

By the Committees on Criminal Justice; and Children, Families,
and Elder Affairs; and Senator Storms

591-03785-10

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1 A bill to be entitled
2 An act relating to background screening; amending s.
3 39.001, F.S.; revising an exemption from screening
4 requirements for volunteers who assist providers under
5 contract with the Department of Children and Family
6 Services; amending s. 39.821, F.S.; revising
7 background screening requirements for the Guardian Ad
8 Litem Program; amending s. 215.5586, F.S.; removing
9 reference to ch. 435, F.S., for background screening
10 of hurricane mitigation inspectors; amending s.
11 393.0655, F.S.; revising an exemption from screening
12 requirements for volunteers; removing a temporary
13 exemption from screening requirements for direct
14 service providers awaiting completion of a background
15 screening; adding additional disqualifying offenses
16 for the screening of direct service providers for
17 persons with developmental disabilities; amending s.
18 394.4572, F.S.; revising background screening
19 requirements for mental health personnel; amending s.
20 400.215, F.S.; revising background screening
21 requirements for nursing home personnel; amending s.
22 400.506, F.S.; conforming provisions to changes made
23 by the act; amending s. 400.512, F.S.; revising
24 background screening requirements for home health
25 agency personnel, nurse registry personnel, and
26 companions and homemakers; amending s. 400.6065, F.S.;
27 revising background screening requirements for hospice
28 personnel; amending s. 400.801, F.S.; revising
29 background screening requirements for personnel at

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30 homes for special services; amending s. 400.805, F.S.;

31 revising background screening requirements for

32 transitional living facility personnel; creating s.

33 400.9065, F.S.; providing background screening

34 requirements for prescribed pediatric extended care

35 center personnel; amending s. 400.934, F.S.; revising

36 minimum standards for home medical equipment

37 providers; amending s. 400.953, F.S.; revising

38 background screening requirements for home medical

39 equipment provider personnel; repealing s. 400.955,

40 F.S., relating to the procedures for screening of home

41 medical equipment provider personnel; amending s.

42 400.964, F.S.; revising background screening

43 requirements for personnel at intermediate care

44 facilities for developmentally disabled persons;

45 amending s. 400.980, F.S.; revising background

46 screening requirements for personnel at health care

47 services pools; amending s. 400.991, F.S.; revising

48 background screening requirements for applicants and

49 personnel at health care clinics; amending s. 408.806,

50 F.S.; adding a requirement for an affidavit relating

51 to background screening to the license application

52 process under the Agency for Health Care

53 Administration; amending s. 408.808, F.S.; conforming

54 provisions to changes made by the act; amending s.

55 408.809, F.S.; revising background screening

56 requirements under the Agency for Health Care

57 Administration; requiring electronic submission of

58 fingerprints; amending s. 402.302, F.S.; revising

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59 exemptions from screening requirements for volunteers
60 and students; amending s. 409.175, F.S.; revising an
61 exemption from screening requirements for volunteers;
62 revising background screening requirements for
63 employees and volunteers in summer day camps and
64 summer 24-hour camps; requiring periodic drug testing
65 for licensed foster parents; requiring payment by the
66 foster parent; amending s. 409.221, F.S.; revising
67 background screening requirements for persons who
68 render consumer-directed care; amending s. 409.907,
69 F.S.; revising background screening requirements for
70 Medicaid providers; amending s. 411.01, F.S.;
71 requiring school districts to make a list of eligible
72 substitute teachers available to early learning
73 coalitions; amending s. 429.14, F.S.; revising
74 administrative penalty provisions relating to assisted
75 living facilities; amending s. 429.174, F.S.; revising
76 background screening requirements for assisted living
77 facility personnel; amending s. 429.67, F.S.; revising
78 licensure requirements for adult family-care home
79 personnel and household members; amending s. 429.69,
80 F.S.; revising background screening requirements for
81 adult family-care home personnel; amending s. 429.911,
82 F.S.; revising administrative penalty provisions
83 relating to adult day care centers; amending s.
84 429.919, F.S.; revising background screening
85 requirements for adult day care center personnel;
86 creating s. 430.0402, F.S.; providing background
87 screening requirements for direct service providers

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88 under the Department of Elderly Affairs; amending s.
89 435.01, F.S.; revising provisions related to the
90 applicability of ch. 435, F.S., statutory references
91 to the chapter, and rulemaking; providing construction
92 with respect to the doctrine of incorporation by
93 reference; amending s. 435.02, F.S.; revising and
94 adding definitions; amending s. 435.03, F.S.; revising
95 level 1 screening standards; adding disqualifying
96 offenses; amending s. 435.04, F.S.; revising level 2
97 screening standards; requiring electronic submission
98 of fingerprints after a certain date; authorizing
99 agencies to contract for electronic fingerprinting;
100 adding disqualifying offenses; amending s. 435.05,
101 F.S.; revising background check requirements for
102 covered employees and employers; amending s. 435.06,
103 F.S.; revising provisions relating to exclusion from
104 employment; providing that an employer may not hire,
105 select, or otherwise allow an employee contact with
106 any vulnerable person until the screening process is
107 completed; requiring removal of an employee arrested
108 for disqualifying offenses from roles requiring
109 background screening until the employee's eligibility
110 for employment is determined; amending s. 435.07,
111 F.S.; revising provisions relating to exemptions from
112 disqualification; amending s. 435.08, F.S.; revising
113 provisions relating to the payment for processing of
114 fingerprints and criminal history records checks;
115 amending s. 464.203, F.S.; conforming provisions to
116 changes made by the act; amending s. 489.115, F.S.;

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117 removing reference to ch. 435, F.S., for background
118 screening of construction contractors; amending s.
119 943.05, F.S.; revising provisions relating to the
120 Criminal Justice Information Program under the
121 Department of Law Enforcement; authorizing agencies to
122 request the retention of certain fingerprints by the
123 department; providing for rulemaking to require
124 employers to keep the agencies informed of any change
125 in the affiliation, employment, or contractual status
126 of each person whose fingerprints are retained in
127 certain circumstances; providing departmental duties
128 upon notification that a federal fingerprint retention
129 program is in effect; amending s. 943.053, F.S.;
130 removing obsolete references relating to the
131 dissemination of criminal justice information;
132 amending s. 984.01, F.S.; revising an exemption from
133 screening requirements for volunteers who assist with
134 programs for children; amending s. 985.644, F.S.;
135 revising background screening requirements for the
136 Department of Juvenile Justice; authorizing
137 rulemaking; amending ss. 381.60225, 409.912, 464.018,
138 468.3101, 744.309, 744.474, and 985.04, F.S.;
139 conforming provisions to changes made to ch. 435,
140 F.S., by the act; repealing s. 409.1758, F.S.,
141 relating to screening of summer camp personnel;
142 repealing s. 456.039(4)(d), F.S., relating to
143 information required for licensure of designated
144 health care professionals; providing for prospective
145 application of the act; providing an effective date.

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147 Be It Enacted by the Legislature of the State of Florida:

148

149 Section 1. Paragraph (a) of subsection (2) of section
150 39.001, Florida Statutes, is amended to read:

151 39.001 Purposes and intent; personnel standards and
152 screening.—

153 (2) DEPARTMENT CONTRACTS.—The department may contract with
154 the Federal Government, other state departments and agencies,
155 county and municipal governments and agencies, public and
156 private agencies, and private individuals and corporations in
157 carrying out the purposes of, and the responsibilities
158 established in, this chapter.

159 (a) When the department contracts with a provider for any
160 program for children, all personnel, including owners,
161 operators, employees, and volunteers, in the facility must be of
162 good moral character. A volunteer who assists on an intermittent
163 basis for less than 10 ~~40~~ hours per month need not be screened,
164 provided a person who meets the screening requirement of this
165 section is always present and has the volunteer within his or
166 her line of sight ~~if the volunteer is under direct and constant~~
167 ~~supervision by persons who meet the screening requirements.~~

168 Section 2. Subsection (1) of section 39.821, Florida
169 Statutes, is amended to read:

170 39.821 Qualifications of guardians ad litem.—

171 (1) Because of the special trust or responsibility placed
172 in a guardian ad litem, the Guardian Ad Litem Program may use
173 any private funds collected by the program, or any state funds
174 so designated, to conduct a security background investigation

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175 before certifying a volunteer to serve. A security background
176 investigation must include, but need not be limited to,
177 employment history checks, checks of references, local criminal
178 records checks through local law enforcement agencies, and
179 statewide criminal records checks through the Department of Law
180 Enforcement. Upon request, an employer shall furnish a copy of
181 the personnel record for the employee or former employee who is
182 the subject of a security background investigation conducted
183 under this section. The information contained in the personnel
184 record may include, but need not be limited to, disciplinary
185 matters and the reason why the employee was terminated from
186 employment. An employer who releases a personnel record for
187 purposes of a security background investigation is presumed to
188 have acted in good faith and is not liable for information
189 contained in the record without a showing that the employer
190 maliciously falsified the record. A security background
191 investigation conducted under this section must ensure that a
192 person is not certified as a guardian ad litem if the person has
193 been convicted of, regardless of adjudication, or entered a plea
194 of nolo contendere or guilty to, any offense prohibited under
195 the provisions listed in s. 435.04. All applicants certified on
196 or after August 1, 2010, must undergo a level 2 background
197 screening pursuant to chapter 435 before being certified ~~the~~
198 ~~provisions of the Florida Statutes specified in s. 435.04(2) or~~
199 ~~under any similar law in another jurisdiction. Before certifying~~
200 ~~an applicant to serve as a guardian ad litem, the Guardian Ad~~
201 ~~Litem Program may request a federal criminal records check of~~
202 ~~the applicant through the Federal Bureau of Investigation. In~~
203 analyzing and evaluating the information obtained in the

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204 security background investigation, the program must give
205 particular emphasis to past activities involving children,
206 including, but not limited to, child-related criminal offenses
207 or child abuse. The program has the sole discretion in
208 determining whether to certify a person based on his or her
209 security background investigation. The information collected
210 pursuant to the security background investigation is
211 confidential and exempt from s. 119.07(1).

212 Section 3. Paragraph (b) of subsection (1) of section
213 215.5586, Florida Statutes, is amended to read:

214 215.5586 My Safe Florida Home Program.—There is established
215 within the Department of Financial Services the My Safe Florida
216 Home Program. The department shall provide fiscal
217 accountability, contract management, and strategic leadership
218 for the program, consistent with this section. This section does
219 not create an entitlement for property owners or obligate the
220 state in any way to fund the inspection or retrofitting of
221 residential property in this state. Implementation of this
222 program is subject to annual legislative appropriations. It is
223 the intent of the Legislature that the My Safe Florida Home
224 Program provide trained and certified inspectors to perform
225 inspections for owners of site-built, single-family, residential
226 properties and grants to eligible applicants as funding allows.
227 The program shall develop and implement a comprehensive and
228 coordinated approach for hurricane damage mitigation that may
229 include the following:

230 (1) HURRICANE MITIGATION INSPECTIONS.—

231 (b) To qualify for selection by the department as a wind
232 certification entity to provide hurricane mitigation

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233 inspections, the entity shall, at a minimum, meet the following
234 requirements:

235 1. Use hurricane mitigation inspectors who:

236 a. Are certified as a building inspector under s. 468.607;

237 b. Are licensed as a general or residential contractor
238 under s. 489.111;

239 c. Are licensed as a professional engineer under s. 471.015
240 and who have passed the appropriate equivalency test of the
241 building code training program as required by s. 553.841;

242 d. Are licensed as a professional architect under s.
243 481.213; or

244 e. Have at least 2 years of experience in residential
245 construction or residential building inspection and have
246 received specialized training in hurricane mitigation
247 procedures. Such training may be provided by a class offered
248 online or in person.

249 2. Use hurricane mitigation inspectors who also:

250 a. Have undergone drug testing and a level 2 background
251 screening checks pursuant to ~~s. 435.04~~. The department may
252 conduct criminal record checks of inspectors used by wind
253 certification entities. Inspectors must submit a set of the
254 fingerprints to the department for state and national criminal
255 history checks and must pay the fingerprint processing fee set
256 forth in s. 624.501. The fingerprints shall be sent by the
257 department to the Department of Law Enforcement and forwarded to
258 the Federal Bureau of Investigation for processing. The results
259 shall be returned to the department for screening. The
260 fingerprints shall be taken by a law enforcement agency,
261 designated examination center, or other department-approved

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262 entity; and

263 b. Have been certified, in a manner satisfactory to the
264 department, to conduct the inspections.

265 3. Provide a quality assurance program including a
266 reinspection component.

267 Section 4. Paragraphs (a) and (e) of subsection (1) of
268 section 393.0655, Florida Statutes, are amended, and subsection
269 (5) is added to that section, to read:

270 393.0655 Screening of direct service providers.—

271 (1) MINIMUM STANDARDS.—The agency shall require level 2
272 employment screening pursuant to chapter 435 for direct service
273 providers who are unrelated to their clients, including support
274 coordinators, and managers and supervisors of residential
275 facilities or comprehensive transitional education programs
276 licensed under this chapter and any other person, including
277 volunteers, who provide care or services, who have access to a
278 client's living areas, or who have access to a client's funds or
279 personal property. Background screening shall include employment
280 history checks as provided in s. 435.03(1) and local criminal
281 records checks through local law enforcement agencies.

282 (a) A volunteer who assists on an intermittent basis for
283 less than 10 ~~40~~ hours per month does not have to be screened,
284 provided a person who meets the screening requirement of this
285 section is always present and has the volunteer within his or
286 her line of sight ~~if the volunteer is under the direct and~~
287 ~~constant visual supervision of persons who meet the screening~~
288 ~~requirements of this section.~~

289 ~~(c) A direct service provider who is awaiting the~~
290 ~~completion of background screening is temporarily exempt from~~

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291 ~~the screening requirements under this section if the provider is~~
292 ~~under the direct and constant visual supervision of persons who~~
293 ~~meet the screening requirements of this section. Such exemption~~
294 ~~expires 90 days after the direct service provider first provides~~
295 ~~care or services to clients, has access to a client's living~~
296 ~~areas, or has access to a client's funds or personal property.~~

297 (5) DISQUALIFYING OFFENSES.—The background screening
298 conducted under this section must ensure that, in addition to
299 the disqualifying offenses listed in s. 435.04, no person
300 subject to the provisions of this section has an arrest awaiting
301 final disposition for, has been found guilty of, regardless of
302 adjudication, or entered a plea of nolo contendere or guilty to,
303 or has been adjudicated delinquent and the record has not been
304 sealed or expunged for, any offense prohibited under any of the
305 following provisions of the Florida Statutes or under any
306 similar statute of another jurisdiction:

307 (a) Any authorizing statutes, if the offense was a felony.

308 (b) This chapter, if the offense was a felony.

309 (c) Section 409.920, relating to Medicaid provider fraud.

310 (d) Section 409.9201, relating to Medicaid fraud.

311 (e) Section 817.034, relating to fraudulent acts through
312 mail, wire, radio, electromagnetic, photoelectronic, or
313 photooptical systems.

314 (f) Section 817.234, relating to false and fraudulent
315 insurance claims.

316 (g) Section 817.505, relating to patient brokering.

317 (h) Section 817.568, relating to criminal use of personal
318 identification information.

319 (i) Section 817.60, relating to obtaining a credit card

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320 through fraudulent means.

321 (j) Section 817.61, relating to fraudulent use of credit
322 cards, if the offense was a felony.

323 (k) Section 831.01, relating to forgery.

324 (l) Section 831.02, relating to uttering forged
325 instruments.

326 (m) Section 831.07, relating to forging bank bills, checks,
327 drafts, or promissory notes.

328 (n) Section 831.09, relating to uttering forged bank bills,
329 checks, drafts, or promissory notes.

330 Section 5. Section 394.4572, Florida Statutes, is amended
331 to read:

332 394.4572 Screening of mental health personnel.—

333 (1) (a) The department and the Agency for Health Care
334 Administration shall require level 2 background employment
335 screening pursuant to chapter 435 for mental health personnel
336 ~~using the standards for level 2 screening set forth in chapter~~
337 ~~435.~~ "Mental health personnel" includes all program directors,
338 professional clinicians, staff members, and volunteers working
339 in public or private mental health programs and facilities who
340 have direct contact with individuals held for examination or
341 admitted for mental health treatment ~~unmarried patients under~~
342 ~~the age of 18 years.~~ For purposes of this chapter, employment
343 screening of mental health personnel shall also include, but is
344 not limited to, employment screening as provided under chapter
345 435 and s. 408.809.

346 (b) Students in the health care professions who are
347 interning in a mental health facility licensed under chapter
348 395, where the primary purpose of the facility is not the

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349 treatment of minors, are exempt from the fingerprinting and
350 screening requirements ~~if, provided~~ they are under direct
351 supervision in the actual physical presence of a licensed health
352 care professional.

