

**STORAGE NAME:** h3141.flc

**DATE:** February 27, 1998

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
FAMILY LAW & CHILDREN  
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

**BILL #:** HB 3141

**RELATING TO:** Employment Screening

**SPONSOR(S):** Committee on Family Law and Children and Representative Lynn

**COMPANION BILL(S):**

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) FAMILY LAW & CHILDREN YEAS 6 NAYS 0
  - (2)
  - (3)
  - (4)
  - (5)
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**I. SUMMARY:**

This bill expresses the legislative intent that the the effective date language limiting applicability of the provisions of Chapter 95-228, Laws of Florida (LOF) to offenses committed on or after October 1, 1995 should apply solely to the creation of section 787.025, Florida Statutes, and not to the sections of Chapter 95-228 LOF relating to employment screening.

The original text of CS/SB 1536, which later became Chapter 95-228 LOF, only created section 787.025, a new criminal offense relating to luring or enticing a child. The employment screening provisions were originally part of HB 2541, which had an effective date of October 1, 1995. When this bill was amended onto CS/SB 1536, the effective date was not clarified to express the intent that the restricted effective date applied only to the new criminal offense created and not to the screening of existing criminal offenses.

The employment screening portions of the 1995 bill made no significant changes in the offenses for which employment screening should occur, but merely consolidated the employment screening provisions contained in several chapters of Florida law.

This bill clarifies that the effective date for the employment screening provisions is October 1, 1995, but that the applicability of the bill to those provisions is not limited to offenses which occurred after October 1, 1995.

The bill also expresses the legislative finding that the attribution of this effective date to the provisions relating to employment screening inadvertently occurred when the employment screening provisions were amended onto the original text of CS/SB 1536.

The bill clarifies that the effective date change as to the employment screening provisions is retroactive to the date that chapter 95-228 became law.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

During the 1995 legislative session, the Select Committee on Child Abuse and Neglect prepared a committee bill which, among other things, consolidated the employment screening provisions of the Florida Statutes into a new chapter, chapter 435. The bill did not make any significant alterations in the criminal offenses for which employees could be barred from employment in particular fields. The effective date for the bill was October 1, 1995.

On May 5, 1995, the employment screening bill was amended onto a two-page bill creating a new criminal offense, CS/SB 1536. The effective date of that bill was October 1, 1995, but since it created a new criminal offense, the effective date included the language that its provisions were to apply to offenses created after that date.

During the amendatory process, the effective date language was not clarified to show that the limitation on the new criminal offense applied only to the offense newly created by the original text of CS/SB 1536.

As a result of the failure to clarify the language of the effective date, the statutes have been published with a footnote which suggests that the screening provisions may apply only to offenses committed after October 1, 1995. This confusion has led to the threat of lawsuits by state employees threatened with loss of employment as a result of offenses committed previous to October 1, 1995.

B. EFFECT OF PROPOSED CHANGES:

The effect of this bill will be to express the legislative intent that the the effective date language limiting applicability of the bill to offenses committed on or after October 1, 1995 should apply solely to the creation of section 787.025, Florida Statutes, which was the original text of the Committee Substitute for Senate Bill 1536. The amendment to the effective date clarifies that the effective date for the employment screening provisions is October 1, 1995, but that the applicability of the bill to those provisions is not limited to offenses which occurred after October 1, 1995.

The bill also expresses the legislative finding that the attribution of this effective date to the provisions relating to employment screening inadvertently occurred when the employment screening provisions were amended onto the original text of CS/SB 1536.

The bill clarifies that the effective date change as to the employment screening provisions is retroactive to the date that chapter 95-228 became law.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

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(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

No agency or program is eliminated or reduced by this bill.

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable.

(2) what is the cost of such responsibility at the new level/agency?

Not applicable.

(3) how is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

The bill does not purport to provide services to families or children.

(1) Who evaluates the family's needs?

Not applicable.

(2) Who makes the decisions?

Not applicable.

(3) Are private alternatives permitted?

Not applicable.

(4) Are families required to participate in a program?

Not applicable.

(5) Are families penalized for not participating in a program?

Not applicable.

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

The bill does not create or change a program providing services to families or children.

(1) parents and guardians?

Not applicable.

(2) service providers?

Not applicable.

(3) government employees/agencies?

Not applicable.

D. STATUTE(S) AFFECTED:

The bill amends section 64 of chapter 95-228, Laws of Florida.

E. SECTION-BY-SECTION RESEARCH:

This section need be completed only in the discretion of the Committee.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

The failure to make this technical correction may lead to litigation concerning the interpretation of the effective date of chapter 95-228, LOF. This litigation has already been threatened.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take any action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

This is a purely technical bill to correct a drafting error made during the amendatory process which melded together the provisions of CS/SB 1536 and HB 2541 during the 1995 session.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON FAMILY LAW & CHILDREN:

Prepared by:

Legislative Research Director:

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