed weapon or firearm under chapter

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88 790.

89 (2) (a) This section does ~~shall~~ not apply ~~be applicable~~ to
90 any law enforcement or correctional agency.

91 (b) This section does ~~shall~~ not apply ~~be applicable~~ to the
92 employment practices of any fire department relating to the
93 hiring of firefighters. An applicant for employment with any
94 fire department who has ~~with~~ a prior felony conviction shall be
95 excluded from employment for a period of 4 years after
96 expiration of sentence or final release by the Parole Commission
97 unless the applicant, before ~~prior to~~ the expiration of the 4-
98 year period, has received a full pardon or has had his or her
99 civil rights restored.

100 (c) This section does ~~shall~~ not apply ~~be applicable~~ to the
101 employment practices of any county or municipality relating to
102 the hiring of personnel for positions deemed to be critical to
103 security or public safety pursuant to ss. 125.5801 and 166.0442.

104 (3) Any complaint concerning the violation of this section
105 shall be adjudicated in accordance with the procedures set forth
106 in chapter 120 for administrative and judicial review.

107 Section 4. Section 768.096, Florida Statutes, is amended to
108 read:

109 768.096 Employer presumption against negligent hiring.—

110 (1) In a civil action for the death of, or injury or damage
111 to, a third person caused by the intentional tort of an
112 employee, such employee's employer is presumed not to have been
113 negligent in hiring such employee if, before hiring the
114 employee, the employer conducted a background investigation of
115 the prospective employee and the investigation did not reveal
116 any information that reasonably demonstrated the unsuitability

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117 of the prospective employee for the particular work to be
118 performed or for the context of the employment in general. A
119 background investigation under this section must include:

120 (a) Obtaining a criminal background investigation on the
121 prospective employee under subsection (2);

122 (b) Making a reasonable effort to contact references and
123 former employers of the prospective employee concerning the
124 suitability of the prospective employee for employment;

125 (c) Requiring the prospective employee to complete a job
126 application form that includes questions concerning whether he
127 or she has ever been convicted of a crime, including details
128 concerning the type of crime, the date of conviction and the
129 penalty imposed, and whether the prospective employee has ever
130 been a defendant in a civil action for intentional tort,
131 including the nature of the intentional tort and the disposition
132 of the action;

133 (d) Obtaining, with written authorization from the
134 prospective employee, a check of the driver's license record of
135 the prospective employee if such a check is relevant to the work
136 the employee will be performing and if the record can reasonably
137 be obtained; or

138 (e) Interviewing the prospective employee.

139 (2) To satisfy the criminal-background-investigation
140 requirement of this section, an employer must request and obtain
141 from the Department of Law Enforcement a check of the
142 information as reported and reflected in the Florida Crime
143 Information Center system as of the date of the request.

144 (3) The election by an employer not to conduct the
145 investigation specified in subsection (1) does not raise any

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146 presumption that the employer failed to use reasonable care in
147 hiring an employee.

148 Section 5. This act shall take effect July 1, 2011.