353 ~~(c) Mental health personnel working in a facility licensed~~
354 ~~under chapter 395 who have less than 15 hours per week of direct~~
355 ~~contact with patients or who are health care professionals~~
356 ~~licensed by the Agency for Health Care Administration or a board~~
357 ~~thereunder are exempt from the fingerprinting and screening~~
358 ~~requirements, except for persons working in mental health~~
359 ~~facilities where the primary purpose of the facility is the~~
360 ~~treatment of minors.~~

361 ~~(c)(d)~~ A volunteer who assists on an intermittent basis for
362 less than 10 ~~40~~ hours per month is exempt from the
363 fingerprinting and screening requirements, provided a person who
364 meets the screening requirement of paragraph (a) is always
365 present and has the volunteer within his or her line of sight
366 ~~the volunteer is under direct and constant supervision by~~
367 ~~persons who meet the screening requirements of paragraph (a).~~

368 (2) The department or the Agency for Health Care
369 Administration may grant exemptions from disqualification as
370 provided in chapter 435 s. 435.06.

371 ~~(3) Prospective mental health personnel who have previously~~
372 ~~been fingerprinted or screened pursuant to this chapter, chapter~~
373 ~~393, chapter 397, chapter 402, or chapter 409, or teachers who~~
374 ~~have been fingerprinted pursuant to chapter 1012, who have not~~
375 ~~been unemployed for more than 90 days thereafter, and who under~~
376 ~~the penalty of perjury attest to the completion of such~~
377 ~~fingerprinting or screening and to compliance with the~~

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378 ~~provisions of this section and the standards for level 1~~
379 ~~screening contained in chapter 435, shall not be required to be~~
380 ~~refingerprinted or rescreened in order to comply with any~~
381 ~~screening requirements of this part.~~

382 Section 6. Section 400.215, Florida Statutes, is amended to
383 read:

384 400.215 Personnel screening requirement.—

385 (1) The agency shall require level 2 background screening
386 for personnel as required in s. 408.809(1)(e) pursuant to as
387 ~~provided in chapter 435 and s. 408.809. for all employees or~~
388 ~~prospective employees of facilities licensed under this part who~~
389 ~~are expected to, or whose responsibilities may require them to:~~

390 ~~(a) Provide personal care or services to residents;~~

391 ~~(b) Have access to resident living areas; or~~

392 ~~(c) Have access to resident funds or other personal~~
393 ~~property.~~

394 (2) ~~Employers and employees shall comply with the~~
395 ~~requirements of s. 435.05.~~

396 (a) ~~Notwithstanding the provisions of s. 435.05(1),~~
397 ~~facilities must have in their possession evidence that level 1~~
398 ~~screening has been completed before allowing an employee to~~
399 ~~begin working with patients as provided in subsection (1). All~~
400 ~~information necessary for conducting background screening using~~
401 ~~level 1 standards as specified in s. 435.03 shall be submitted~~
402 ~~by the nursing facility to the agency. Results of the background~~
403 ~~screening shall be provided by the agency to the requesting~~
404 ~~nursing facility.~~

405 (b) ~~Employees qualified under the provisions of paragraph~~

406 (a) ~~who have not maintained continuous residency within the~~

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407 ~~state for the 5 years immediately preceding the date of request~~
408 ~~for background screening must complete level 2 screening, as~~
409 ~~provided in chapter 435. Such employees may work in a~~
410 ~~conditional status up to 180 days pending the receipt of written~~
411 ~~findings evidencing the completion of level 2 screening. Level 2~~
412 ~~screening shall not be required of employees or prospective~~
413 ~~employees who attest in writing under penalty of perjury that~~
414 ~~they meet the residency requirement. Completion of level 2~~
415 ~~screening shall require the employee or prospective employee to~~
416 ~~furnish to the nursing facility a full set of fingerprints to~~
417 ~~enable a criminal background investigation to be conducted. The~~
418 ~~nursing facility shall submit the completed fingerprint card to~~
419 ~~the agency. The agency shall establish a record of the request~~
420 ~~in the database provided for in paragraph (c) and forward the~~
421 ~~request to the Department of Law Enforcement, which is~~
422 ~~authorized to submit the fingerprints to the Federal Bureau of~~
423 ~~Investigation for a national criminal history records check. The~~
424 ~~results of the national criminal history records check shall be~~
425 ~~returned to the agency, which shall maintain the results in the~~
426 ~~database provided for in paragraph (c). The agency shall notify~~
427 ~~the administrator of the requesting nursing facility or the~~
428 ~~administrator of any other facility licensed under chapter 393,~~
429 ~~chapter 394, chapter 395, chapter 397, chapter 429, or this~~
430 ~~chapter, as requested by such facility, as to whether or not the~~
431 ~~employee has qualified under level 1 or level 2 screening. An~~
432 ~~employee or prospective employee who has qualified under level 2~~
433 ~~screening and has maintained such continuous residency within~~
434 ~~the state shall not be required to complete a subsequent level 2~~
435 ~~screening as a condition of employment at another facility.~~

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436 ~~(c) The agency shall establish and maintain a database of~~
437 ~~background screening information which shall include the results~~
438 ~~of both level 1 and level 2 screening. The Department of Law~~
439 ~~Enforcement shall timely provide to the agency, electronically,~~
440 ~~the results of each statewide screening for incorporation into~~
441 ~~the database. The agency shall, upon request from any facility,~~
442 ~~agency, or program required by or authorized by law to screen~~
443 ~~its employees or applicants, notify the administrator of the~~
444 ~~facility, agency, or program of the qualifying or disqualifying~~
445 ~~status of the employee or applicant named in the request.~~

446 ~~(d) Applicants and employees shall be excluded from~~
447 ~~employment pursuant to s. 435.06.~~

448 ~~(3) The applicant is responsible for paying the fees~~
449 ~~associated with obtaining the required screening. Payment for~~
450 ~~the screening shall be submitted to the agency. The agency shall~~
451 ~~establish a schedule of fees to cover the costs of level 1 and~~
452 ~~level 2 screening. Facilities may reimburse employees for these~~
453 ~~costs. The Department of Law Enforcement shall charge the agency~~
454 ~~for a level 1 or level 2 screening a rate sufficient to cover~~
455 ~~the costs of such screening pursuant to s. 943.053(3). The~~
456 ~~agency shall, as allowable, reimburse nursing facilities for the~~
457 ~~cost of conducting background screening as required by this~~
458 ~~section. This reimbursement will not be subject to any rate~~
459 ~~ceilings or payment targets in the Medicaid Reimbursement plan.~~

460 ~~(4) (a) As provided in s. 435.07, the agency may grant an~~
461 ~~exemption from disqualification to an employee or prospective~~
462 ~~employee who is subject to this section and who has not received~~
463 ~~a professional license or certification from the Department of~~
464 ~~Health.~~

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465 ~~(b) As provided in s. 435.07, the appropriate regulatory~~
466 ~~board within the Department of Health, or that department itself~~
467 ~~when there is no board, may grant an exemption from~~
468 ~~disqualification to an employee or prospective employee who is~~
469 ~~subject to this section and who has received a professional~~
470 ~~license or certification from the Department of Health or a~~
471 ~~regulatory board within that department.~~

472 ~~(5) Any provision of law to the contrary notwithstanding,~~
473 ~~persons who have been screened and qualified as required by this~~
474 ~~section and who have not been unemployed for more than 180 days~~
475 ~~thereafter, and who under penalty of perjury attest to not~~
476 ~~having been convicted of a disqualifying offense since the~~
477 ~~completion of such screening, shall not be required to be~~
478 ~~rescreened. An employer may obtain, pursuant to s. 435.10,~~
479 ~~written verification of qualifying screening results from the~~
480 ~~previous employer or other entity which caused such screening to~~
481 ~~be performed.~~

482 ~~(6) The agency and the Department of Health shall have~~
483 ~~authority to adopt rules pursuant to the Administrative~~
484 ~~Procedure Act to implement this section.~~

485 ~~(7) All employees shall comply with the requirements of~~
486 ~~this section by October 1, 1998. No current employee of a~~
487 ~~nursing facility as of the effective date of this act shall be~~
488 ~~required to submit to rescreening if the nursing facility has in~~
489 ~~its possession written evidence that the person has been~~
490 ~~screened and qualified according to level 1 standards as~~
491 ~~specified in s. 435.03(1). Any current employee who meets the~~
492 ~~level 1 requirement but does not meet the 5-year residency~~
493 ~~requirement as specified in this section must provide to the~~

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494 ~~employing nursing facility written attestation under penalty of~~
495 ~~perjury that the employee has not been convicted of a~~
496 ~~disqualifying offense in another state or jurisdiction. All~~
497 ~~applicants hired on or after October 1, 1998, shall comply with~~
498 ~~the requirements of this section.~~

499 ~~(8) There is no monetary or unemployment liability on the~~
500 ~~part of, and no cause of action for damages arising against an~~
501 ~~employer that, upon notice of a disqualifying offense listed~~
502 ~~under chapter 435 or an act of domestic violence, terminates the~~
503 ~~employee against whom the report was issued, whether or not the~~
504 ~~employee has filed for an exemption with the Department of~~
505 ~~Health or the Agency for Health Care Administration.~~

506 Section 7. Subsection (9) of section 400.506, Florida
507 Statutes, is amended to read:

508 400.506 Licensure of nurse registries; requirements;
509 penalties.—

510 (9) Each nurse registry must comply with the background
511 screening requirements ~~procedures set forth~~ in s. 400.512 for
512 ~~maintaining records of the work history of all persons referred~~
513 ~~for contract and is subject to the standards and conditions set~~
514 ~~forth in that section.~~ However, an initial screening may not be
515 required for persons who have been continuously registered with
516 the nurse registry since October 1, 2000.

517 Section 8. Section 400.512, Florida Statutes, is amended to
518 read:

519 400.512 Screening of home health agency personnel; nurse
520 registry personnel; and companions and homemakers.—The agency
521 shall require level 2 background screening for personnel as
522 required in s. 408.809(1)(e) pursuant to chapter 435 and s.

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523 408.809 ~~employment or contractor screening as provided in~~
524 ~~chapter 435, using the level 1 standards for screening set forth~~
525 ~~in that chapter, for home health agency personnel; persons~~
526 ~~referred for employment by nurse registries; and persons~~
527 ~~employed by companion or homemaker services registered under s.~~
528 ~~400.509.~~

529 (1) (a) ~~The Agency for Health Care Administration may, upon~~
530 ~~request, grant exemptions from disqualification from employment~~
531 ~~or contracting under this section as provided in s. 435.07,~~
532 ~~except for health care practitioners licensed by the Department~~
533 ~~of Health or a regulatory board within that department.~~

534 (b) ~~The appropriate regulatory board within the Department~~
535 ~~of Health, or that department itself when there is no board,~~
536 ~~may, upon request of the licensed health care practitioner,~~
537 ~~grant exemptions from disqualification from employment or~~
538 ~~contracting under this section as provided in s. 435.07.~~

539 (2) ~~The administrator of each home health agency, the~~
540 ~~managing employee of each nurse registry, and the managing~~
541 ~~employee of each companion or homemaker service registered under~~
542 ~~s. 400.509 must sign an affidavit annually, under penalty of~~
543 ~~perjury, stating that all personnel hired or contracted with or~~
544 ~~registered on or after October 1, 2000, who enter the home of a~~
545 ~~patient or client in their service capacity have been screened.~~

546 (3) ~~As a prerequisite to operating as a home health agency,~~
547 ~~nurse registry, or companion or homemaker service under s.~~
548 ~~400.509, the administrator or managing employee, respectively,~~
549 ~~must submit to the agency his or her name and any other~~
550 ~~information necessary to conduct a complete screening according~~
551 ~~to this section. The agency shall submit the information to the~~

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552 ~~Department of Law Enforcement for state processing. The agency~~
553 ~~shall review the record of the administrator or manager with~~
554 ~~respect to the offenses specified in this section and shall~~
555 ~~notify the owner of its findings. If disposition information is~~
556 ~~missing on a criminal record, the administrator or manager, upon~~
557 ~~request of the agency, must obtain and supply within 30 days the~~
558 ~~missing disposition information to the agency. Failure to supply~~
559 ~~missing information within 30 days or to show reasonable efforts~~
560 ~~to obtain such information will result in automatic~~
561 ~~disqualification.~~

562 ~~(4) Proof of compliance with the screening requirements of~~
563 ~~chapter 435 shall be accepted in lieu of the requirements of~~
564 ~~this section if the person has been continuously employed or~~
565 ~~registered without a breach in service that exceeds 180 days,~~
566 ~~the proof of compliance is not more than 2 years old, and the~~
567 ~~person has been screened by the Department of Law Enforcement. A~~
568 ~~home health agency, nurse registry, or companion or homemaker~~
569 ~~service registered under s. 400.509 shall directly provide proof~~
570 ~~of compliance to another home health agency, nurse registry, or~~
571 ~~companion or homemaker service registered under s. 400.509. The~~
572 ~~recipient home health agency, nurse registry, or companion or~~
573 ~~homemaker service registered under s. 400.509 may not accept any~~
574 ~~proof of compliance directly from the person who requires~~
575 ~~screening. Proof of compliance with the screening requirements~~
576 ~~of this section shall be provided upon request to the person~~
577 ~~screened by the home health agencies; nurse registries; or~~
578 ~~companion or homemaker services registered under s. 400.509.~~

579 ~~(5) There is no monetary liability on the part of, and no~~
580 ~~cause of action for damages arises against, a licensed home~~

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581 ~~health agency, licensed nurse registry, or companion or~~
582 ~~homemaker service registered under s. 400.509, that, upon notice~~
583 ~~that the employee or contractor has been found guilty of,~~
584 ~~regardless of adjudication, or entered a plea of nolo contendere~~
585 ~~or guilty to, any offense prohibited under s. 435.03 or under~~
586 ~~any similar statute of another jurisdiction, terminates the~~
587 ~~employee or contractor, whether or not the employee or~~
588 ~~contractor has filed for an exemption with the agency in~~
589 ~~accordance with chapter 435 and whether or not the time for~~
590 ~~filing has expired.~~

591 ~~(6) The costs of processing the statewide correspondence~~
592 ~~criminal records checks must be borne by the home health agency,~~
593 ~~the nurse registry, or the companion or homemaker service~~
594 ~~registered under s. 400.509, or by the person being screened, at~~
595 ~~the discretion of the home health agency, nurse registry, or s.~~
596 ~~400.509 registrant.~~

597 Section 9. Section 400.6065, Florida Statutes, is amended
598 to read:

599 400.6065 Background screening.—The agency shall require
600 level 2 background employment or contractor screening for
601 personnel as required in s. 408.809(1)(e) pursuant to chapter
602 435 and s. 408.809 as provided in chapter 435, using the level 1
603 standards for screening set forth in that chapter, for hospice
604 personnel.

605 Section 10. Subsection (2) of section 400.801, Florida
606 Statutes, is amended to read:

607 400.801 Homes for special services.—

608 (2) (a) The requirements of part II of chapter 408 apply to
609 the provision of services that require licensure pursuant to

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610 this section and part II of chapter 408 and entities licensed by
611 or applying for such licensure from the agency pursuant to this
612 section. A license issued by the agency is required in order to
613 operate a home for special services in this state.

614 (b) The agency shall require level 2 background screening
615 for personnel as required in s. 408.809(1)(e) pursuant to
616 chapter 435 and s. 408.809.

617 Section 11. Paragraph (d) is added to subsection (2) of
618 section 400.805, Florida Statutes, to read:

619 400.805 Transitional living facilities.—

620 (2)

621 (d) The agency shall require level 2 background screening
622 for personnel as required in s. 408.809(1)(e) pursuant to
623 chapter 435 and s. 408.809.

624 Section 12. Section 400.9065, Florida Statutes, is created
625 to read:

626 400.9065 Background screening.—The agency shall require
627 level 2 background screening for personnel as required in s.
628 408.809(1)(e) pursuant to chapter 435 and s. 408.809.

629 Section 13. Subsection (16) of section 400.934, Florida
630 Statutes, is amended to read:

631 400.934 Minimum standards.—As a requirement of licensure,
632 home medical equipment providers shall:

633 (16) Establish procedures for maintaining a record of the
634 employment history, including background screening as required
635 by ss. ~~s.~~ 400.953 and 408.809(1) and chapter 435, of all home
636 medical equipment provider personnel. A home medical equipment
637 provider must require its personnel to submit an employment
638 history to the home medical equipment provider and must verify

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639 the employment history for at least the previous 5 years, unless
640 through diligent efforts such verification is not possible.
641 There is no monetary liability on the part of, and no cause of
642 action for damages arising against a former employer, a
643 prospective employee, or a prospective independent contractor
644 with a licensed home medical equipment provider, who reasonably
645 and in good faith communicates his or her honest opinions about
646 a former employee's job performance. This subsection does not
647 affect the official immunity of an officer or employee of a
648 public corporation.

