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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2013	.	
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	.	

The Committee on Health Policy (Garcia) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

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



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13 the provisions of s. 119.07(1) and shall be made and issued only
14 for departmental administrative purposes; for the issuance of
15 duplicate licenses; in response to law enforcement agency
16 requests; to the Department of Business and Professional
17 Regulation pursuant to an interagency agreement for the purpose
18 of accessing digital images for reproduction of licenses issued
19 by the Department of Business and Professional Regulation; to
20 the Department of State pursuant to an interagency agreement to
21 facilitate determinations of eligibility of voter registration
22 applicants and registered voters in accordance with ss. 98.045
23 and 98.075; to the Department of Revenue pursuant to an
24 interagency agreement for use in establishing paternity and
25 establishing, modifying, or enforcing support obligations in
26 Title IV-D cases; to the Department of Children and Family
27 Services pursuant to an interagency agreement to conduct
28 protective investigations under part III of chapter 39 and
29 chapter 415; to the Department of Children and Family Services
30 pursuant to an interagency agreement specifying the number of
31 employees in each of that department's regions to be granted
32 access to the records for use as verification of identity to
33 expedite the determination of eligibility for public assistance
34 and for use in public assistance fraud investigations; to the
35 Agency for Health Care Administration pursuant to an interagency
36 agreement for the purpose of verifying photographs in the Care
37 Provider Background Screening Clearinghouse authorized in s.
38 435.12; to the Department of Financial Services pursuant to an
39 interagency agreement to facilitate the location of owners of
40 unclaimed property, the validation of unclaimed property claims,
41 and the identification of fraudulent or false claims; or to



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42 district medical examiners pursuant to an interagency agreement
43 for the purpose of identifying a deceased individual,
44 determining cause of death, and notifying next of kin of any
45 investigations, including autopsies and other laboratory
46 examinations, authorized in s. 406.011.

47 Section 2. Subsection (4) of section 408.809, Florida
48 Statutes, is amended to read:

49 408.809 Background screening; prohibited offenses.—

50 (4) In addition to the offenses listed in s. 435.04, all
51 persons required to undergo background screening pursuant to
52 this part or authorizing statutes must not have an arrest
53 awaiting final disposition for, must not have been found guilty
54 of, regardless of adjudication, or entered a plea of nolo
55 contendere or guilty to, and must not have been adjudicated
56 delinquent and the record not have been sealed or expunged for
57 any of the following offenses or any similar offense of another
58 jurisdiction:

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

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

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

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

63 (e) Section 741.28, relating to domestic violence.

64 (f) Section 777.04, relating to attempts, solicitation, and
65 conspiracy to commit an offense listed in this subsection.

66 (g) ~~(f)~~ Section 817.034, relating to fraudulent acts through
67 mail, wire, radio, electromagnetic, photoelectronic, or
68 photooptical systems.

69 (h) ~~(g)~~ Section 817.234, relating to false and fraudulent
70 insurance claims.



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71 (i) Section 817.481, relating to obtaining goods by using
72 false, expired, etc., credit cards, if the offense was a felony.

73 (j) Section 817.50, relating to fraudulently obtaining
74 goods, services, etc., from a health care provider.

75 (k)~~(h)~~ Section 817.505, relating to patient brokering.

76 (l)~~(i)~~ Section 817.568, relating to criminal use of
77 personal identification information.

78 (m)~~(j)~~ Section 817.60, relating to obtaining a credit card
79 through fraudulent means.

80 (n)~~(k)~~ Section 817.61, relating to fraudulent use of credit
81 cards, if the offense was a felony.

82 (o)~~(l)~~ Section 831.01, relating to forgery.

83 (p)~~(m)~~ Section 831.02, relating to uttering forged
84 instruments.

85 (q)~~(n)~~ Section 831.07, relating to forging bank bills,
86 checks, drafts, or promissory notes.

87 (r)~~(o)~~ Section 831.09, relating to uttering forged bank
88 bills, checks, drafts, or promissory notes.

89 (s)~~(p)~~ Section 831.30, relating to fraud in obtaining
90 medicinal drugs.

91 (t)~~(q)~~ Section 831.31, relating to the sale, manufacture,
92 delivery, or possession with the intent to sell, manufacture, or
93 deliver any counterfeit controlled substance, if the offense was
94 a felony.

95 (u) Section 895.03, relating to racketeering and illegal
96 debts.

97 (v) Section 896.101, relating to the Florida Money
98 Laundering Act.

