

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: January 2, 1998 Revised: 01/06/98 _____

Subject: Employment screening

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Maclure</u>	<u>Austin</u>	<u>CM</u>	<u>Favorable/1 amend.</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill amends a 1995 general law to restrict the impact of the act’s statement that it applies only to offenses committed on or after the October 1, 1995, effective date to the provision of the act that created a new criminal offense and not to the provisions of the act relating to employment screening or other matters.

This bill substantially amends chapter 95-228, Laws of Florida.

II. Present Situation:

During the final week of the 1995 legislative session, the Senate adopted Committee Substitute for Senate Bill 1536 (CS/SB 1536), which created s. 787.025, F.S., a new criminal offense related to luring or enticing a child. The effective date of the measure as adopted by the Senate was October 1, 1995, and the effective-date section also specified that the act applied only to offenses committed on or after that date.

Upon taking up the measure, the House of Representatives adopted two amendments. One was a lengthy amendment that added the substance of House Bill 2541 (HB 2541), which restructured the process of screening for employment persons who work with children and certain vulnerable adults. The effective date for HB 2541, as well as for its Senate counterpart (CS/SB 2582), was October 1, 1995. This lengthy amendment also revised several other sections of the Florida Statutes, not addressed as part of HB 2541, relating to the welfare of children. The second amendment revised statutes relating to protection from abuse, neglect, and exploitation.

The amended version of CS/SB 1536 retained the language in the effective-date section that the act would apply to offenses committed on or after the October 1, 1995, effective date. The Senate

concurrent in the House amendments to CS/SB 1536, and the measure became law on June 9, 1995, without the governor's signature. It was assigned the number ch. 95-228, L.O.F.

Among other revisions, the 1995 act consolidated multiple employment screening provisions into a newly created chapter 435 of the Florida Statutes. The chapter establishes standards to be applied when a background screening for employment or a background security check is required by law for employment. Published with various sections within ch. 435 are footnotes noting the statement in the act's effective date that it applies to offenses committed on or after October 1, 1995. For example, the footnote is included with s. 435.03, F.S., which lists offenses of which a screened employee may not be guilty. The existence of the footnote may lead to the conclusion that the employment screening provisions apply only to offenses committed on or after October 1, 1995, thereby affecting the ability of employers to conduct screening for offenses committed prior to that date. The footnote is also published with several other sections of the Florida Statutes amended by CS/SB 1536, some of which relate to employment screening and some of which relate to child welfare issues more generally.

III. Effect of Proposed Changes:

This bill amends the effective-date section of a 1995 legislative act to specify that s. 787.025, F.S., which created a criminal offense relating to the luring or enticing of a child, applies to offenses committed on or after the October 1, 1995, effective date. The bill has the effect of clarifying that the applicability of the other provisions of the 1995 act, including those relating to employment screening, is not limited to offenses committed on or after October 1, 1995.

This bill includes a statement of legislative intent that the language in the 1995 measure linking the act's effectiveness to criminal acts committed on or after October 1, 1995, applies only to the portions of the act creating s. 787.025, F.S. The bill also includes a legislative finding that, through the amendatory process, the applicability statement was inadvertently attributed to other provisions of the law for which it was not intended.

The bill provides that the act is effective upon becoming a law and applies retroactively to June 9, 1995, which is the date the 1995 measure became law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

The bill title refers to the measure as an “act relating to employment screening.” However, employment screening is not cited in the body of the bill. The 1995 act that this bill seeks to clarify addressed more than simply employment screening and was titled an act relating to “offenses against children.” The 1995 bill dealing with employment screening, the substance of which was amended onto the measure that the current bill addresses, was titled an act relating to “child welfare.” Consequently, the title for the current bill may be too narrow.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Commerce and Economic Opportunities:

Technical title amendment to reflect the fact that the bill relates to more than employment screening.