649 Section 14. Section 400.953, Florida Statutes, is amended
650 to read:

651 400.953 Background screening of home medical equipment
652 provider personnel.—The agency shall require level 2 background
653 screening for personnel as required in s. 408.809(1)(e) pursuant
654 to chapter 435 and s. 408.809 ~~employment screening as provided~~
655 ~~in chapter 435, using the level 1 standards for screening set~~
656 ~~forth in that chapter, for home medical equipment provider~~
657 ~~personnel.~~

658 ~~(1) The agency may grant exemptions from disqualification~~
659 ~~from employment under this section as provided in s. 435.07.~~

660 ~~(2) The general manager of each home medical equipment~~
661 ~~provider must sign an affidavit annually, under penalty of~~
662 ~~perjury, stating that all home medical equipment provider~~
663 ~~personnel hired on or after July 1, 1999, who enter the home of~~
664 ~~a patient in the capacity of their employment have been screened~~
665 ~~and that its remaining personnel have worked for the home~~
666 ~~medical equipment provider continuously since before July 1,~~
667 ~~1999.~~

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668 ~~(3) Proof of compliance with the screening requirements of~~
669 ~~s. 110.1127, s. 393.0655, s. 394.4572, s. 397.451, s. 402.305,~~
670 ~~s. 402.313, s. 409.175, s. 464.008, or s. 985.644 or this part~~
671 ~~must be accepted in lieu of the requirements of this section if~~
672 ~~the person has been continuously employed in the same type of~~
673 ~~occupation for which he or she is seeking employment without a~~
674 ~~breach in service that exceeds 180 days, the proof of compliance~~
675 ~~is not more than 2 years old, and the person has been screened~~
676 ~~by the Department of Law Enforcement. An employer or contractor~~
677 ~~shall directly provide proof of compliance to another employer~~
678 ~~or contractor, and a potential employer or contractor may not~~
679 ~~accept any proof of compliance directly from the person~~
680 ~~requiring screening. Proof of compliance with the screening~~
681 ~~requirements of this section shall be provided, upon request, to~~
682 ~~the person screened by the home medical equipment provider.~~

683 ~~(4) There is no monetary liability on the part of, and no~~
684 ~~cause of action for damages arising against, a licensed home~~
685 ~~medical equipment provider that, upon notice that an employee~~
686 ~~has been found guilty of, regardless of adjudication, or entered~~
687 ~~a plea of nolo contendere or guilty to, any offense prohibited~~
688 ~~under s. 435.03 or under any similar statute of another~~
689 ~~jurisdiction, terminates the employee, whether or not the~~
690 ~~employee has filed for an exemption with the agency and whether~~
691 ~~or not the time for filing has expired.~~

692 ~~(5) The costs of processing the statewide correspondence~~
693 ~~criminal records checks must be borne by the home medical~~
694 ~~equipment provider or by the person being screened, at the~~
695 ~~discretion of the home medical equipment provider.~~

696 ~~(6) Neither the agency nor the home medical equipment~~

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697 ~~provider may use the criminal records or juvenile records of a~~
698 ~~person for any purpose other than determining whether that~~
699 ~~person meets minimum standards of good moral character for home~~
700 ~~medical equipment provider personnel.~~

701 ~~(7)(a) It is a misdemeanor of the first degree, punishable~~
702 ~~as provided in s. 775.082 or s. 775.083, for any person~~
703 ~~willfully, knowingly, or intentionally to:~~

704 ~~1. Fail, by false statement, misrepresentation,~~
705 ~~impersonation, or other fraudulent means, to disclose in any~~
706 ~~application for paid employment a material fact used in making a~~
707 ~~determination as to the person's qualifications to be an~~
708 ~~employee under this section;~~

709 ~~2. Operate or attempt to operate an entity licensed under~~
710 ~~this part with persons who do not meet the minimum standards for~~
711 ~~good moral character as contained in this section; or~~

712 ~~3. Use information from the criminal records obtained under~~
713 ~~this section for any purpose other than screening that person~~
714 ~~for employment as specified in this section, or release such~~
715 ~~information to any other person for any purpose other than~~
716 ~~screening for employment under this section.~~

717 ~~(b) It is a felony of the third degree, punishable as~~
718 ~~provided in s. 775.082, s. 775.083, or s. 775.084, for any~~
719 ~~person willfully, knowingly, or intentionally to use information~~
720 ~~from the juvenile records of a person obtained under this~~
721 ~~section for any purpose other than screening for employment~~
722 ~~under this section.~~

723 Section 15. Section 400.955, Florida Statutes, is repealed.

724 Section 16. Section 400.964, Florida Statutes, is amended
725 to read:

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726 400.964 Personnel screening requirement.—

727 ~~(1) The agency shall require level 2 background screening~~
728 ~~for personnel as required in s. 408.809(1)(e) pursuant to~~
729 ~~chapter 435 and s. 408.809 as provided in chapter 435 for all~~
730 ~~employees or prospective employees of facilities licensed under~~
731 ~~this part who are expected to be, or whose responsibilities are~~
732 ~~such that they would be considered to be, a direct service~~
733 ~~provider.~~

734 ~~(2) Employers and employees shall comply with the~~
735 ~~requirements of chapter 435.~~

736 ~~(3) Applicants and employees shall be excluded from~~
737 ~~employment pursuant to s. 435.06.~~

738 ~~(4) The applicant is responsible for paying the fees~~
739 ~~associated with obtaining the required screening. Payment for~~
740 ~~the screening must be submitted to the agency as prescribed by~~
741 ~~the agency.~~

742 ~~(5) Notwithstanding any other provision of law, persons who~~
743 ~~have been screened and qualified as required by this section and~~
744 ~~who have not been unemployed for more than 180 days thereafter,~~
745 ~~and who under penalty of perjury attest to not having been~~
746 ~~convicted of a disqualifying offense since the completion of~~
747 ~~such screening are not required to be rescreened. An employer~~
748 ~~may obtain, pursuant to s. 435.10, written verification of~~
749 ~~qualifying screening results from the previous employer or other~~
750 ~~entity that caused such screening to be performed.~~

751 ~~(6) The agency may adopt rules to administer this section.~~

752 ~~(7) All employees must comply with the requirements of this~~
753 ~~section by October 1, 2000. A person employed by a facility~~
754 ~~licensed pursuant to this part as of the effective date of this~~

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755 ~~act is not required to submit to rescreening if the facility has~~
756 ~~in its possession written evidence that the person has been~~
757 ~~screened and qualified according to level 1 standards as~~
758 ~~specified in s. 435.03. Any current employee who meets the level~~
759 ~~1 requirement but does not meet the 5-year residency requirement~~
760 ~~must provide to the employing facility written attestation under~~
761 ~~penalty of perjury that the employee has not been convicted of a~~
762 ~~disqualifying offense in another state or jurisdiction. All~~
763 ~~applicants hired on or after October 1, 1999, must comply with~~
764 ~~the requirements of this section.~~

765 ~~(8) There is no monetary or unemployment liability on the~~
766 ~~part of, and no cause of action for damages arises against an~~
767 ~~employer that, upon notice of a disqualifying offense listed~~
768 ~~under chapter 435 or an act of domestic violence, terminates the~~
769 ~~employee, whether or not the employee has filed for an exemption~~
770 ~~with the Department of Health or the Agency for Health Care~~
771 ~~Administration.~~

772 Section 17. Subsection (3) of section 400.980, Florida
773 Statutes, is amended to read:

774 400.980 Health care services pools.—

775 (3) ~~Upon receipt of a completed, signed, and dated~~
776 ~~application,~~ The agency shall require level 2 background
777 screening for personnel as required in s. 408.809(1)(e) pursuant
778 to chapter 435 and s. 408.809, ~~in accordance with the level 1~~
779 ~~standards for screening set forth in chapter 435, of every~~
780 ~~individual who will have contact with patients.~~

781 Section 18. Subsection (5) of section 400.991, Florida
782 Statutes, is amended to read:

783 400.991 License requirements; background screenings;

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784 prohibitions.-

785 (5) ~~Each applicant for licensure shall comply with the~~
786 ~~following requirements:~~

787 (a) As used in this subsection, the term "applicant" means
788 individuals owning or controlling, directly or indirectly, 5
789 percent or more of an interest in a clinic; the medical or
790 clinic director, or a similarly titled person who is responsible
791 for the day-to-day operation of the licensed clinic; the
792 financial officer or similarly titled individual who is
793 responsible for the financial operation of the clinic; and
794 licensed health care practitioners at the clinic.

795 (b) ~~Upon receipt of a completed, signed, and dated~~
796 ~~application,~~ The agency shall require level 2 background
797 screening for applicants and personnel as required in s.
798 408.809(1)(e) pursuant to chapter 435 and s. 408.809 of the
799 ~~applicant, in accordance with the level 2 standards for~~
800 ~~screening set forth in chapter 435. Proof of compliance with the~~
801 ~~level 2 background screening requirements of chapter 435 which~~
802 ~~has been submitted within the previous 5 years in compliance~~
803 ~~with any other health care licensure requirements of this state~~
804 ~~is acceptable in fulfillment of this paragraph. Applicants who~~
805 ~~own less than 10 percent of a health care clinic are not~~
806 ~~required to submit fingerprints under this section.~~

807 (c) Each applicant must submit to the agency, with the
808 application, a description and explanation of any exclusions,
809 permanent suspensions, or terminations of an applicant from the
810 Medicare or Medicaid programs. Proof of compliance with the
811 requirements for disclosure of ownership and control interest
812 under the Medicaid or Medicare programs may be accepted in lieu

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813 of this submission. The description and explanation may indicate
814 whether such exclusions, suspensions, or terminations were
815 voluntary or not voluntary on the part of the applicant.

816 ~~(d) A license may not be granted to a clinic if the~~
817 ~~applicant has been found guilty of, regardless of adjudication,~~
818 ~~or has entered a plea of nolo contendere or guilty to, any~~
819 ~~offense prohibited under the level 2 standards for screening set~~
820 ~~forth in chapter 435, or a violation of insurance fraud under s.~~
821 ~~817.234, within the past 5 years. If the applicant has been~~
822 ~~convicted of an offense prohibited under the level 2 standards~~
823 ~~or insurance fraud in any jurisdiction, the applicant must show~~
824 ~~that his or her civil rights have been restored prior to~~
825 ~~submitting an application.~~

826 Section 19. Paragraph (h) is added to subsection (1) of
827 section 408.806, Florida Statutes, to read:

828 408.806 License application process.—

829 (1) An application for licensure must be made to the agency
830 on forms furnished by the agency, submitted under oath, and
831 accompanied by the appropriate fee in order to be accepted and
832 considered timely. The application must contain information
833 required by authorizing statutes and applicable rules and must
834 include:

835 (h) An affidavit, under penalty of perjury, as required in
836 s. 435.05(3), stating compliance with the provisions of this
837 section and chapter 435.

838 Section 20. Subsection (2) of section 408.808, Florida
839 Statutes, is amended to read:

840 408.808 License categories.—

841 (2) PROVISIONAL LICENSE. ~~A provisional license may be~~

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842 ~~issued to an applicant pursuant to s. 408.809(3).~~ An applicant
843 against whom a proceeding denying or revoking a license is
844 pending at the time of license renewal may be issued a
845 provisional license effective until final action not subject to
846 further appeal. A provisional license may also be issued to an
847 applicant applying for a change of ownership. A provisional
848 license shall be limited in duration to a specific period of
849 time, not to exceed 12 months, as determined by the agency.

850 Section 21. Section 408.809, Florida Statutes, is amended
851 to read:

852 408.809 Background screening; prohibited offenses.—

853 (1) Level 2 background screening pursuant to chapter 435
854 must be conducted through the agency on each of the following
855 persons, who shall be considered an employee for the purposes of
856 conducting screening under chapter 435:

857 (a) The licensee, if an individual.

858 (b) The administrator or a similarly titled person who is
859 responsible for the day-to-day operation of the provider.

860 (c) The financial officer or similarly titled individual
861 who is responsible for the financial operation of the licensee
862 or provider.

863 (d) Any person who is a controlling interest if the agency
864 has reason to believe that such person has been convicted of any
865 offense prohibited by s. 435.04. For each controlling interest
866 who has been convicted of any such offense, the licensee shall
867 submit to the agency a description and explanation of the
868 conviction at the time of license application.

869 (e) Any person, as required by authorizing statutes,
870 seeking employment with a licensee or provider who is expected

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871 to, or whose responsibilities may require him or her to, provide
872 personal care or services directly to clients or have access to
873 client funds, personal property, or living areas; and any
874 person, as required by authorizing statutes, contracting with a
875 licensee or provider whose responsibilities require him or her
876 to provide personal care or personal services directly to
877 clients. Evidence of contractor screening may be retained by the
878 contractor's employer or the licensee.

879 (2) Every 5 years following his or her licensure,
880 employment, or entry into a contract in a capacity that under
881 subsection (1) would require level 2 background screening under
882 chapter 435, each such person must submit to level 2 background
883 rescreening as a condition of retaining such license or
884 continuing in such employment or contractual status. For any
885 such rescreening, the agency shall request the Department of Law
886 Enforcement to forward the person's fingerprints to the Federal
887 Bureau of Investigation for a national criminal history record
888 check. If the fingerprints of such a person are not retained by
889 the Department of Law Enforcement under s. 943.05(2)(g), the
890 person must file a complete set of fingerprints with the agency
891 and the agency shall forward the fingerprints to the Department
892 of Law Enforcement for state processing, and the Department of
893 Law Enforcement shall forward the fingerprints to the Federal
894 Bureau of Investigation for a national criminal history record
895 check. The fingerprints may be retained by the Department of Law
896 Enforcement under s. 943.05(2)(g). The cost of the state and
897 national criminal history records checks required by level 2
898 screening may be borne by the licensee or the person
899 fingerprinted. Proof of compliance with level 2 screening

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900 standards submitted within the previous 5 years to meet any
901 provider or professional licensure requirements of the agency,
902 the Department of Health, the Agency for Persons with
903 Disabilities, ~~or~~ the Department of Children and Family Services,
904 or the Department of Financial Services for an applicant for a
905 certificate of authority or provisional certificate of authority
906 to operate a continuing care retirement community under chapter
907 651 satisfies the requirements of this section, provided that
908 the person subject to screening has not been unemployed for more
909 than 90 days and such proof is accompanied, under penalty of
910 perjury, by an affidavit of compliance with the provisions of
911 chapter 435 and this section using forms provided by the agency.
912 ~~Proof of compliance with the background screening requirements~~
913 ~~of the Department of Financial Services submitted within the~~
914 ~~previous 5 years for an applicant for a certificate of authority~~
915 ~~to operate a continuing care retirement community under chapter~~
916 ~~651 satisfies the Department of Law Enforcement and Federal~~
917 ~~Bureau of Investigation portions of a level 2 background check.~~

918 (3) All fingerprints must be provided in electronic format.
919 Screening results shall be reviewed by the agency with respect
920 to the offenses specified in s. 435.04 and this section, and the
921 qualifying or disqualifying status of the person named in the
922 request shall be maintained in a database. The qualifying or
923 disqualifying status of the person named in the request shall be
924 posted on a secure website for retrieval by the licensee or
925 designated agent on the licensee's behalf. A provisional license
926 ~~may be granted to an applicant when each individual required by~~
927 ~~this section to undergo background screening has met the~~
928 ~~standards for the Department of Law Enforcement background check~~

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929 ~~but the agency has not yet received background screening results~~
930 ~~from the Federal Bureau of Investigation. A standard license may~~
931 ~~be granted to the licensee upon the agency's receipt of a report~~
932 ~~of the results of the Federal Bureau of Investigation background~~
933 ~~screening for each individual required by this section to~~
934 ~~undergo background screening that confirms that all standards~~
935 ~~have been met or upon the granting of an exemption from~~
936 ~~disqualification by the agency as set forth in chapter 435.~~

937 ~~(4) When a person is newly employed in a capacity that~~
938 ~~requires screening under this section, the licensee must notify~~
939 ~~the agency of the change within the time period specified in the~~
940 ~~authorizing statute or rules and must submit to the agency~~
941 ~~information necessary to conduct level 2 screening or provide~~
942 ~~evidence of compliance with background screening requirements of~~
943 ~~this section. The person may serve in his or her capacity~~
944 ~~pending the agency's receipt of the report from the Federal~~
945 ~~Bureau of Investigation if he or she has met the standards for~~
946 ~~the Department of Law Enforcement background check. However, the~~
947 ~~person may not continue to serve in his or her capacity if the~~
948 ~~report indicates any violation of background screening standards~~
949 ~~unless an exemption from disqualification has been granted by~~
950 ~~the agency as set forth in chapter 435.~~

951 ~~(4) (5) Effective October 1, 2009,~~ In addition to the
952 offenses listed in s. ss. 435.03 and 435.04, all persons
953 required to undergo background screening pursuant to this part
954 or authorizing statutes must not have an arrest awaiting final
955 disposition for, must not have been found guilty of, regardless
956 of adjudication, or entered a plea of nolo contendere or guilty
957 to, and must not have been adjudicated delinquent and the record

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958 not have been sealed or expunged for any of the following
959 offenses or any similar offense of another jurisdiction:
960 (a) Any authorizing statutes, if the offense was a felony.
961 (b) This chapter, if the offense was a felony.
962 (c) Section 409.920, relating to Medicaid provider fraud,
963 ~~if the offense was a felony.~~
964 (d) Section 409.9201, relating to Medicaid fraud,~~if the~~
965 ~~offense was a felony.~~
966 (e) Section 741.28, relating to domestic violence.
967 ~~(f) Chapter 784, relating to assault, battery, and culpable~~
968 ~~negligence, if the offense was a felony.~~
969 ~~(g) Section 810.02, relating to burglary.~~
970 (f)(h) Section 817.034, relating to fraudulent acts through
971 mail, wire, radio, electromagnetic, photoelectronic, or
972 photooptical systems.
973 (g)(i) Section 817.234, relating to false and fraudulent
974 insurance claims.
975 (h)(j) Section 817.505, relating to patient brokering.
976 (i)(k) Section 817.568, relating to criminal use of
977 personal identification information.
978 (j)(l) Section 817.60, relating to obtaining a credit card
979 through fraudulent means.
980 (k)(m) Section 817.61, relating to fraudulent use of credit
981 cards, if the offense was a felony.
982 (l)(n) Section 831.01, relating to forgery.
983 (m)(o) Section 831.02, relating to uttering forged
984 instruments.
985 (n)(p) Section 831.07, relating to forging bank bills,
986 checks, drafts, or promissory notes.

