

# 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.)

BILL: SB 1022

SPONSOR: Senators Sullivan, Brown-Waite, and Silver

SUBJECT: Criminal History Checks; Health Care Practitioners

DATE: February 25, 1999

REVISED: 03/04/99 \_\_\_\_\_

|    | ANALYST       | STAFF DIRECTOR | REFERENCE | ACTION                 |
|----|---------------|----------------|-----------|------------------------|
| 1. | <u>Munroe</u> | <u>Wilson</u>  | <u>HC</u> | <u>Fav/1 amendment</u> |
| 2. | _____         | _____          | <u>FP</u> | _____                  |
| 3. | _____         | _____          | _____     | _____                  |
| 4. | _____         | _____          | _____     | _____                  |
| 5. | _____         | _____          | _____     | _____                  |

## I. Summary:

The bill limits the requirement for a medical physician, osteopathic physician, chiropractic physician, or podiatric physician to submit, on a one-time-basis, his or her fingerprints for a national criminal history check as part of licensure renewal to any renewal applicant who received an initial license to practice his or her profession after January 1, 1992. The bill revises license renewal requirements for any medical physician, osteopathic physician, chiropractic physician, or podiatric physician who is renewing his or her license after January 1, 2000, and who received an initial license in Florida to practice on or before January 1, 1992, so that the applicant must only submit the information required for a statewide criminal history check. The bill prohibits the Department of Health from delaying the license renewal of any medical physician, osteopathic physician, chiropractic physician, or podiatric physician due to the processing of either a statewide criminal history check or a national criminal history background check. The bill deletes an exemption from the national criminal history check for a medical physician, osteopathic physician, chiropractic physician, or podiatric physician who is applying for license renewal and has already submitted fingerprints to the Department of Health for a national criminal history check upon initial licensure prior to January 1, 2000, and who is renewing his or her license for the first time.

This bill substantially amends sections 455.565, 458.319, 459.008, 460.407, and 461.007, Florida Statutes.

## II. Present Situation:

Section 455.565, Florida Statutes, requires each licensed physician, osteopathic physician, chiropractic physician, and podiatric physician to submit specified information which, beginning July 1, 1999, will be compiled into practitioner profiles to be made available to the public. The information includes: graduate medical education; hospitals at which the physician has privileges; specialty certification; year the physician began practice; a description of any criminal offense committed; a description of any final disciplinary action taken within the most recent 10 years; professional liability closed claims reported to the Department of Insurance within the most recent

10 years exceeding \$5,000; professional awards and publications; languages, other than English, used by the physician to communicate with patients; and an indication of whether the physician participates in the Medicaid program. Each person who applies for initial licensure as a medical physician, osteopathic physician, chiropractic physician, or podiatric physician must, at the time of application, and each medical physician, osteopathic physician, chiropractic physician, or podiatric physician must, in conjunction with the renewal of the license, submit the information required for practitioner profiles.

Section 455.565, F.S., requires medical physicians, osteopathic physicians, chiropractic physicians, and podiatric physicians to submit fingerprints for a national criminal history check as part of initial licensure. The section also requires already licensed medical physicians, osteopathic physicians, chiropractic physicians, and podiatric physicians to submit, on a one-time-basis, a set of fingerprints for the initial renewal of their licenses after January 1, 2000, to the Department of Health. The Department of Health must submit the fingerprints of licensure renewal applicants to the Florida Department of Law Enforcement (FDLE) and FDLE then must forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check for the initial renewal of the applicant's license after January 1, 2000. For any subsequent renewal of the applicant's license, the Department of Health must submit the required information for a statewide criminal history check of the applicant.

Section 455.5651, F.S., requires the Department of Health to indicate if the criminal history information reported by a medical physician, osteopathic physician, chiropractic physician, or podiatric physician is not corroborated by a criminal history check. The Department of Health or the board having regulatory authority over the practitioner must investigate any information it receives when it has reasonable grounds to believe that the practitioner has violated any law that relates to the practitioner's practice. Each practitioner's profile must include the following statement: "The criminal history information, if any exists, may be incomplete; federal criminal history information is not available to the public."

