

§§768.096 FS | 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 any information that reasonably demonstrated the unsuitability of the prospective employee for the particular work to be performed or for the employment in general. A background investigation under this section must include:

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

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

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

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

(e) Interviewing the prospective employee.

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

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

History - (s. 16, ch. 99-225.)