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987 (o)~~(q)~~ Section 831.09, relating to uttering forged bank
988 bills, checks, drafts, or promissory notes.

989 (p)~~(r)~~ Section 831.30, relating to fraud in obtaining
990 medicinal drugs.

991 (q)~~(s)~~ Section 831.31, relating to the sale, manufacture,
992 delivery, or possession with the intent to sell, manufacture, or
993 deliver any counterfeit controlled substance, if the offense was
994 a felony.

995
996 A person who serves as a controlling interest of, ~~or~~ is employed
997 by, or contracts with a licensee on July 31, 2010 ~~September 30,~~
998 ~~2009,~~ who has been screened and qualified according to standards
999 specified in s. 435.03 or s. 435.04 must be rescreened by July
1000 31, 2015. The agency may adopt rules pursuant to ss. 120.536(1)
1001 and 120.54 to establish a schedule to stagger the implementation
1002 of the required rescreening over the 5-year period, beginning
1003 July 31, 2010, through July 31, 2015. If, upon rescreening, is
1004 ~~not required by law to submit to rescreening if that licensee~~
1005 ~~has in its possession written evidence that the person has been~~
1006 ~~screened and qualified according to the standards specified in~~
1007 ~~s. 435.03 or s. 435.04. However, if such person has a~~
1008 ~~disqualifying offense that was not a disqualifying offense at~~
1009 ~~the time of the last screening, but is a current disqualifying~~
1010 ~~offense and was committed prior to the last screening listed in~~
1011 ~~this section,~~ he or she may apply for an exemption from the
1012 appropriate licensing agency ~~before September 30, 2009,~~ and, if
1013 agreed to by the employer, may continue to perform his or her
1014 duties until the licensing agency renders a decision on the
1015 application for exemption as long as the person is eligible to

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1016 apply for an exemption and the exemption request is received by
1017 the agency within 30 days after receipt of the rescreening
1018 results by the person ~~for offenses listed in this section.~~
1019 ~~Exemptions from disqualification may be granted pursuant to s.~~
1020 ~~435.07.~~

1021 (5)~~(6)~~ The costs associated with obtaining the required
1022 screening must be borne either by the licensee or the person
1023 subject to screening. Licensees may reimburse persons for these
1024 costs. The Department of Law Enforcement shall charge the agency
1025 for screening pursuant to s. 943.053(3). The agency shall
1026 establish a schedule of fees to cover the costs of screening ~~The~~
1027 ~~attestations required under ss. 435.04(5) and 435.05(3) must be~~
1028 ~~submitted at the time of license renewal, notwithstanding the~~
1029 ~~provisions of ss. 435.04(5) and 435.05(3) which require annual~~
1030 ~~submission of an affidavit of compliance with background~~
1031 ~~screening requirements.~~

1032 (6) (a) As provided in chapter 435, the agency may grant an
1033 exemption from disqualification to a person who is subject to
1034 this section and who has not received a professional license or
1035 certification from the Department of Health if that person is
1036 providing a service that is within the scope of his or her
1037 licensed or certified practice.

1038 (b) As provided in chapter 435, the appropriate regulatory
1039 board within the Department of Health, or the department itself
1040 when there is no board, may grant an exemption from
1041 disqualification to a person who is subject to this section and
1042 who has received a professional license or certification from
1043 the Department of Health or a regulatory board within that
1044 department and that person is providing a service within the

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1045 scope of his or her licensed or certified practice.

1046 (7) The agency and the Department of Health may adopt rules
1047 pursuant to ss. 120.536(1) and 120.54 to implement this section,
1048 chapter 435, and authorizing statutes requiring background
1049 screening and to implement and adopt criteria relating to
1050 retaining fingerprints pursuant to s. 943.05(2).

1051 (8) There is no unemployment compensation or other monetary
1052 liability on the part of, and no cause of action for damages
1053 arising against, an employer that, upon notice of a
1054 disqualifying offense listed under chapter 435 or this section,
1055 terminates the person against whom the report was issued,
1056 whether or not that person has filed for an exemption with the
1057 Department of Health or the agency.

1058 Section 22. Subsection (3) of section 402.302, Florida
1059 Statutes, is amended to read:

1060 402.302 Definitions.—

1061 (3) "Child care personnel" means all owners, operators,
1062 employees, and volunteers working in a child care facility. The
1063 term does not include persons who work in a child care facility
1064 after hours when children are not present or parents of children
1065 in Head Start. For purposes of screening, the term includes any
1066 member, over the age of 12 years, of a child care facility
1067 operator's family, or person, over the age of 12 years, residing
1068 with a child care facility operator if the child care facility
1069 is located in or adjacent to the home of the operator or if the
1070 family member of, or person residing with, the child care
1071 facility operator has any direct contact with the children in
1072 the facility during its hours of operation. Members of the
1073 operator's family or persons residing with the operator who are

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1074 between the ages of 12 years and 18 years shall not be required
1075 to be fingerprinted but shall be screened for delinquency
1076 records. For purposes of screening, the term shall also include
1077 persons who work in child care programs which provide care for
1078 children 15 hours or more each week in public or nonpublic
1079 schools, ~~summer day camps,~~ family day care homes, or those
1080 programs otherwise exempted under s. 402.316. The term does not
1081 include public or nonpublic school personnel who are providing
1082 care during regular school hours, or after hours for activities
1083 related to a school's program for grades kindergarten through
1084 12. A volunteer who assists on an intermittent basis for less
1085 than 10 ~~40~~ hours per month is not included in the term
1086 "personnel" for the purposes of screening and training, provided
1087 a person who meets the screening requirement of s. 402.305(2) is
1088 always present and has the volunteer in his or her line of sight
1089 ~~that the volunteer is under direct and constant supervision by~~
1090 ~~persons who meet the personnel requirements of s. 402.305(2).~~
1091 Students who observe and participate in a child care facility as
1092 a part of their required coursework shall not be considered
1093 child care personnel, provided such observation and
1094 participation are on an intermittent basis and a person who
1095 meets the screening requirement of s. 402.305(2) is always
1096 present and has the student in his or her line of sight ~~the~~
1097 ~~students are under direct and constant supervision of child care~~
1098 ~~personnel.~~

1099 Section 23. Paragraphs (i) and (k) of subsection (2) of
1100 section 409.175, Florida Statutes, are amended, present
1101 paragraphs (b) and (c) of subsection (5) of that section are
1102 redesignated as paragraphs (c) and (d), respectively, and a new

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1103 paragraph (b) is added to that section to read:

1104 409.175 Licensure of family foster homes, residential
1105 child-caring agencies, and child-placing agencies; public
1106 records exemption.—

1107 (2) As used in this section, the term:

1108 (i) "Personnel" means all owners, operators, employees, and
1109 volunteers working in a child-placing agency, family foster
1110 home, or residential child-caring agency who may be employed by
1111 or do volunteer work for a person, corporation, or agency which
1112 holds a license as a child-placing agency or a residential
1113 child-caring agency, but the term does not include those who do
1114 not work on the premises where child care is furnished and
1115 either have no direct contact with a child or have no contact
1116 with a child outside of the presence of the child's parent or
1117 guardian. For purposes of screening, the term shall include any
1118 member, over the age of 12 years, of the family of the owner or
1119 operator or any person other than a client, over the age of 12
1120 years, residing with the owner or operator if the agency or
1121 family foster home is located in or adjacent to the home of the
1122 owner or operator or if the family member of, or person residing
1123 with, the owner or operator has any direct contact with the
1124 children. Members of the family of the owner or operator, or
1125 persons residing with the owner or operator, who are between the
1126 ages of 12 years and 18 years shall not be required to be
1127 fingerprinted, but shall be screened for delinquency records.
1128 For purposes of screening, the term "personnel" shall also
1129 include owners, operators, employees, and volunteers working in
1130 summer day camps, or summer 24-hour camps providing care for
1131 children. A volunteer who assists on an intermittent basis for

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1132 less than 10 ~~40~~ hours per month shall not be included in the
1133 term "personnel" for the purposes of screening, provided a
1134 person who meets the screening requirement of this section is
1135 always present and has the volunteer in his or her line of sight
1136 ~~that the volunteer is under direct and constant supervision by~~
1137 ~~persons who meet the personnel requirements of this section.~~

1138 (k) "Screening" means the act of assessing the background
1139 of personnel and includes, but is not limited to, employment
1140 history checks as provided in chapter 435, using the level 2
1141 standards for screening set forth in that chapter. ~~Screening for~~
1142 ~~employees and volunteers in summer day camps and summer 24-hour~~
1143 ~~camps and screening for all volunteers included under the~~
1144 ~~definition of "personnel" shall be conducted as provided in~~
1145 ~~chapter 435, using the level 1 standards set forth in that~~
1146 ~~chapter.~~

1147 (5)

1148 (b) The department shall require all licensed foster
1149 parents to be randomly drug tested once every 2 years, with the
1150 cost of the testing to be paid by the foster parents. The
1151 department may adopt rules, policies, and procedures necessary
1152 to administer this paragraph.

1153 Section 24. Paragraph (i) of subsection (4) of section
1154 409.221, Florida Statutes, is amended to read:

1155 409.221 Consumer-directed care program.—

1156 (4) CONSUMER-DIRECTED CARE.—

1157 (i) *Background screening requirements.*—All persons who
1158 render care under this section must undergo level 2 background
1159 screening pursuant to chapter 435 ~~shall comply with the~~
1160 ~~requirements of s. 435.05. Persons shall be excluded from~~

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1161 ~~employment pursuant to s. 435.06.~~

1162 ~~1. Persons excluded from employment may request an~~
1163 ~~exemption from disqualification, as provided in s. 435.07.~~

1164 ~~Persons not subject to certification or professional licensure~~
1165 ~~may request an exemption from the agency. In considering a~~
1166 ~~request for an exemption, the agency shall comply with the~~
1167 ~~provisions of s. 435.07.~~

1168 ~~2. The agency shall, as allowable, reimburse consumer-~~
1169 ~~employed caregivers for the cost of conducting background~~
1170 ~~screening as required by this section.~~

1171
1172 For purposes of this section, a person who has undergone
1173 screening, who is qualified for employment under this section
1174 and applicable rule, and who has not been unemployed for more
1175 than 90 ~~180~~ days following such screening is not required to be
1176 rescreened. Such person must attest under penalty of perjury to
1177 not having been convicted of a disqualifying offense since
1178 completing such screening.

1179 Section 25. Subsection (8) of section 409.907, Florida
1180 Statutes, is amended to read:

1181 409.907 Medicaid provider agreements.—The agency may make
1182 payments for medical assistance and related services rendered to
1183 Medicaid recipients only to an individual or entity who has a
1184 provider agreement in effect with the agency, who is performing
1185 services or supplying goods in accordance with federal, state,
1186 and local law, and who agrees that no person shall, on the
1187 grounds of handicap, race, color, or national origin, or for any
1188 other reason, be subjected to discrimination under any program
1189 or activity for which the provider receives payment from the

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1190 agency.

1191 (8) (a) Each provider, or each principal of the provider if
1192 the provider is a corporation, partnership, association, or
1193 other entity, seeking to participate in the Medicaid program
1194 must submit a complete set of his or her fingerprints to the
1195 agency for the purpose of conducting a criminal history record
1196 check. Principals of the provider include any officer, director,
1197 billing agent, managing employee, or affiliated person, or any
1198 partner or shareholder who has an ownership interest equal to 5
1199 percent or more in the provider. However, a director of a not-
1200 for-profit corporation or organization is not a principal for
1201 purposes of a background investigation as required by this
1202 section if the director: serves solely in a voluntary capacity
1203 for the corporation or organization, does not regularly take
1204 part in the day-to-day operational decisions of the corporation
1205 or organization, receives no remuneration from the not-for-
1206 profit corporation or organization for his or her service on the
1207 board of directors, has no financial interest in the not-for-
1208 profit corporation or organization, and has no family members
1209 with a financial interest in the not-for-profit corporation or
1210 organization; and if the director submits an affidavit, under
1211 penalty of perjury, to this effect to the agency and the not-
1212 for-profit corporation or organization submits an affidavit,
1213 under penalty of perjury, to this effect to the agency as part
1214 of the corporation's or organization's Medicaid provider
1215 agreement application. Notwithstanding the above, the agency may
1216 require a background check for any person reasonably suspected
1217 by the agency to have been convicted of a crime. This subsection
1218 shall not apply to:

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1219 1. A hospital licensed under chapter 395;
1220 2. A nursing home licensed under chapter 400;
1221 3. A hospice licensed under chapter 400;
1222 4. An assisted living facility licensed under chapter 429;
1223 5. A unit of local government, except that requirements of
1224 this subsection apply to nongovernmental providers and entities
1225 when contracting with the local government to provide Medicaid
1226 services. The actual cost of the state and national criminal
1227 history record checks must be borne by the nongovernmental
1228 provider or entity; or

1229 6. Any business that derives more than 50 percent of its
1230 revenue from the sale of goods to the final consumer, and the
1231 business or its controlling parent either is required to file a
1232 form 10-K or other similar statement with the Securities and
1233 Exchange Commission or has a net worth of \$50 million or more.

1234 (b) Background screening shall be conducted in accordance
1235 with chapter 435 and s. 408.809. The agency shall submit the
1236 fingerprints to the Department of Law Enforcement. The
1237 department shall conduct a state criminal background
1238 investigation and forward the fingerprints to the Federal Bureau
1239 of Investigation for a national criminal history record check.
1240 The cost of the state and national criminal record check shall
1241 be borne by the provider.

1242 ~~(c) The agency may permit a provider to participate in the~~
1243 ~~Medicaid program pending the results of the criminal record~~
1244 ~~check. However, such permission is fully revocable if the record~~
1245 ~~check reveals any crime-related history as provided in~~
1246 ~~subsection (10).~~

1247 (c) ~~(d)~~ Proof of compliance with the requirements of level 2

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1248 screening under chapter 435 ~~s. 435.04~~ conducted within 12 months
1249 prior to the date that the Medicaid provider application is
1250 submitted to the agency shall fulfill the requirements of this
1251 subsection. ~~Proof of compliance with the requirements of level 1~~
1252 ~~screening under s. 435.03 conducted within 12 months prior to~~
1253 ~~the date that the Medicaid provider application is submitted to~~
1254 ~~the agency shall meet the requirement that the Department of Law~~
1255 ~~Enforcement conduct a state criminal history record check.~~

1256 Section 26. Subsection (12) is added to section 411.01,
1257 Florida Statutes, to read:

1258 411.01 School readiness programs; early learning
1259 coalitions.-

1260 (12) SUBSTITUTE INSTRUCTORS.-Each school district shall
1261 make a list of all individuals currently eligible to act as a
1262 substitute teacher within the county pursuant to the rules
1263 adopted by the school district pursuant to s. 1012.35 available
1264 to an early learning coalition serving students within the
1265 school district. Child care facilities, as defined by s.
1266 402.302, may employ individuals listed as substitute instructors
1267 for the purpose of offering the school readiness program, the
1268 Voluntary Prekindergarten Education Program, and all other
1269 legally operating child care programs.

1270 Section 27. Subsection (1) of section 429.14, Florida
1271 Statutes, is amended to read:

1272 429.14 Administrative penalties.-

1273 (1) In addition to the requirements of part II of chapter
1274 408, the agency may deny, revoke, and suspend any license issued
1275 under this part and impose an administrative fine in the manner
1276 provided in chapter 120 against a licensee ~~of an assisted living~~

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1277 ~~facility~~ for a violation of any provision of this part, part II
1278 of chapter 408, or applicable rules, or for any of the following
1279 actions by a licensee ~~of an assisted living facility~~, for the
1280 actions of any person subject to level 2 background screening
1281 under s. 408.809, or for the actions of any facility employee:

1282 (a) An intentional or negligent act seriously affecting the
1283 health, safety, or welfare of a resident of the facility.

1284 (b) The determination by the agency that the owner lacks
1285 the financial ability to provide continuing adequate care to
1286 residents.

1287 (c) Misappropriation or conversion of the property of a
1288 resident of the facility.

1289 (d) Failure to follow the criteria and procedures provided
1290 under part I of chapter 394 relating to the transportation,
1291 voluntary admission, and involuntary examination of a facility
1292 resident.

1293 (e) A citation of any of the following deficiencies as
1294 specified in s. 429.19:

1295 1. One or more cited class I deficiencies.

1296 2. Three or more cited class II deficiencies.

1297 3. Five or more cited class III deficiencies that have been
1298 cited on a single survey and have not been corrected within the
1299 times specified.