Medical physicians, osteopathic physicians, chiropractic physicians, and podiatric physicians applying for licensure renewal must submit the information required for the practitioner profiles, however, an applicant who has submitted fingerprints to the Department of Health for a national criminal history check upon initial licensure and is renewing his or her license for the first time, only needs to submit the information and fee required for a statewide criminal history check.

Section 455.5653, F.S., requires the Department of Health to develop by the year 2000, a schedule and procedures for other licensed health care practitioners to submit relevant information for inclusion in practitioner profiles.

### **III. Effect of Proposed Changes:**

The bill revises the requirement for a medical physician, osteopathic physician, chiropractic physician, or podiatric physician who is renewing his or her license after January 1, 2000, to submit, on a one-time-basis, his or her fingerprints for a national criminal history check. Any medical physician, osteopathic physician, chiropractic physician, or podiatric physician who is renewing his or her license after January 1, 2000, and who received an initial license to practice in Florida on or before January 1, 1992, no longer must submit, on a one-time basis, his or her

fingerprints for a national criminal history check under the bill, however, the renewal applicant must submit the information required for a statewide criminal history check.

The bill prohibits the Department of Health from delaying the license renewal of any medical physician, osteopathic physician, chiropractic physician, or podiatric physician due to the processing of either a statewide criminal history check or a national criminal history background check. The bill deletes an exemption from the national criminal history check for a medical physician, osteopathic physician, chiropractic physician, or podiatric physician who is applying for license renewal and has already submitted fingerprints to the Department of Health for a national criminal history check upon initial licensure prior to January 1, 2000, and who is renewing his or her license for the first time.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

##### **B. Public Records/Open Meetings Issues:**

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Subsections 24(a) and (b) of the Florida Constitution.

##### **C. Trust Funds Restrictions:**

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

Medical physicians, osteopathic physicians, chiropractic physicians, and podiatric physicians who are renewing their licenses after January 1, 2000, and who received their initial license to their profession in Florida on or before January 1, 1992, will no longer incur the costs associated with a national criminal history check as part of the profiling requirements. The Department of Health estimates 33,605 renewal applicants (27, 852 medical physicians; 2,331 osteopathic physicians; 2,590 chiropractic physicians; and 832 podiatric physicians) will no longer be subject to a \$24 fee per applicant for the national criminal history check. The Department of Health estimates it will no longer collect a total of \$860,520 to implement the national criminal history check.

Under the bill, 16,408 physician licensure renewal applicants who were initially licensed after January 1, 1992, must undergo and pay the costs for a federal criminal history check once after the effective date of the bill and must undergo and pay the costs for a statewide criminal history check for every license renewal. Cost for a statewide criminal history check is estimated at \$15; the cost for a federal criminal history check is estimated at \$24; and a 7 percent general revenue fee of \$3 is assessed, for a total processing cost of \$42. The department will collect \$689,136 to process the criminal history checks for 16,408 physicians initially licensed after January 1, 1992.

**C. Government Sector Impact:**

The bill reduces the workload for both the Department of Health and the Florida Department of Law Enforcement associated with processing fingerprints and federal criminal history checks.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Medical physicians and osteopathic physicians last licensure renewal date was 1/31/98 and the licensure renewal date for podiatrists and chiropractors was 2/28/98. Medical physicians, osteopathic physicians, chiropractic physicians, and podiatric physicians who are renewing their licenses who have already submitted fingerprints to the Department of Health for a national criminal history check upon initial licensure prior to January 1, 2000, and who are renewing their license for the first time, under the bill will be subject to a duplication of the national criminal history check and fees.

To the extent the Department of Health's workload to renew licenses of medical physicians, osteopathic physicians, chiropractic physicians, and podiatric physicians is significantly reduced under the bill, it could pursue options of extending the profiling requirements, as applicable, to additional health care professions regulated by the department.

**VIII. Amendments:**

#1 by Health, Aging and Long-Term Care:

Provides that any applicant who has received an initial license to practice in Florida after January 1, 1992, and who has already submitted fingerprints to the department for a national criminal history check and who is renewing his or her license, need only submit the information and fee required for a statewide criminal history check.