

1 A bill to be entitled

2 An act relating to background screening; amending s.
3 322.142, F.S.; allowing the Department of Highway
4 Safety and Motor Vehicles to share driver license
5 photographs with the Agency for Health Care
6 Administration pursuant to an interagency agreement;
7 amending s. 408.809, F.S.; adding additional
8 disqualifying offenses to background screening
9 provisions; amending s. 435.04, F.S.; revising
10 information to be submitted for a background
11 screening; adding additional disqualifying offenses;
12 amending s. 435.07, F.S.; revising terminology;
13 requiring that individuals seeking an exemption from
14 disqualification must have completed all nonmonetary
15 conditions imposed by the court for the disqualifying
16 felony; requiring that all persons seeking an
17 exemption from disqualification have paid any court-
18 ordered monetary penalty in full before being eligible
19 to apply; amending s. 435.12, F.S.; requiring that a
20 photograph of the person taken at the time the
21 fingerprints are processed be submitted to the Care
22 Provider Background Screening Clearinghouse before
23 submission of the electronic fingerprints; requiring
24 specified information to be included with the
25 initiation of the screening registration within the
26 clearinghouse; providing an effective date.

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

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Section 1. Subsection (4) of section 322.142, Florida Statutes, is amended to read:

322.142 Color photographic or digital imaged licenses.—

(4) The department may maintain a film negative or print file. The department shall maintain a record of the digital image and signature of the licensees, together with other data required by the department for identification and retrieval. Reproductions from the file or digital record are exempt from the provisions of s. 119.07(1) and shall be made and issued only for departmental administrative purposes; for the issuance of duplicate licenses; in response to law enforcement agency requests; to the Department of Business and Professional Regulation pursuant to an interagency agreement for the purpose of accessing digital images for reproduction of licenses issued by the Department of Business and Professional Regulation; to the Department of State pursuant to an interagency agreement to facilitate determinations of eligibility of voter registration applicants and registered voters in accordance with ss. 98.045 and 98.075; to the Department of Revenue pursuant to an interagency agreement for use in establishing paternity and establishing, modifying, or enforcing support obligations in Title IV-D cases; to the Department of Children and Family Services pursuant to an interagency agreement to conduct protective investigations under part III of chapter 39 and chapter 415; to the Department of Children and Family Services pursuant to an interagency agreement specifying the number of employees in each of that department's regions to be granted

57 | access to the records for use as verification of identity to
58 | expedite the determination of eligibility for public assistance
59 | and for use in public assistance fraud investigations; to the
60 | Agency for Health Care Administration pursuant to an interagency
61 | agreement for the purpose of verifying photographs in the Care
62 | Provider Background Screening Clearinghouse authorized in s.
63 | 435.12; to the Department of Financial Services pursuant to an
64 | interagency agreement to facilitate the location of owners of
65 | unclaimed property, the validation of unclaimed property claims,
66 | and the identification of fraudulent or false claims; or to
67 | district medical examiners pursuant to an interagency agreement
68 | for the purpose of identifying a deceased individual,
69 | determining cause of death, and notifying next of kin of any
70 | investigations, including autopsies and other laboratory
71 | examinations, authorized in s. 406.011.

72 | Section 2. Paragraphs (h) through (q) of subsection (4) of
73 | section 408.809, Florida Statutes, are redesignated as
74 | paragraphs (j) through (s), respectively, and new paragraphs
75 | (h), (i), (t), and (u) are added to that subsection to read:

76 | 408.809 Background screening; prohibited offenses.—

77 | (4) In addition to the offenses listed in s. 435.04, all
78 | persons required to undergo background screening pursuant to
79 | this part or authorizing statutes must not have an arrest
80 | awaiting final disposition for, must not have been found guilty
81 | of, regardless of adjudication, or entered a plea of nolo
82 | contendere or guilty to, and must not have been adjudicated
83 | delinquent and the record not have been sealed or expunged for
84 | any of the following offenses or any similar offense of another

85 jurisdiction:

86 (h) Section 817.481, relating to obtaining goods by using
 87 false, expired, etc., credit cards, if the offense was a felony.

88 (i) Section 817.50, relating to fraudulently obtaining
 89 goods, services, etc., from a health care provider.

90 (t) Section 895.03, relating to racketeering and illegal
 91 debts.

92 (u) Section 896.101, relating to the Florida Money
 93 Laundering Act.

94 Section 3. Paragraphs (d) through (yy) of subsection (2)
 95 of section 435.04, Florida Statutes, are redesignated as
 96 paragraphs (e) through (zz), respectively, paragraph (e) of
 97 subsection (1) of that section is amended, and a new paragraph
 98 (d) is added to subsection (2) of that section, to read:

99 435.04 Level 2 screening standards.—

100 (1)

101 (e) Vendors who submit fingerprints on behalf of employers
 102 must:

103 1. Meet the requirements of s. 943.053; and

104 2. Have the ability to communicate electronically with the
 105 state agency accepting screening results from the Department of
 106 Law Enforcement and provide the first, middle, and last name;
 107 social security number; date of birth; mailing address; sex; and
 108 race of the applicant ~~a photograph of the applicant taken at the~~
 109 ~~time the fingerprints are submitted.~~

110 (2) The security background investigations under this
 111 section must ensure that no persons subject to the provisions of
 112 this section have been arrested for and are awaiting final

113 disposition of, have been found guilty of, regardless of
114 adjudication, or entered a plea of nolo contendere or guilty to,
115 or have been adjudicated delinquent and the record has not been
116 sealed or expunged for, any offense prohibited under any of the
117 following provisions of state law or similar law of another
118 jurisdiction:

119 (d) Section 777.04, relating to attempts, solicitation,
120 and conspiracy to commit an offense.