1300 (f) Failure to comply with the ~~A determination that a~~
1301 ~~person subject to level 2 background screening under s. 408.809~~
1302 ~~does not meet the screening standards of this part, s.~~
1303 408.809(1), or chapter 435 s. 435.04 ~~or that the facility is~~
1304 ~~retaining an employee subject to level 1 background screening~~
1305 ~~standards under s. 429.174 who does not meet the screening~~

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1306 standards of s. 435.03 and for whom exemptions from
1307 disqualification have not been provided by the agency.

1308 ~~(g) A determination that an employee, volunteer,~~
1309 ~~administrator, or owner, or person who otherwise has access to~~
1310 ~~the residents of a facility does not meet the criteria specified~~
1311 ~~in s. 435.03(2), and the owner or administrator has not taken~~
1312 ~~action to remove the person. Exemptions from disqualification~~
1313 ~~may be granted as set forth in s. 435.07. No administrative~~
1314 ~~action may be taken against the facility if the person is~~
1315 ~~granted an exemption.~~

1316 (g)~~(h)~~ Violation of a moratorium.

1317 (h)~~(i)~~ Failure of the license applicant, the licensee
1318 during relicensure, or a licensee that holds a provisional
1319 license to meet the minimum license requirements of this part,
1320 or related rules, at the time of license application or renewal.

1321 (i)~~(j)~~ An intentional or negligent life-threatening act in
1322 violation of the uniform firesafety standards for assisted
1323 living facilities or other firesafety standards that threatens
1324 the health, safety, or welfare of a resident of a facility, as
1325 communicated to the agency by the local authority having
1326 jurisdiction or the State Fire Marshal.

1327 (j)~~(k)~~ Knowingly operating any unlicensed facility or
1328 providing without a license any service that must be licensed
1329 under this chapter or chapter 400.

1330 (k)~~(l)~~ Any act constituting a ground upon which application
1331 for a license may be denied.

1332 Section 28. Section 429.174, Florida Statutes, is amended
1333 to read:

1334 429.174 Background screening; ~~exemptions.~~ The agency shall

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1335 require level 2 background screening for personnel as required
1336 in s. 408.809(1)(e) pursuant to chapter 435 and s. 408.809. The
1337 ~~owner or administrator of an assisted living facility must~~
1338 ~~conduct level 1 background screening, as set forth in chapter~~
1339 ~~435, on all employees hired on or after October 1, 1998, who~~
1340 ~~perform personal services as defined in s. 429.02(16). The~~
1341 ~~agency may exempt an individual from employment disqualification~~
1342 ~~as set forth in chapter 435. Such persons shall be considered as~~
1343 ~~having met this requirement if:~~

1344 (1) ~~Proof of compliance with level 1 screening requirements~~
1345 ~~obtained to meet any professional license requirements in this~~
1346 ~~state is provided and accompanied, under penalty of perjury, by~~
1347 ~~a copy of the person's current professional license and an~~
1348 ~~affidavit of current compliance with the background screening~~
1349 ~~requirements.~~

1350 (2) ~~The person required to be screened has been~~
1351 ~~continuously employed in the same type of occupation for which~~
1352 ~~the person is seeking employment without a breach in service~~
1353 ~~which exceeds 180 days, and proof of compliance with the level 1~~
1354 ~~screening requirement which is no more than 2 years old is~~
1355 ~~provided. Proof of compliance shall be provided directly from~~
1356 ~~one employer or contractor to another, and not from the person~~
1357 ~~screened. Upon request, a copy of screening results shall be~~
1358 ~~provided by the employer retaining documentation of the~~
1359 ~~screening to the person screened.~~

1360 (3) ~~The person required to be screened is employed by a~~
1361 ~~corporation or business entity or related corporation or~~
1362 ~~business entity that owns, operates, or manages more than one~~
1363 ~~facility or agency licensed under this chapter, and for whom a~~

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1364 ~~level 1 screening was conducted by the corporation or business~~
1365 ~~entity as a condition of initial or continued employment.~~

1366 Section 29. Subsection (4) of section 429.67, Florida
1367 Statutes, is amended to read:

1368 429.67 Licensure.—

1369 ~~(4) Upon receipt of a completed license application or~~
1370 ~~license renewal, and the fee, The agency shall require level 2~~
1371 ~~initiate a level 1 background screening for personnel as~~
1372 ~~required in s. 408.809(1)(e), including as provided under~~
1373 ~~chapter 435 on the adult family-care home provider, the~~
1374 ~~designated relief person, and all adult household members,~~
1375 ~~pursuant to chapter 435 and s. 408.809, and all staff members.~~

1376 ~~(a) Proof of compliance with level 1 screening standards~~
1377 ~~which has been submitted within the previous 5 years to meet any~~
1378 ~~facility or professional licensure requirements of the agency or~~
1379 ~~the Department of Health satisfies the requirements of this~~
1380 ~~subsection. Such proof must be accompanied, under penalty of~~
1381 ~~perjury, by a copy of the person's current professional license~~
1382 ~~and an affidavit of current compliance with the background~~
1383 ~~screening requirements.~~

1384 ~~(b) The person required to be screened must have been~~
1385 ~~continuously employed in the same type of occupation for which~~
1386 ~~the person is seeking employment without a breach in service~~
1387 ~~that exceeds 180 days, and proof of compliance with the level 1~~
1388 ~~screening requirement which is no more than 2 years old must be~~
1389 ~~provided. Proof of compliance shall be provided directly from~~
1390 ~~one employer or contractor to another, and not from the person~~
1391 ~~screened. Upon request, a copy of screening results shall be~~
1392 ~~provided to the person screened by the employer retaining~~

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1393 ~~documentation of the screening.~~

1394 Section 30. Section 429.69, Florida Statutes, is amended to
1395 read:

1396 429.69 Denial, revocation, and suspension of a license.—In
1397 addition to the requirements of part II of chapter 408, the
1398 agency may deny, suspend, and revoke a license for any of the
1399 following reasons:

1400 (1) Failure to comply with the ~~of any of the persons~~
1401 ~~required to undergo~~ background screening standards of this part,
1402 s. 408.809(1), or chapter 435 under s. 429.67 to meet the level
1403 ~~1 screening standards of s. 435.03, unless an exemption from~~
1404 ~~disqualification has been provided by the agency.~~

1405 (2) Failure to correct cited fire code violations that
1406 threaten the health, safety, or welfare of residents.

1407 Section 31. Paragraph (c) of subsection (2) of section
1408 429.911, Florida Statutes, is amended to read:

1409 429.911 Denial, suspension, revocation of license;
1410 emergency action; administrative fines; investigations and
1411 inspections.—

1412 (2) Each of the following actions by the owner of an adult
1413 day care center or by its operator or employee is a ground for
1414 action by the agency against the owner of the center or its
1415 operator or employee:

1416 (c) A Failure to comply with the ~~of persons subject to~~
1417 ~~level 2~~ background screening standards of this part, s.
1418 408.809(1), or chapter 435 under s. 408.809 to meet the
1419 ~~screening standards of s. 435.04, or the retention by the center~~
1420 ~~of an employee subject to level 1 background screening standards~~
1421 ~~under s. 429.174 who does not meet the screening standards of s.~~

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1422 ~~435.03 and for whom exemptions from disqualification have not~~
1423 ~~been provided by the agency.~~

1424 Section 32. Section 429.919, Florida Statutes, is amended
1425 to read:

1426 429.919 Background screening.—The agency shall require
1427 level 2 background screening for personnel as required in s.
1428 408.809(1) (e) pursuant to chapter 435 and s. 408.809. ~~The owner~~
1429 ~~or administrator of an adult day care center must conduct level~~
1430 ~~1 background screening as set forth in chapter 435 on all~~
1431 ~~employees hired on or after October 1, 1998, who provide basic~~
1432 ~~services or supportive and optional services to the~~
1433 ~~participants. Such persons satisfy this requirement if:~~

1434 ~~(1) Proof of compliance with level 1 screening requirements~~
1435 ~~obtained to meet any professional license requirements in this~~
1436 ~~state is provided and accompanied, under penalty of perjury, by~~
1437 ~~a copy of the person's current professional license and an~~
1438 ~~affidavit of current compliance with the background screening~~
1439 ~~requirements.~~

1440 ~~(2) The person required to be screened has been~~
1441 ~~continuously employed, without a breach in service that exceeds~~
1442 ~~180 days, in the same type of occupation for which the person is~~
1443 ~~seeking employment and provides proof of compliance with the~~
1444 ~~level 1 screening requirement which is no more than 2 years old.~~
1445 ~~Proof of compliance must be provided directly from one employer~~
1446 ~~or contractor to another, and not from the person screened. Upon~~
1447 ~~request, a copy of screening results shall be provided to the~~
1448 ~~person screened by the employer retaining documentation of the~~
1449 ~~screening.~~

1450 ~~(3) The person required to be screened is employed by a~~

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1451 ~~corporation or business entity or related corporation or~~
1452 ~~business entity that owns, operates, or manages more than one~~
1453 ~~facility or agency licensed under chapter 400 or this chapter,~~
1454 ~~and for whom a level 1 screening was conducted by the~~
1455 ~~corporation or business entity as a condition of initial or~~
1456 ~~continued employment.~~

1457 Section 33. Section 430.0402, Florida Statutes, is created
1458 to read:

1459 430.0402 Screening of direct service providers.-

1460 (1) (a) Level 2 background screening pursuant to chapter 435
1461 is required for direct service providers. Background screening
1462 shall include employment history checks as provided in s.
1463 435.03(1) and local criminal records checks through local law
1464 enforcement agencies.

1465 (b) For purposes of this section, the term "direct service
1466 provider" means a person 18 years of age or older who, pursuant
1467 to a program to provide services to the elderly, has direct,
1468 face-to-face contact with a client while providing services to
1469 the client or has access to the client's living areas or to the
1470 client's funds or personal property. The term includes
1471 coordinators, managers, and supervisors of residential
1472 facilities and volunteers.

1473 (2) Licensed physicians, nurses, or other professionals
1474 licensed by the Department of Health are not subject to
1475 background screening pursuant to this section if they are
1476 providing a service that is within the scope of their licensed
1477 practice.

1478 (3) Refusal on the part of an employer to dismiss a
1479 manager, supervisor, or direct service provider who has been

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1480 found to be in noncompliance with standards of this section
1481 shall result in the automatic denial, termination, or revocation
1482 of the license or certification, rate agreement, purchase order,
1483 or contract, in addition to any other remedies authorized by
1484 law.

1485 (4) The background screening conducted pursuant to this
1486 section must ensure that, in addition to the disqualifying
1487 offenses listed in s. 435.04, no person subject to the
1488 provisions of this section has an arrest awaiting final
1489 disposition for, has been found guilty of, regardless of
1490 adjudication, or entered a plea of nolo contendere or guilty to,
1491 or has been adjudicated delinquent and the record has not been
1492 sealed or expunged for, any offense prohibited under any of the
1493 following provisions of the Florida Statutes or under any
1494 similar statute of another jurisdiction:

1495 (a) Any authorizing statutes, if the offense was a felony.

1496 (b) Section 409.920, relating to Medicaid provider fraud.

1497 (c) Section 409.9201, relating to Medicaid fraud.

1498 (d) Section 817.034, relating to fraudulent acts through
1499 mail, wire, radio, electromagnetic, photoelectronic, or
1500 photooptical systems.

1501 (e) Section 817.234, relating to false and fraudulent
1502 insurance claims.

1503 (f) Section 817.505, relating to patient brokering.

1504 (g) Section 817.568, relating to criminal use of personal
1505 identification information.

1506 (h) Section 817.60, relating to obtaining a credit card
1507 through fraudulent means.

1508 (i) Section 817.61, relating to fraudulent use of credit

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1509 cards, if the offense was a felony.

1510 (j) Section 831.01, relating to forgery.

1511 (k) Section 831.02, relating to uttering forged
1512 instruments.

1513 (l) Section 831.07, relating to forging bank bills, checks,
1514 drafts, or promissory notes.

1515 (m) Section 831.09, relating to uttering forged bank bills,
1516 checks, drafts, or promissory notes.

1517 Section 34. Section 435.01, Florida Statutes, is amended to
1518 read:

1519 435.01 Applicability of this chapter; statutory references;
1520 rulemaking.-

1521 (1) (a) Unless otherwise provided by law, whenever a
1522 background screening for employment or a background security
1523 check is required by law to be conducted pursuant to this
1524 chapter for employment, unless otherwise provided by law, the
1525 provisions of this chapter shall apply.

1526 (b) Unless expressly provided otherwise, a reference in any
1527 section of the Florida Statutes to chapter 435 or to any section
1528 or sections or portion of a section of chapter 435 includes, and
1529 shall be understood as including, all subsequent amendments to
1530 chapter 435 or to the referenced section or sections or portions
1531 of a section. The purpose of this chapter is to facilitate
1532 uniform background screening and, to this end, a reference to
1533 this chapter, or to any section or subdivision within this
1534 chapter, constitutes a general reference under the doctrine of
1535 incorporation by reference.

1536 (2) Agencies may adopt rules pursuant to ss. 120.536(1) and
1537 120.54 necessary to implement the provisions of this chapter.

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1538 Section 35. Section 435.02, Florida Statutes, is reordered
1539 and amended to read:

1540 435.02 Definitions.—For the purposes of this chapter, the
1541 term:

1542 (2)~~(1)~~ "Employee" means any person required by law to be
1543 screened pursuant to the provisions of this chapter.

1544 (3)~~(2)~~ "Employer" means any person or entity required by
1545 law to conduct screening of employees pursuant to this chapter.

1546 (1)~~(3)~~ "~~Licensing~~ Agency" means any state, ~~or~~ county, or
1547 municipal agency that which grants licenses or registration
1548 permitting the operation of an employer or is itself an employer
1549 or that otherwise facilitates the screening of employees
1550 pursuant to this chapter. When there is no state ~~licensing~~
1551 agency or the municipal or county ~~licensing~~ agency chooses not
1552 to conduct employment screening, "~~licensing~~ agency" means the
1553 Department of Children and Family Services.

1554 (4) "Employment" means any activity or service sought to be
1555 performed by an employee that requires the employee to be
1556 subject to screening pursuant to this chapter.

1557 (5) "Vulnerable person" means a minor or a vulnerable adult
1558 as defined in s. 415.102.

1559 Section 36. Section 435.03, Florida Statutes, is amended to
1560 read:

1561 435.03 Level 1 screening standards.—

1562 (1) All employees required by law to be screened pursuant
1563 to this section must ~~shall be required to~~ undergo background
1564 screening as a condition of employment and continued employment
1565 which includes. ~~For the purposes of this subsection, level 1~~
1566 ~~screenings shall include,~~ but need not be limited to, employment

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1567 history checks and statewide criminal correspondence checks
1568 through the ~~Florida~~ Department of Law Enforcement, a check of
1569 the Dru Sjodin National Sex Offender Public Website, and may
1570 include local criminal records checks through local law
1571 enforcement agencies.

1572 (2) Any person required by law to be screened pursuant to
1573 this section must not have an arrest awaiting final disposition,
1574 ~~for whom employment screening is required by statute~~ must not
1575 have been found guilty of, regardless of adjudication, or
1576 entered a plea of nolo contendere or guilty to, and must not
1577 have been adjudicated delinquent and the record has not been
1578 sealed or expunged for, any offense prohibited under any
1579 provision of s. 435.04(2) of the following provisions of the
1580 ~~Florida Statutes~~ or under any similar statute of another
1581 jurisdiction.÷

1582 ~~(a) Section 393.135, relating to sexual misconduct with~~
1583 ~~certain developmentally disabled clients and reporting of such~~
1584 ~~sexual misconduct.~~

1585 ~~(b) Section 394.4593, relating to sexual misconduct with~~
1586 ~~certain mental health patients and reporting of such sexual~~
1587 ~~misconduct.~~

1588 ~~(c) Section 415.111, relating to abuse, neglect, or~~
1589 ~~exploitation of a vulnerable adult.~~

1590 ~~(d) Section 782.04, relating to murder.~~

1591 ~~(e) Section 782.07, relating to manslaughter, aggravated~~
1592 ~~manslaughter of an elderly person or disabled adult, or~~
1593 ~~aggravated manslaughter of a child.~~

1594 ~~(f) Section 782.071, relating to vehicular homicide.~~

1595 ~~(g) Section 782.09, relating to killing of an unborn quick~~

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1596 child by injury to the mother.

