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LEGISLATIVE ACTION

Senate

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House

Floor: 1/AD/2R

03/23/2011 09:42 AM

Senator Smith moved the following:

Senate Amendment (with title amendment)

Delete lines 116 - 669

and insert:

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

768.096 Employer presumption against negligent hiring.—

(1) In a civil action for the death of, or injury or damage to, a third person caused by the intentional tort of an employee, such employee's employer is presumed not to have been negligent in hiring such employee if, before hiring the employee, the employer conducted a background investigation of the prospective employee and the investigation did not reveal



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14 any information that reasonably demonstrated the unsuitability
15 of the prospective employee for the particular work to be
16 performed or for the context of the employment in general. A
17 background investigation under this section must include:

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

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

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

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

36 (e) Interviewing the prospective employee.

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

42 (3) The election by an employer not to conduct the



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43 investigation specified in subsection (1) does not raise any
44 presumption that the employer failed to use reasonable care in
45 hiring an employee.

46
47 ===== T I T L E A M E N D M E N T =====

48 And the title is amended as follows:

49 Delete lines 10 - 23

50 and insert:

51 providing an exception; amending s. 768.096, F.S.;

52 revising the presumption against negligent hiring of

53 an employee in circumstances in which a background

54 investigation of a prospective employee revealed that

55 the employee was unsuitable for the context of the

56 employment in general; providing