121 Section 4. Subsections (1) and (2) of section 435.07,
122 Florida Statutes, are amended to read:

123 435.07 Exemptions from disqualification.—Unless otherwise
124 provided by law, the provisions of this section apply to
125 exemptions from disqualification for disqualifying offenses
126 revealed pursuant to background screenings required under this
127 chapter, regardless of whether those disqualifying offenses are
128 listed in this chapter or other laws.

129 (1) (a) The head of the appropriate agency may grant to any
130 employee otherwise disqualified from employment an exemption
131 from disqualification for:

132 1.-(a) Felonies for which at least 3 years have elapsed
133 since the applicant for the exemption has completed or been
134 lawfully released from confinement, supervision, or nonmonetary
135 condition imposed by the court ~~sanction~~ for the disqualifying
136 felony;

137 2.-(b) Misdemeanors prohibited under any of the statutes
138 cited in this chapter or under similar statutes of other
139 jurisdictions for which the applicant for the exemption has
140 completed or been lawfully released from confinement,

141 supervision, or nonmonetary condition imposed by the court
142 ~~sanction~~;

143 ~~3.(e)~~ Offenses that were felonies when committed but that
144 are now misdemeanors and for which the applicant for the
145 exemption has completed or been lawfully released from
146 confinement, supervision, or nonmonetary condition imposed by
147 the court ~~sanction~~; or

148 ~~4.(d)~~ Findings of delinquency. For offenses that would be
149 felonies if committed by an adult and the record has not been
150 sealed or expunged, the exemption may not be granted until at
151 least 3 years have elapsed since the applicant for the exemption
152 has completed or been lawfully released from confinement,
153 supervision, or nonmonetary condition imposed by the court
154 ~~sanction~~ for the disqualifying offense.

155 (b) A person who wishes to apply for an exemption who was
156 ordered to pay any amount for any fee, fine, fund, lien, civil
157 judgment, application, costs of prosecution, trust, or
158 restitution as part of the judgment and sentence for any
159 disqualifying felony or misdemeanor must have paid the court-
160 ordered amount in full before being eligible for an exemption;

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162 For the purposes of this subsection, the term "felonies" means
163 both felonies prohibited under any of the statutes cited in this
164 chapter or under similar statutes of other jurisdictions.

165 (2) Persons employed, or applicants for employment, by
166 treatment providers who treat adolescents 13 years of age and
167 older who are disqualified from employment solely because of
168 crimes under s. 817.563, s. 893.13, or s. 893.147 may be

169 | exempted from disqualification from employment pursuant to this
170 | chapter without application of the waiting period in
171 | subparagraph (1) (a) 1. paragraph ~~(1) (a)~~.

172 | Section 5. Subsection (2) of section 435.12, Florida
173 | Statutes, is amended to read:

174 | 435.12 Care Provider Background Screening Clearinghouse.—

175 | (2) (a) To ensure that the information in the clearinghouse
176 | is current, the fingerprints of an employee required to be
177 | screened by a specified agency and included in the clearinghouse
178 | must be:

179 | 1. Retained by the Department of Law Enforcement pursuant
180 | to s. 943.05(2) (g) and (h) and (3), and the Department of Law
181 | Enforcement must report the results of searching those
182 | fingerprints against state incoming arrest fingerprint
183 | submissions to the Agency for Health Care Administration for
184 | inclusion in the clearinghouse.

185 | 2. Resubmitted for a Federal Bureau of Investigation
186 | national criminal history check every 5 years until such time as
187 | the fingerprints are retained by the Federal Bureau of
188 | Investigation.

189 | 3. Subject to retention on a 5-year renewal basis with
190 | fees collected at the time of initial submission or resubmission
191 | of fingerprints.

192 | 4. Submitted with a photograph of the person taken at the
193 | time the fingerprints are submitted.

194 | (b) Until such time as the fingerprints are retained at
195 | the Federal Bureau of Investigation, an employee with a break in
196 | service of more than 90 days from a position that requires

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197 screening by a specified agency must submit to a national
198 screening if the person returns to a position that requires
199 screening by a specified agency.

200 (c) An employer of persons subject to screening by a
201 specified agency must register with the clearinghouse and
202 maintain the employment status of all employees within the
203 clearinghouse. Initial employment status and any changes in
204 status must be reported within 10 business days.

205 (d) An employer must register and initiate all criminal
206 history checks through the clearinghouse before referring an
207 employee or potential employee for electronic fingerprint
208 submission to the Department of Law Enforcement. The
209 registration must include the employee's full name (first,
210 middle, last), social security number, date of birth, mailing
211 address, sex, and race.

212 Section 6. This act shall take effect July 1, 2013.