1597 ~~(h) Section 784.011, relating to assault, if the victim of~~

1598 ~~the offense was a minor.~~

1599 ~~(i) Section 784.021, relating to aggravated assault.~~

1600 ~~(j) Section 784.03, relating to battery, if the victim of~~

1601 ~~the offense was a minor.~~

1602 ~~(k) Section 784.045, relating to aggravated battery.~~

1603 ~~(l) Section 787.01, relating to kidnapping.~~

1604 ~~(m) Section 787.02, relating to false imprisonment.~~

1605 ~~(n) Section 794.011, relating to sexual battery.~~

1606 ~~(o) Former s. 794.041, relating to prohibited acts of~~

1607 ~~persons in familial or custodial authority.~~

1608 ~~(p) Chapter 796, relating to prostitution.~~

1609 ~~(q) Section 798.02, relating to lewd and lascivious~~

1610 ~~behavior.~~

1611 ~~(r) Chapter 800, relating to lewdness and indecent~~

1612 ~~exposure.~~

1613 ~~(s) Section 806.01, relating to arson.~~

1614 ~~(t) Chapter 812, relating to theft, robbery, and related~~

1615 ~~crimes, if the offense was a felony.~~

1616 ~~(u) Section 817.563, relating to fraudulent sale of~~

1617 ~~controlled substances, only if the offense was a felony.~~

1618 ~~(v) Section 825.102, relating to abuse, aggravated abuse,~~

1619 ~~or neglect of an elderly person or disabled adult.~~

1620 ~~(w) Section 825.1025, relating to lewd or lascivious~~

1621 ~~offenses committed upon or in the presence of an elderly person~~

1622 ~~or disabled adult.~~

1623 ~~(x) Section 825.103, relating to exploitation of an elderly~~

1624 ~~person or disabled adult, if the offense was a felony.~~

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- 1625 ~~(y) Section 826.04, relating to incest.~~
- 1626 ~~(z) Section 827.03, relating to child abuse, aggravated~~
1627 ~~child abuse, or neglect of a child.~~
- 1628 ~~(aa) Section 827.04, relating to contributing to the~~
1629 ~~delinquency or dependency of a child.~~
- 1630 ~~(bb) Former s. 827.05, relating to negligent treatment of~~
1631 ~~children.~~
- 1632 ~~(cc) Section 827.071, relating to sexual performance by a~~
1633 ~~child.~~
- 1634 ~~(dd) Chapter 847, relating to obscene literature.~~
- 1635 ~~(ee) Chapter 893, relating to drug abuse prevention and~~
1636 ~~control, only if the offense was a felony or if any other person~~
1637 ~~involved in the offense was a minor.~~
- 1638 ~~(ff) Section 916.1075, relating to sexual misconduct with~~
1639 ~~certain forensic clients and reporting of such sexual~~
1640 ~~misconduct.~~
- 1641 (3) The security background investigations under this
1642 section must ensure that no person subject to the provisions of
1643 this section has been found guilty of, regardless of
1644 adjudication, or entered a plea of nolo contendere or guilty to,
1645 any offense that constitutes domestic violence as defined in s.
1646 741.28, whether such act was committed in this state or in
1647 another jurisdiction. Standards must also ensure that the
1648 person:
- 1649 ~~(a) For employees and employers licensed or registered~~
1650 ~~pursuant to chapter 400 or chapter 429, and for employees and~~
1651 ~~employers of developmental disabilities centers as defined in s.~~
1652 ~~393.063, intermediate care facilities for the developmentally~~
1653 ~~disabled as defined in s. 400.960, and mental health treatment~~

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1654 ~~facilities as defined in s. 394.455, meets the requirements of~~
1655 ~~this chapter.~~

1656 ~~(b) Has not committed an act that constitutes domestic~~
1657 ~~violence as defined in s. 741.28.~~

1658 Section 37. Section 435.04, Florida Statutes, is amended to
1659 read:

1660 435.04 Level 2 screening standards.—

1661 (1)(a) All employees required by law to be screened
1662 pursuant to this section must in positions designated by law as
1663 positions of trust or responsibility shall be required to
1664 undergo security background investigations as a condition of
1665 employment and continued employment which includes. For the
1666 purposes of this subsection, security background investigations
1667 shall include, but need not be limited to, fingerprinting for
1668 statewide criminal history records all purposes and checks in
1669 this subsection, statewide criminal and juvenile records checks
1670 through the Florida Department of Law Enforcement, and national
1671 federal criminal history records checks through the Federal
1672 Bureau of Investigation, and may include local criminal records
1673 checks through local law enforcement agencies.

1674 (b) Fingerprints submitted pursuant to this section on or
1675 after July 1, 2012, must be submitted electronically to the
1676 Department of Law Enforcement.

1677 (c) An agency may contract with one or more vendors to
1678 perform all or part of the electronic fingerprinting pursuant to
1679 this section. Such contracts must ensure that the owners and
1680 personnel of the vendor performing the electronic fingerprinting
1681 are qualified and will ensure the integrity and security of all
1682 personal information.

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1683 (d) An agency may require by rule adopted pursuant to
1684 chapter 120 that fingerprints submitted pursuant to this section
1685 must be submitted electronically to the Department of Law
1686 Enforcement on a date earlier than July 1, 2012.

1687 (2) The security background investigations under this
1688 section must ensure that no persons subject to the provisions of
1689 this section have been arrested for and are awaiting final
1690 disposition of, have been found guilty of, regardless of
1691 adjudication, or entered a plea of nolo contendere or guilty to,
1692 or have been adjudicated delinquent and the record has not been
1693 sealed or expunged for, any offense prohibited under any of the
1694 following provisions of the Florida Statutes or under any
1695 similar statute of another jurisdiction:

1696 (a) Section 393.135, relating to sexual misconduct with
1697 certain developmentally disabled clients and reporting of such
1698 sexual misconduct.

1699 (b) Section 394.4593, relating to sexual misconduct with
1700 certain mental health patients and reporting of such sexual
1701 misconduct.

1702 (c) Section 415.111, relating to adult abuse, neglect, or
1703 exploitation of aged persons or disabled adults.

1704 (d) Section 782.04, relating to murder.

1705 (e) Section 782.07, relating to manslaughter, aggravated
1706 manslaughter of an elderly person or disabled adult, or
1707 aggravated manslaughter of a child.

1708 (f) Section 782.071, relating to vehicular homicide.

1709 (g) Section 782.09, relating to killing of an unborn quick
1710 child by injury to the mother.

1711 (h) Chapter 784, relating to assault, battery, and culpable

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1712 negligence, if the offense was a felony.

1713 (i)~~(h)~~ Section 784.011, relating to assault, if the victim
1714 of the offense was a minor.

1715 ~~(i) Section 784.021, relating to aggravated assault.~~

1716 (j) Section 784.03, relating to battery, if the victim of
1717 the offense was a minor.

1718 ~~(k) Section 784.045, relating to aggravated battery.~~

1719 ~~(l) Section 784.075, relating to battery on a detention or
1720 commitment facility staff.~~

1721 (k)~~(m)~~ Section 787.01, relating to kidnapping.

1722 (l)~~(n)~~ Section 787.02, relating to false imprisonment.

1723 (m) Section 787.025, relating to luring or enticing a
1724 child.

1725 (n)~~(o)~~ Section 787.04(2), relating to taking, enticing, or
1726 removing a child beyond the state limits with criminal intent
1727 pending custody proceedings.

1728 (o)~~(p)~~ Section 787.04(3), relating to carrying a child
1729 beyond the state lines with criminal intent to avoid producing a
1730 child at a custody hearing or delivering the child to the
1731 designated person.

1732 (p)~~(q)~~ Section 790.115(1), relating to exhibiting firearms
1733 or weapons within 1,000 feet of a school.

1734 (q)~~(r)~~ Section 790.115(2)(b), relating to possessing an
1735 electric weapon or device, destructive device, or other weapon
1736 on school property.

1737 (r)~~(s)~~ Section 794.011, relating to sexual battery.

1738 (s)~~(t)~~ Former s. 794.041, relating to prohibited acts of
1739 persons in familial or custodial authority.

1740 (t) Section 794.05, relating to unlawful sexual activity

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- 1741 with certain minors.
- 1742 (u) Chapter 796, relating to prostitution.
- 1743 (v) Section 798.02, relating to lewd and lascivious
- 1744 behavior.
- 1745 (w) Chapter 800, relating to lewdness and indecent
- 1746 exposure.
- 1747 (x) Section 806.01, relating to arson.
- 1748 (y) Section 810.02, relating to burglary.
- 1749 (z) Section 810.14, relating to voyeurism, if the offense
- 1750 is a felony.
- 1751 (aa) Section 810.145, relating to video voyeurism, if the
- 1752 offense is a felony.
- 1753 (bb)~~(y)~~ Chapter 812, relating to theft, robbery, and
- 1754 related crimes, if the offense is a felony.
- 1755 (cc)~~(z)~~ Section 817.563, relating to fraudulent sale of
- 1756 controlled substances, only if the offense was a felony.
- 1757 (dd)~~(aa)~~ Section 825.102, relating to abuse, aggravated
- 1758 abuse, or neglect of an elderly person or disabled adult.
- 1759 (ee)~~(bb)~~ Section 825.1025, relating to lewd or lascivious
- 1760 offenses committed upon or in the presence of an elderly person
- 1761 or disabled adult.
- 1762 (ff)~~(ee)~~ Section 825.103, relating to exploitation of an
- 1763 elderly person or disabled adult, if the offense was a felony.
- 1764 (gg)~~(dd)~~ Section 826.04, relating to incest.
- 1765 (hh)~~(ee)~~ Section 827.03, relating to child abuse,
- 1766 aggravated child abuse, or neglect of a child.
- 1767 (ii)~~(ff)~~ Section 827.04, relating to contributing to the
- 1768 delinquency or dependency of a child.
- 1769 (jj)~~(gg)~~ Former s. 827.05, relating to negligent treatment

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1770 of children.

1771 (kk)~~(hh)~~ Section 827.071, relating to sexual performance by
1772 a child.

1773 (ll)~~(ii)~~ Section 843.01, relating to resisting arrest with
1774 violence.

1775 (mm)~~(jj)~~ Section 843.025, relating to depriving a law
1776 enforcement, correctional, or correctional probation officer
1777 means of protection or communication.

1778 (nn)~~(kk)~~ Section 843.12, relating to aiding in an escape.

1779 (oo)~~(ll)~~ Section 843.13, relating to aiding in the escape
1780 of juvenile inmates in correctional institutions.

1781 (pp)~~(mm)~~ Chapter 847, relating to obscene literature.

1782 (qq)~~(nn)~~ Section 874.05(1), relating to encouraging or
1783 recruiting another to join a criminal gang.

1784 (rr)~~(oo)~~ Chapter 893, relating to drug abuse prevention and
1785 control, only if the offense was a felony or if any other person
1786 involved in the offense was a minor.

1787 (ss)~~(pp)~~ Section 916.1075, relating to sexual misconduct
1788 with certain forensic clients and reporting of such sexual
1789 misconduct.

1790 (tt)~~(qq)~~ Section 944.35(3), relating to inflicting cruel or
1791 inhuman treatment on an inmate resulting in great bodily harm.

1792 (uu) Section 944.40, relating to escape.

1793 (vv)~~(rr)~~ Section 944.46, relating to harboring, concealing,
1794 or aiding an escaped prisoner.

1795 (ww)~~(ss)~~ Section 944.47, relating to introduction of
1796 contraband into a correctional facility.

1797 (xx)~~(tt)~~ Section 985.701, relating to sexual misconduct in
1798 juvenile justice programs.

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1799 (yy)~~(uu)~~ Section 985.711, relating to contraband introduced
1800 into detention facilities.

1801 (3) The security background investigations under this
1802 section must ensure that no person subject to this section has
1803 been found guilty of, regardless of adjudication, or entered a
1804 plea of nolo contendere or guilty to, any offense that
1805 constitutes domestic violence as defined in s. 741.28, whether
1806 such act was committed in this state or in another jurisdiction.

1807 ~~The security background investigations conducted under this~~
1808 ~~section for employees of the Department of Juvenile Justice must~~
1809 ~~ensure that no persons subject to the provisions of this section~~
1810 ~~have been found guilty of, regardless of adjudication, or~~
1811 ~~entered a plea of nolo contendere or guilty to, any offense~~
1812 ~~prohibited under any of the following provisions of the Florida~~
1813 ~~Statutes or under any similar statute of another jurisdiction:~~

1814 ~~(a) Section 784.07, relating to assault or battery of law~~
1815 ~~enforcement officers, firefighters, emergency medical care~~
1816 ~~providers, public transit employees or agents, or other~~
1817 ~~specified officers.~~

1818 ~~(b) Section 810.02, relating to burglary, if the offense is~~
1819 ~~a felony.~~

1820 ~~(c) Section 944.40, relating to escape.~~

1821
1822 ~~The Department of Juvenile Justice may not remove a~~
1823 ~~disqualification from employment or grant an exemption to any~~
1824 ~~person who is disqualified under this section for any offense~~
1825 ~~disposed of during the most recent 7-year period.~~

1826 ~~(4) Standards must also ensure that the person:~~

1827 ~~(a) For employees or employers licensed or registered~~

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1828 ~~pursuant to chapter 400 or chapter 429, does not have a~~
1829 ~~confirmed report of abuse, neglect, or exploitation as defined~~
1830 ~~in s. 415.102(6), which has been uncontested or upheld under s.~~
1831 ~~415.103.~~

1832 ~~(b) Has not committed an act that constitutes domestic~~
1833 ~~violence as defined in s. 741.30.~~

1834 ~~(5) Under penalty of perjury, all employees in such~~
1835 ~~positions of trust or responsibility shall attest to meeting the~~
1836 ~~requirements for qualifying for employment and agreeing to~~
1837 ~~inform the employer immediately if convicted of any of the~~
1838 ~~disqualifying offenses while employed by the employer. Each~~
1839 ~~employer of employees in such positions of trust or~~
1840 ~~responsibilities which is licensed or registered by a state~~
1841 ~~agency shall submit to the licensing agency annually or at the~~
1842 ~~time of license renewal, under penalty of perjury, an affidavit~~
1843 ~~of compliance with the provisions of this section.~~

1844 Section 38. Section 435.05, Florida Statutes, is amended to
1845 read:

1846 435.05 Requirements for covered employees and employers.—
1847 Except as otherwise provided by law, the following requirements
1848 shall apply to covered employees and employers:

1849 (1) (a) Every person required by law to be screened pursuant
1850 to the provisions of this chapter must ~~employed in a position~~
1851 ~~for which employment screening is required must, within 5~~
1852 ~~working days after starting to work, submit to the employer a~~
1853 ~~complete set of information necessary to conduct a screening~~
1854 ~~under this chapter section.~~

1855 (b) For level 1 screening, the employer must submit the
1856 information necessary for screening to the ~~Florida~~ Department of

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1857 Law Enforcement within 5 working days after receiving it. The
1858 ~~Florida~~ Department of Law Enforcement will conduct a search of
1859 its records and will respond to the employer or agency. The
1860 employer will inform the employee whether screening has revealed
1861 any disqualifying information.

1862 (c) For level 2 screening, the employer or ~~licensing~~ agency
1863 must submit the information necessary for screening to the
1864 ~~Florida~~ Department of Law Enforcement within 5 working days
1865 after receiving it. The ~~Florida~~ Department of Law Enforcement
1866 will perform a criminal history record check of its ~~conduct a~~
1867 ~~search of its criminal and juvenile records~~ and will request
1868 that the Federal Bureau of Investigation perform a national
1869 criminal history record check ~~conduct a search~~ of its records
1870 for each employee for whom the request is made. The ~~Florida~~
1871 Department of Law Enforcement will respond to the employer or
1872 ~~licensing~~ agency, and the employer or ~~licensing~~ agency will
1873 inform the employee whether screening has revealed disqualifying
1874 information.

1875 (d) The person whose background is being checked must
1876 supply any missing criminal or other necessary information upon
1877 request to the requesting employer or agency within 30 days
1878 after receiving the ~~employer makes a~~ request for the information
1879 ~~or be subject to automatic disqualification.~~

1880 (2) Every employee must attest, subject to penalty of
1881 perjury, to meeting the requirements for qualifying for
1882 employment pursuant to this chapter and agreeing to inform the
1883 employer immediately if arrested for any of the disqualifying
1884 offenses while employed by the employer. ~~Unless otherwise~~
1885 ~~prohibited by state or federal law, new employees may be placed~~

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1886 ~~on probationary status pending a determination of compliance~~
1887 ~~with minimum standards set forth in this chapter.~~

1888 (3) Each employer that is licensed or registered with an
1889 agency and is required by law to conduct level 2 background
1890 screening must submit to the agency ~~sign an affidavit~~ annually
1891 or at the time of license renewal, under penalty of perjury, a
1892 signed affidavit attesting to compliance with the provisions of
1893 this chapter stating that all covered employees have been
1894 ~~screened or are newly hired and are awaiting the results of the~~
1895 ~~required screening checks.~~

1896 Section 39. Section 435.06, Florida Statutes, is amended to
1897 read:

1898 435.06 Exclusion from employment.—

1899 (1) When an employer or ~~licensing~~ agency has reasonable
1900 cause to believe that grounds exist for the denial or
1901 termination of employment of any employee as a result of
1902 background screening, it shall notify the employee in writing,
1903 stating the specific record that ~~which~~ indicates noncompliance
1904 with the standards in this chapter ~~section~~. It shall be the
1905 responsibility of the affected employee to contest his or her
1906 disqualification or to request exemption from disqualification.
1907 The only basis for contesting the disqualification shall be
1908 proof of mistaken identity.

1909 (2) (a) An employer may not hire, select, or otherwise allow
1910 an employee to have contact with any vulnerable person that
1911 would place the employee in a role that would require background
1912 screening until such time as the screening process is completed
1913 and demonstrates the absence of any grounds for the denial or
1914 termination of employment. If the screening process shows any

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1915 grounds for the denial or termination of employment, the
1916 employer may not hire, select, or otherwise allow the employee
1917 to have contact with any vulnerable person that would place the
1918 employee in a role that would require background screening
1919 unless the employee is granted an exemption for the
1920 disqualification by the agency as provided under s. 435.07.

1921 (b) If at any time an employer becomes aware that an
1922 employee has been arrested for a disqualifying offense, the
1923 employer must remove the employee from contact with any
1924 vulnerable person that would place the employee in a role that
1925 would require background screening until such time as the arrest
1926 is resolved in such a way that the employer determines that the
1927 employee is still eligible for employment under this chapter.

1928 (c) The employer must either terminate the employment of
1929 any of its personnel found to be in noncompliance with the
1930 minimum standards of this chapter ~~for good moral character~~
1931 ~~contained in this section~~ or place the employee in a position
1932 for which background screening is not required unless the
1933 employee is granted an exemption from disqualification pursuant
1934 to s. 435.07.

1935 (3) Any employee ~~person who is required to undergo~~
1936 ~~employment screening and~~ who refuses to cooperate in such
1937 screening or refuses to timely submit the information necessary
1938 to complete the screening, including fingerprints when required,
1939 must ~~shall~~ be disqualified for employment in such position or,
1940 if employed, must ~~shall~~ be dismissed.

1941 (4) There is no unemployment compensation or other monetary
1942 liability on the part of, and no cause of action for damages
1943 arising against, an employer that, upon notice of a conviction

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1944 or arrest for a disqualifying offense listed under this chapter,
1945 terminates the person against whom the report was issued or who
1946 was arrested, regardless of whether or not that person has filed
1947 for an exemption pursuant to this chapter.

1948 Section 40. Section 435.07, Florida Statutes, is amended to
1949 read:

1950 435.07 Exemptions from disqualification.—Unless otherwise
1951 provided by law, the provisions of this section shall apply to
1952 exemptions from disqualification for disqualifying offenses
1953 revealed pursuant to background screenings required by law to be
1954 conducted pursuant to this chapter, regardless of whether those
1955 disqualifying offenses are listed in this chapter or are
1956 codified in other statutes.

1957 (1) The head of the appropriate ~~licensing~~ agency may grant
1958 to any employee otherwise disqualified from employment an
1959 exemption from disqualification for:

1960 (a) Felonies for which at least 3 years have elapsed since
1961 the applicant for the exemption has completed or been lawfully
1962 released from confinement, supervision, or sanction for the
1963 disqualifying felony committed more than 3 years prior to the
1964 date of disqualification;

1965 (b) Misdemeanors prohibited under any of the Florida
1966 Statutes cited in this chapter or under similar statutes of
1967 other jurisdictions for which the applicant for the exemption
1968 has completed or been lawfully released from confinement,
1969 supervision, or sanction;

1970 (c) Offenses that were felonies when committed but that are
1971 now misdemeanors and for which the applicant for the exemption
1972 has completed or been lawfully released from confinement,

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1973 supervision, or sanction; or

1974 (d) Findings of delinquency. For offenses that would be
 1975 felonies if committed by an adult and the record has not been
 1976 sealed or expunged, the exemption may not be granted until at
 1977 least 3 years have elapsed since the applicant for the exemption
 1978 has completed or been lawfully released from confinement,
 1979 supervision, or sanction for the disqualifying offense; ~~or~~

1980 ~~(e) Commissions of acts of domestic violence as defined in~~
 1981 ~~s. 741.30.~~

1982
 1983 For the purposes of this subsection, the term "felonies" means
 1984 both felonies prohibited under any of the Florida Statutes cited
 1985 in this chapter or under similar statutes of other
 1986 jurisdictions.

1987 (2) Persons employed, or applicants for employment, by
 1988 treatment providers who treat adolescents 13 years of age and
 1989 older who are disqualified from employment solely because of
 1990 crimes under s. 817.563, s. 893.13, or s. 893.147 may be
 1991 exempted from disqualification from employment pursuant to this
 1992 chapter section without application of the 3-year waiting period
 1993 in paragraph (1) (a).

1994 (3) (a) In order for the head of an agency a licensing
 1995 ~~department~~ to grant an exemption to any employee, the employee
 1996 must demonstrate by clear and convincing evidence that the
 1997 employee should not be disqualified from employment. Employees
 1998 seeking an exemption have the burden of setting forth clear and
 1999 convincing ~~sufficient~~ evidence of rehabilitation, including, but
 2000 not limited to, the circumstances surrounding the criminal
 2001 incident for which an exemption is sought, the time period that

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2002 has elapsed since the incident, the nature of the harm caused to
2003 the victim, and the history of the employee since the incident,
2004 or any other evidence or circumstances indicating that the
2005 employee will not present a danger if employment or continued
2006 employment is allowed.

2007 (b) The agency may consider as part of its deliberations of
2008 the employee's rehabilitation the fact that the employee has,
2009 subsequent to the conviction for the disqualifying offense for
2010 which the exemption is being sought, been arrested for or
2011 convicted of another crime, even if that crime is not a
2012 disqualifying offense.

2013 (c) The decision of the head of an agency ~~licensing~~
2014 department regarding an exemption may be contested through the
2015 hearing procedures set forth in chapter 120. The standard of
2016 review by the administrative law judge is whether the agency's
2017 intended action is an abuse of discretion.

2018 (4) (a) Disqualification from employment under this chapter
2019 subsection (1) may not be removed from, nor may an exemption be
2020 granted to, any personnel who is found guilty of, regardless of
2021 adjudication, or who has entered a plea of nolo contendere or
2022 guilty to, any felony covered by s. 435.03 or s. 435.04 solely
2023 by reason of any pardon, executive clemency, or restoration of
2024 civil rights.

2025 (b) Disqualification from employment under this chapter may
2026 not be removed from, nor may an exemption be granted to, any
2027 person who is a:

- 2028 1. Sexual predator as designated pursuant to s. 775.21;
- 2029 2. Career offender pursuant to s. 775.261; or
- 2030 3. Sexual offender pursuant to s. 943.0435, unless the

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2031 requirement to register as a sexual offender has been removed
2032 pursuant to s. 943.04354.

2033 (5) Exemptions granted by one ~~licensing~~ agency shall be
2034 considered by subsequent ~~licensing~~ agencies, but are not binding
2035 on the subsequent ~~licensing~~ agency.

2036 Section 41. Section 435.08, Florida Statutes, is amended to
2037 read:

2038 435.08 Payment for processing of fingerprints and state
2039 criminal records checks.—Either the employer or the employee is
2040 responsible for paying the costs of screening. Payment shall be
2041 submitted to the ~~Florida~~ Department of Law Enforcement with the
2042 request for screening. The appropriate agency is responsible for
2043 collecting and paying any fee related to fingerprints retained
2044 on its behalf to the Department of Law Enforcement for costs
2045 resulting from the fingerprint information retention services.
2046 The amount of the annual fee and procedures for the submission
2047 and retention of fingerprint information and for the
2048 dissemination of search results shall be established by rule of
2049 the Department of Law Enforcement.

2050 Section 42. Subsection (1) of section 464.203, Florida
2051 Statutes, is amended to read:

2052 464.203 Certified nursing assistants; certification
2053 requirement.—

2054 (1) The board shall issue a certificate to practice as a
2055 certified nursing assistant to any person who demonstrates a
2056 minimum competency to read and write and successfully passes the
2057 required background ~~Level I or Level II~~ screening pursuant to s.
2058 400.215 and meets one of the following requirements:

2059 (a) Has successfully completed an approved training program

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2060 and achieved a minimum score, established by rule of the board,
2061 on the nursing assistant competency examination, which consists
2062 of a written portion and skills-demonstration portion approved
2063 by the board and administered at a site and by personnel
2064 approved by the department.

2065 (b) Has achieved a minimum score, established by rule of
2066 the board, on the nursing assistant competency examination,
2067 which consists of a written portion and skills-demonstration
2068 portion, approved by the board and administered at a site and by
2069 personnel approved by the department and:

- 2070 1. Has a high school diploma, or its equivalent; or
- 2071 2. Is at least 18 years of age.

2072 (c) Is currently certified in another state; is listed on
2073 that state's certified nursing assistant registry; and has not
2074 been found to have committed abuse, neglect, or exploitation in
2075 that state.

2076 (d) Has completed the curriculum developed under the
2077 Enterprise Florida Jobs and Education Partnership Grant and
2078 achieved a minimum score, established by rule of the board, on
2079 the nursing assistant competency examination, which consists of
2080 a written portion and skills-demonstration portion, approved by
2081 the board and administered at a site and by personnel approved
2082 by the department.

2083 Section 43. Subsection (9) of section 489.115, Florida
2084 Statutes, is amended to read:

2085 489.115 Certification and registration; endorsement;
2086 reciprocity; renewals; continuing education.—

2087 (9) An initial applicant shall submit, along with the
2088 application, a complete set of fingerprints to ~~in a form and~~

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2089 ~~manner required by~~ the department. The fingerprints shall be
2090 submitted to the Department of Law Enforcement for state
2091 processing, and the Department of Law Enforcement shall forward
2092 them to the Federal Bureau of Investigation for national
2093 processing for the purpose of determining if the applicant has a
2094 criminal history record ~~conducting a level 2 background check~~
2095 ~~pursuant to s. 435.04~~. The department shall and the board may
2096 review the background results to determine if an applicant meets
2097 licensure requirements. The cost for the fingerprint processing
2098 shall be borne by the person subject to the background
2099 screening. These fees are to be collected by the authorized
2100 agencies or vendors. The authorized agencies or vendors are
2101 responsible for paying the processing costs to the Department of
2102 Law Enforcement.

2103 Section 44. Paragraphs (g) and (h) of subsection (2) of
2104 section 943.05, Florida Statutes, are amended, and subsection
2105 (4) is added to that section, to read:

2106 943.05 Criminal Justice Information Program; duties; crime
2107 reports.—

2108 (2) The program shall:

2109 (g) Upon official written request, and subject to the
2110 department having sufficient funds and equipment to participate
2111 in such a request, from the agency executive director or
2112 secretary, or from his or her designee, or from qualified
2113 entities participating in the volunteer and employee criminal
2114 history screening system under s. 943.0542, or as otherwise
2115 required ~~As authorized~~ by law, retain fingerprints submitted by
2116 criminal and noncriminal justice agencies to the department for
2117 a criminal history background screening in a manner provided by

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2118 rule and enter the fingerprints in the statewide automated
2119 fingerprint identification system authorized by paragraph (b).
2120 Such fingerprints shall thereafter be available for all purposes
2121 and uses authorized for arrest fingerprint submissions ~~cards~~
2122 entered into the statewide automated fingerprint identification
2123 system pursuant to s. 943.051.

2124 (h)~~4~~. For each agency or qualified entity that officially
2125 requests retention of fingerprints or for which retention is
2126 otherwise required ~~As authorized~~ by law, search all arrest
2127 fingerprint submissions ~~cards~~ received under s. 943.051 against
2128 the fingerprints retained in the statewide automated fingerprint
2129 identification system under paragraph (g).

2130 1. Any arrest record that is identified with the retained
2131 fingerprints of a person subject to background screening as
2132 provided in paragraph (g) shall be reported to the appropriate
2133 agency or qualified entity.

2134 2. To ~~Agencies may~~ participate in this search process,
2135 agencies or qualified entities must notify each person
2136 fingerprinted that his or her fingerprints will be retained, pay
2137 by payment of an annual fee to the department, and inform by
2138 ~~informing~~ the department of any change in the affiliation,
2139 employment, or contractual status ~~or place of affiliation,~~
2140 ~~employment, or contracting of~~ each person ~~the persons~~ whose
2141 fingerprints are retained under paragraph (g) when such change
2142 removes or eliminates the agency or qualified entity's basis or
2143 need for receiving reports of any arrest of that person, so that
2144 the agency or qualified entity will not be obligated to pay the
2145 upcoming annual fee for the retention and searching of that
2146 person's fingerprints to the department. The department shall

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2147 adopt a rule setting the amount of the annual fee to be imposed
2148 upon each participating agency or qualified entity for
2149 performing these searches and establishing the procedures for
2150 the retention of fingerprints and the dissemination of search
2151 results. The fee may be borne by the agency, qualified entity,
2152 or person subject to fingerprint retention or as otherwise
2153 provided by law. ~~Fees may be waived or reduced by the executive~~
2154 ~~director for good cause shown.~~ Consistent with the recognition
2155 of criminal justice agencies expressed in s. 943.053(3), these
2156 services will be provided to criminal justice agencies for
2157 criminal justice purposes free of charge.

2158 3. Agencies that participate in the fingerprint retention
2159 and search process may adopt rules pursuant to ss. 120.536(1)
2160 and 120.54 to require employers to keep the agency informed of
2161 any change in the affiliation, employment, or contractual status
2162 of each person whose fingerprints are retained under paragraph
2163 (g) when such change removes or eliminates the agency's basis or
2164 need for receiving reports of any arrest of that person, so that
2165 the agency will not be obligated to pay the upcoming annual fee
2166 for the retention and searching of that person's fingerprints to
2167 the department.

2168 (4) Upon notification that a federal fingerprint retention
2169 program is in effect, and subject to the department being funded
2170 and equipped to participate in such a program, the department
2171 shall, when state and national criminal history records checks
2172 and retention of submitted prints are authorized or required by
2173 law, retain the fingerprints as provided in paragraphs (2)(g)
2174 and (h) and advise the Federal Bureau of Investigation to retain
2175 the fingerprints at the national level for searching against

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2176 arrest fingerprint submissions received at the national level.

2177 Section 45. Subsections (6) and (11) of section 943.053,
2178 Florida Statutes, are amended to read:

2179 943.053 Dissemination of criminal justice information;
2180 fees.—

2181 (6) Notwithstanding any other provision of law, the
2182 department shall provide to the ~~Florida~~ Department of Revenue
2183 ~~Child Support Enforcement~~ access to Florida criminal records
2184 which are not exempt from disclosure under chapter 119, and to
2185 such information as may be lawfully available from other states
2186 via the National Law Enforcement Telecommunications System, for
2187 the purpose of locating subjects who owe or potentially owe
2188 support, as defined in s. 409.2554, or to whom such obligation
2189 is owed pursuant to Title IV-D of the Social Security Act. Such
2190 information may be provided to child support enforcement
2191 authorities in other states for these specific purposes.

2192 (11) A criminal justice agency that is authorized under
2193 federal rules or law to conduct a criminal history background
2194 check on an agency employee who is not certified by the Criminal
2195 Justice Standards and Training Commission under s. 943.12 may
2196 submit to the department the fingerprints of the noncertified
2197 employee to obtain state and national criminal history
2198 information. ~~Effective January 15, 2007,~~ The fingerprints
2199 submitted shall be retained and entered in the statewide
2200 automated fingerprint identification system authorized by s.
2201 943.05 and shall be available for all purposes and uses
2202 authorized for arrest fingerprint submissions ~~cards~~ entered in
2203 the statewide automated fingerprint identification system
2204 pursuant to s. 943.051. The department shall search all arrest

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2205 fingerprint submissions ~~cards~~ received pursuant to s. 943.051
2206 against the fingerprints retained in the statewide automated
2207 fingerprint identification system pursuant to this section. In
2208 addition to all purposes and uses authorized for arrest
2209 fingerprint submissions ~~cards~~ for which submitted fingerprints
2210 may be used, any arrest record that is identified with the
2211 retained employee fingerprints must be reported to the
2212 submitting employing agency.

2213 Section 46. Paragraph (a) of subsection (2) of section
2214 984.01, Florida Statutes, is amended to read:

2215 984.01 Purposes and intent; personnel standards and
2216 screening.—

2217 (2) The Department of Juvenile Justice or the Department of
2218 Children and Family Services, as appropriate, may contract with
2219 the Federal Government, other state departments and agencies,
2220 county and municipal governments and agencies, public and
2221 private agencies, and private individuals and corporations in
2222 carrying out the purposes of, and the responsibilities
2223 established in, this chapter.

2224 (a) When the department ~~of Juvenile Justice or the~~
2225 ~~Department of Children and Family Services~~ contracts with a
2226 provider for any program for children, all personnel, including
2227 owners, operators, employees, and volunteers, in the facility
2228 must be of good moral character. Each contract entered into by
2229 either department for services delivered on an appointment or
2230 intermittent basis by a provider that does not have regular
2231 custodial responsibility for children and each contract with a
2232 school for before or aftercare services must ensure that the
2233 owners, operators, and all personnel who have direct contact

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2234 with children are of good moral character. A volunteer who
2235 assists on an intermittent basis for less than 10 ~~40~~ hours per
2236 month need not be screened, provided a person who meets the
2237 screening requirement of this section is always present and has
2238 the volunteer in his or her line of sight ~~if the volunteer is~~
2239 ~~under direct and constant supervision by persons who meet the~~
2240 ~~screening requirements.~~

2241 Section 47. Section 985.644, Florida Statutes, is amended
2242 to read:

2243 985.644 Departmental contracting powers; personnel
2244 standards and screening.—

2245 (1) ~~The department of Juvenile Justice or the Department of~~
2246 ~~Children and Family Services, as appropriate,~~ may contract with
2247 the Federal Government, other state departments and agencies,
2248 county and municipal governments and agencies, public and
2249 private agencies, and private individuals and corporations in
2250 carrying out the purposes of, and the responsibilities
2251 established in, this chapter.

2252 (a) ~~When the Department of Juvenile Justice or the~~
2253 ~~Department of Children and Family Services contracts with a~~
2254 ~~provider for any program for children, all personnel, including~~
2255 ~~owners, operators, employees, and volunteers, in the facility~~
2256 ~~must be of good moral character.~~ Each contract entered into by
2257 the either department for services delivered on an appointment
2258 or intermittent basis by a provider that does not have regular
2259 custodial responsibility for children and each contract with a
2260 school for before or aftercare services must ensure that all ~~the~~
2261 owners, operators, and ~~all~~ personnel who have direct contact
2262 with children are subject to level 2 background screening

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2263 pursuant to chapter 435 ~~of good moral character.~~

2264 (b) A volunteer who assists the department or any program
2265 for children on an intermittent basis for less than 10 ~~40~~ hours
2266 per month need not be screened, provided a person who meets the
2267 screening requirement of this section is always present and has
2268 the volunteer in his or her line of sight ~~if the volunteer is~~
2269 ~~under direct and constant supervision by persons who meet the~~
2270 ~~screening requirements.~~

2271 ~~(b) The Department of Juvenile Justice and the Department~~
2272 ~~of Children and Family Services shall require employment~~
2273 ~~screening pursuant to chapter 435, using the level 2 standards~~
2274 ~~set forth in that chapter for personnel in programs for children~~
2275 ~~or youths.~~

2276 ~~(c) The Department of Juvenile Justice or the Department of~~
2277 ~~Children and Family Services may grant exemptions from~~
2278 ~~disqualification from working with children as provided in s.~~
2279 ~~435.07.~~

2280 ~~(2) The department may contract with the Federal~~
2281 ~~Government, other state departments and agencies, county and~~
2282 ~~municipal governments and agencies, public and private agencies,~~
2283 ~~and private individuals and corporations in carrying out the~~
2284 ~~purposes and the responsibilities of the delinquency services~~
2285 ~~and programs of the department.~~

2286 (2) ~~(3)~~ The department shall adopt a rule pursuant to
2287 chapter 120 establishing a procedure to provide notice of policy
2288 changes that affect contracted delinquency services and
2289 programs. A policy is defined as an operational requirement that
2290 applies to only the specified contracted delinquency service or
2291 program. The procedure shall include:

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2292 (a) Public notice of policy development.

2293 (b) Opportunity for public comment on the proposed policy.

2294 (c) Assessment for fiscal impact upon the department and
2295 providers.

2296 (d) The department's response to comments received.

2297 ~~(4) When the department contracts with a provider for any~~
2298 ~~delinquency service or program, all personnel, including all~~
2299 ~~owners, operators, employees, and volunteers in the facility or~~
2300 ~~providing the service or program shall be of good moral~~
2301 ~~character. A volunteer who assists on an intermittent basis for~~
2302 ~~less than 40 hours per month is not required to be screened if~~
2303 ~~the volunteer is under direct and constant supervision by~~
2304 ~~persons who meet the screening requirements.~~

2305 (3)-(5)(a) All employees of the department and all personnel
2306 of contract providers for any program for children, including
2307 all owners, operators, employees, persons who have access to
2308 confidential juvenile records, and volunteers, must complete For
2309 any person employed by the department, or by a provider under
2310 contract with the department, in delinquency facilities,
2311 services, or programs, the department shall require:

2312 1. A level 2 employment screening pursuant to chapter 435
2313 prior to employment. The security background investigations
2314 conducted under this section must ensure that, in addition to
2315 the disqualifying offenses listed in s. 435.04, no person
2316 subject to the background screening provisions of this section
2317 has been found guilty of, regardless of adjudication, or entered
2318 a plea of nolo contendere or guilty to, any offense prohibited
2319 under any of the following provisions of the Florida Statutes or
2320 under any similar statute of another jurisdiction:

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2321 a. Section 784.07, relating to assault or battery of law
2322 enforcement officers, firefighters, emergency medical care
2323 providers, public transit employees or agents, or other
2324 specified officers.

2325 b. Section 817.568, relating to criminal use of personal
2326 identification information.

2327 2. A national ~~federal~~ criminal records check by the Federal
2328 Bureau of Investigation every 5 years following the date of the
2329 person's employment.

2330 (b) Except for law enforcement, correctional, and
2331 correctional probation officers, to whom s. 943.13(5) applies,
2332 the department shall electronically submit to the Department of
2333 Law Enforcement:

2334 1. Fingerprint information obtained during the employment
2335 screening required by subparagraph (a)1.

2336 2. ~~Beginning on December 15, 2005,~~ Fingerprint information
2337 for all persons employed by the department, or by a provider
2338 under contract with the department, in delinquency facilities,
2339 services, or programs if such fingerprint information has not
2340 previously been electronically submitted to the Department of
2341 Law Enforcement under this paragraph.

2342 (c) All fingerprint information electronically submitted to
2343 the Department of Law Enforcement under paragraph (b) shall be
2344 retained by the Department of Law Enforcement and entered into
2345 the statewide automated fingerprint identification system
2346 authorized by s. 943.05(2)(b). Thereafter, such fingerprint
2347 information shall be available for all purposes and uses
2348 authorized for arrest fingerprint information entered into the
2349 statewide automated fingerprint identification system pursuant

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2350 to s. 943.051 until the fingerprint information is removed
2351 pursuant to paragraph (e). The Department of Law Enforcement
2352 shall search all arrest fingerprint information received
2353 pursuant to s. 943.051 against the fingerprint information
2354 entered into the statewide automated fingerprint system pursuant
2355 to this subsection. Any arrest records identified as a result of
2356 the search shall be reported to the department in the manner and
2357 timeframe established by the Department of Law Enforcement by
2358 rule.

2359 (d) The department shall pay an annual fee to the
2360 Department of Law Enforcement for its costs resulting from the
2361 fingerprint information retention services required by this
2362 subsection. The amount of the annual fee and procedures for the
2363 submission and retention of fingerprint information and for the
2364 dissemination of search results shall be established by the
2365 Department of Law Enforcement by a rule that is applicable to
2366 the department individually pursuant to this subsection or that
2367 is applicable to the department and other employing agencies
2368 pursuant to rulemaking authority otherwise provided by law.

2369 (e) The department shall notify the Department of Law
2370 Enforcement when a person whose fingerprint information is
2371 retained by the Department of Law Enforcement under this
2372 subsection is no longer employed by the department, or by a
2373 provider under contract with the department, in a delinquency
2374 facility, service, or program. This notice shall be provided by
2375 the department to the Department of Law Enforcement no later
2376 than 6 months after the date of the change in the person's
2377 employment status. Fingerprint information for persons
2378 identified by the department in the notice shall be removed from

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2379 the statewide automated fingerprint system.

2380 (6) The department may grant exemptions from
2381 disqualification from working with children as provided in s.
2382 435.07.

2383 (7) The department may adopt rules pursuant to ss.
2384 120.536(1) and 120.54 to describe the procedure and requirements
2385 necessary to implement the employment screening and fingerprint
2386 retention services for all employees of the department and all
2387 personnel of contract providers for any program for children,
2388 including all owners, operators, employees, and volunteers,
2389 including the collection of associated fees.

2390 Section 48. Paragraph (a) of subsection (1) of section
2391 381.60225, Florida Statutes, is amended to read:

2392 381.60225 Background screening.—

2393 (1) Each applicant for certification must comply with the
2394 following requirements:

2395 (a) Upon receipt of a completed, signed, and dated
2396 application, the Agency for Health Care Administration shall
2397 require background screening, in accordance with the level 2
2398 standards for screening set forth in chapter 435, of the
2399 managing employee, or other similarly titled individual
2400 responsible for the daily operation of the organization, agency,
2401 or entity, and financial officer, or other similarly titled
2402 individual who is responsible for the financial operation of the
2403 organization, agency, or entity, including billings for
2404 services. The applicant must comply with the procedures for
2405 level 2 background screening as set forth in chapter 435, ~~as~~
2406 ~~well as the requirements of s. 435.03(3).~~

2407 Section 49. Subsection (32) of section 409.912, Florida

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2408 Statutes, is amended to read:

2409 409.912 Cost-effective purchasing of health care.—The
2410 agency shall purchase goods and services for Medicaid recipients
2411 in the most cost-effective manner consistent with the delivery
2412 of quality medical care. To ensure that medical services are
2413 effectively utilized, the agency may, in any case, require a
2414 confirmation or second physician's opinion of the correct
2415 diagnosis for purposes of authorizing future services under the
2416 Medicaid program. This section does not restrict access to
2417 emergency services or poststabilization care services as defined
2418 in 42 C.F.R. part 438.114. Such confirmation or second opinion
2419 shall be rendered in a manner approved by the agency. The agency
2420 shall maximize the use of prepaid per capita and prepaid
2421 aggregate fixed-sum basis services when appropriate and other
2422 alternative service delivery and reimbursement methodologies,
2423 including competitive bidding pursuant to s. 287.057, designed
2424 to facilitate the cost-effective purchase of a case-managed
2425 continuum of care. The agency shall also require providers to
2426 minimize the exposure of recipients to the need for acute
2427 inpatient, custodial, and other institutional care and the
2428 inappropriate or unnecessary use of high-cost services. The
2429 agency shall contract with a vendor to monitor and evaluate the
2430 clinical practice patterns of providers in order to identify
2431 trends that are outside the normal practice patterns of a
2432 provider's professional peers or the national guidelines of a
2433 provider's professional association. The vendor must be able to
2434 provide information and counseling to a provider whose practice
2435 patterns are outside the norms, in consultation with the agency,
2436 to improve patient care and reduce inappropriate utilization.

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2437 The agency may mandate prior authorization, drug therapy
2438 management, or disease management participation for certain
2439 populations of Medicaid beneficiaries, certain drug classes, or
2440 particular drugs to prevent fraud, abuse, overuse, and possible
2441 dangerous drug interactions. The Pharmaceutical and Therapeutics
2442 Committee shall make recommendations to the agency on drugs for
2443 which prior authorization is required. The agency shall inform
2444 the Pharmaceutical and Therapeutics Committee of its decisions
2445 regarding drugs subject to prior authorization. The agency is
2446 authorized to limit the entities it contracts with or enrolls as
2447 Medicaid providers by developing a provider network through
2448 provider credentialing. The agency may competitively bid single-
2449 source-provider contracts if procurement of goods or services
2450 results in demonstrated cost savings to the state without
2451 limiting access to care. The agency may limit its network based
2452 on the assessment of beneficiary access to care, provider
2453 availability, provider quality standards, time and distance
2454 standards for access to care, the cultural competence of the
2455 provider network, demographic characteristics of Medicaid
2456 beneficiaries, practice and provider-to-beneficiary standards,
2457 appointment wait times, beneficiary use of services, provider
2458 turnover, provider profiling, provider licensure history,
2459 previous program integrity investigations and findings, peer
2460 review, provider Medicaid policy and billing compliance records,
2461 clinical and medical record audits, and other factors. Providers
2462 shall not be entitled to enrollment in the Medicaid provider
2463 network. The agency shall determine instances in which allowing
2464 Medicaid beneficiaries to purchase durable medical equipment and
2465 other goods is less expensive to the Medicaid program than long-

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2466 term rental of the equipment or goods. The agency may establish
2467 rules to facilitate purchases in lieu of long-term rentals in
2468 order to protect against fraud and abuse in the Medicaid program
2469 as defined in s. 409.913. The agency may seek federal waivers
2470 necessary to administer these policies.

2471 (32) Each managed care plan that is under contract with the
2472 agency to provide health care services to Medicaid recipients
2473 shall annually conduct a background check with the Florida
2474 Department of Law Enforcement of all persons with ownership
2475 interest of 5 percent or more or executive management
2476 responsibility for the managed care plan and shall submit to the
2477 agency information concerning any such person who has been found
2478 guilty of, regardless of adjudication, or has entered a plea of
2479 nolo contendere or guilty to, any of the offenses listed in s.
2480 435.04 ~~435.03~~.

2481 Section 50. Paragraph (e) of subsection (1) of section
2482 464.018, Florida Statutes, is amended to read:

2483 464.018 Disciplinary actions.—

2484 (1) The following acts constitute grounds for denial of a
2485 license or disciplinary action, as specified in s. 456.072(2):

2486 (e) Having been found guilty of, regardless of
2487 adjudication, or entered a plea of nolo contendere or guilty to,
2488 any offense prohibited under s. 435.04 ~~435.03~~ or under any
2489 similar statute of another jurisdiction; or having committed an
2490 act which constitutes domestic violence as defined in s. 741.28.

2491 Section 51. Paragraph (m) of subsection (1) of section
2492 468.3101, Florida Statutes, is amended to read:

2493 468.3101 Disciplinary grounds and actions.—

2494 (1) The department may make or require to be made any

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2495 investigations, inspections, evaluations, and tests, and require
2496 the submission of any documents and statements, which it
2497 considers necessary to determine whether a violation of this
2498 part has occurred. The following acts shall be grounds for
2499 disciplinary action as set forth in this section:

2500 (m) Having been found guilty of, regardless of
2501 adjudication, or pleading guilty or nolo contendere to, any
2502 offense prohibited under s. 435.04 ~~435.03~~ or under any similar
2503 statute of another jurisdiction.

2504 Section 52. Subsection (3) of section 744.309, Florida
2505 Statutes, is amended to read:

2506 744.309 Who may be appointed guardian of a resident ward.—

2507 (3) DISQUALIFIED PERSONS.—No person who has been convicted
2508 of a felony or who, from any incapacity or illness, is incapable
2509 of discharging the duties of a guardian, or who is otherwise
2510 unsuitable to perform the duties of a guardian, shall be
2511 appointed to act as guardian. Further, no person who has been
2512 judicially determined to have committed abuse, abandonment, or
2513 neglect against a child as defined in s. 39.01 or s. 984.03(1),
2514 (2), and (37), or who has been found guilty of, regardless of
2515 adjudication, or entered a plea of nolo contendere or guilty to,
2516 any offense prohibited under s. 435.04 ~~435.03~~ or under any
2517 similar statute of another jurisdiction, shall be appointed to
2518 act as a guardian. Except as provided in subsection (5) or
2519 subsection (6), a person who provides substantial services to
2520 the proposed ward in a professional or business capacity, or a
2521 creditor of the proposed ward, may not be appointed guardian and
2522 retain that previous professional or business relationship. A
2523 person may not be appointed a guardian if he or she is in the

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2524 employ of any person, agency, government, or corporation that
2525 provides service to the proposed ward in a professional or
2526 business capacity, except that a person so employed may be
2527 appointed if he or she is the spouse, adult child, parent, or
2528 sibling of the proposed ward or the court determines that the
2529 potential conflict of interest is insubstantial and that the
2530 appointment would clearly be in the proposed ward's best
2531 interest. The court may not appoint a guardian in any other
2532 circumstance in which a conflict of interest may occur.

2533 Section 53. Subsection (12) of section 744.474, Florida
2534 Statutes, is amended to read:

2535 744.474 Reasons for removal of guardian.—A guardian may be
2536 removed for any of the following reasons, and the removal shall
2537 be in addition to any other penalties prescribed by law:

2538 (12) Having been found guilty of, regardless of
2539 adjudication, or entered a plea of nolo contendere or guilty to,
2540 any offense prohibited under s. 435.04 ~~435.03~~ or under any
2541 similar statute of another jurisdiction.

2542 Section 54. Paragraph (a) of subsection (6) of section
2543 985.04, Florida Statutes, is amended to read:

2544 985.04 Oaths; records; confidential information.—

2545 (6) (a) Records maintained by the department, including
2546 copies of records maintained by the court, which pertain to a
2547 child found to have committed a delinquent act which, if
2548 committed by an adult, would be a crime specified in s. 99.
2549 ~~435.03~~ and 435.04 may not be destroyed under this section for a
2550 period of 25 years after the youth's final referral to the
2551 department, except in cases of the death of the child. Such
2552 records, however, shall be sealed by the court for use only in

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2553 meeting the screening requirements for personnel in s. 402.3055
2554 and the other sections cited above, or under departmental rule;
2555 however, current criminal history information must be obtained
2556 from the Department of Law Enforcement in accordance with s.
2557 943.053. The information shall be released to those persons
2558 specified in the above cited sections for the purposes of
2559 complying with those sections. The court may punish by contempt
2560 any person who releases or uses the records for any unauthorized
2561 purpose.

2562 Section 55. Section 409.1758, Florida Statutes, is
2563 repealed.

2564 Section 56. Paragraph (d) of subsection (4) of section
2565 456.039, Florida Statutes, is repealed.

2566 Section 57. The changes made by this act are intended to be
2567 prospective in nature. It is not intended that persons who are
2568 employed or licensed on the effective date of this act be
2569 rescreened until such time as they are otherwise required to be
2570 rescreened pursuant to law, at which time they must meet the
2571 requirements for screening as set forth in this act.

2572 Section 58. This act shall take effect August 1, 2010.