99 Section 3. Paragraphs (d) through (yy) of subsection (2) of



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100 section 435.04, Florida Statutes, are redesignated as paragraphs
101 (e) through (zz), respectively, paragraph (e) of subsection (1)
102 of that section is amended, and a new paragraph (d) is added to
103 subsection (2) of that section, to read:

104 435.04 Level 2 screening standards.—

105 (1)

106 (e) Vendors who submit fingerprints on behalf of employers
107 must:

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

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

115 (2) The security background investigations under this
116 section must ensure that no persons subject to the provisions of
117 this section have been arrested for and are awaiting final
118 disposition of, have been found guilty of, regardless of
119 adjudication, or entered a plea of nolo contendere or guilty to,
120 or have been adjudicated delinquent and the record has not been
121 sealed or expunged for, any offense prohibited under any of the
122 following provisions of state law or similar law of another
123 jurisdiction:

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

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

128 435.07 Exemptions from disqualification.—Unless otherwise



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129 provided by law, the provisions of this section apply to
130 exemptions from disqualification for disqualifying offenses
131 revealed pursuant to background screenings required under this
132 chapter, regardless of whether those disqualifying offenses are
133 listed in this chapter or other laws.

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

137 1. ~~(a)~~ Felonies for which at least 3 years have elapsed
138 since the applicant for the exemption has completed or been
139 lawfully released from confinement, supervision, or nonmonetary
140 condition imposed by the court ~~sanction~~ for the disqualifying
141 felony;

142 2. ~~(b)~~ Misdemeanors prohibited under any of the statutes
143 cited in this chapter or under similar statutes of other
144 jurisdictions for which the applicant for the exemption has
145 completed or been lawfully released from confinement,
146 supervision, or nonmonetary condition imposed by the court
147 ~~sanction~~;

148 3. ~~(c)~~ Offenses that were felonies when committed but that
149 are now misdemeanors and for which the applicant for the
150 exemption has completed or been lawfully released from
151 confinement, supervision, or nonmonetary condition imposed by
152 the court ~~sanction~~; or

153 4. ~~(d)~~ Findings of delinquency. For offenses that would be
154 felonies if committed by an adult and the record has not been
155 sealed or expunged, the exemption may not be granted until at
156 least 3 years have elapsed since the applicant for the exemption
157 has completed or been lawfully released from confinement,



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158 supervision, or nonmonetary condition imposed by the court
159 ~~sanction~~ for the disqualifying offense.

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

166
167 For the purposes of this subsection, the term "felonies" means
168 both felonies prohibited under any of the statutes cited in this
169 chapter or under similar statutes of other jurisdictions.

170 (2) Persons employed, or applicants for employment, by
171 treatment providers who treat adolescents 13 years of age and
172 older who are disqualified from employment solely because of
173 crimes under s. 817.563, s. 893.13, or s. 893.147 may be
174 exempted from disqualification from employment pursuant to this
175 chapter without application of the waiting period in
176 subparagraph (1)(a)1 paragraph (1)(a).

177 Section 5. Subsection (2) of section 435.12, Florida
178 Statutes, is amended to read:

179 435.12 Care Provider Background Screening Clearinghouse.—

180 (2) (a) To ensure that the information in the clearinghouse
181 is current, the fingerprints of an employee required to be
182 screened by a specified agency and included in the clearinghouse
183 must be:

184 1. Retained by the Department of Law Enforcement pursuant
185 to s. 943.05(2)(g) and (h) and (3), and the Department of Law
186 Enforcement must report the results of searching those



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187 fingerprints against state incoming arrest fingerprint
188 submissions to the Agency for Health Care Administration for
189 inclusion in the clearinghouse.

190 2. Resubmitted for a Federal Bureau of Investigation
191 national criminal history check every 5 years until such time as
192 the fingerprints are retained by the Federal Bureau of
193 Investigation.

194 3. Subject to retention on a 5-year renewal basis with fees
195 collected at the time of initial submission or resubmission of
196 fingerprints.

197 4. Submitted with a photograph of the person taken at the
198 time the fingerprints are submitted.

199 (b) Until such time as the fingerprints are retained at the
200 Federal Bureau of Investigation, an employee with a break in
201 service of more than 90 days from a position that requires
202 screening by a specified agency must submit to a national
203 screening if the person returns to a position that requires
204 screening by a specified agency.

205 (c) An employer of persons subject to screening by a
206 specified agency must register with the clearinghouse and
207 maintain the employment status of all employees within the
208 clearinghouse. Initial employment status and any changes in
209 status must be reported within 10 business days.

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



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216 address, sex, and race.

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

218

219 ===== T I T L E A M E N D M E N T =====

220 And the title is amended as follows:

221 Delete everything before the enacting clause

222 and insert:

223 A bill to be entitled

224 An act relating to background screening; amending s.

225 322.142, F.S.; allowing the Department of Highway

226 Safety and Motor Vehicles to share driver license

227 photographs with the Agency for Health Care

228 Administration pursuant to an interagency agreement;

229 amending s. 408.809, F.S.; adding additional

230 disqualifying offenses to background screening

231 provisions; amending s. 435.04, F.S.; revising

232 information to be submitted for a background

233 screening; adding additional disqualifying offenses;

234 amending s. 435.07, F.S.; revising terminology;

235 requiring that individuals seeking an exemption from

236 disqualification must have completed all nonmonetary

237 conditions imposed by the court for the disqualifying

238 felony; requiring that all persons seeking an

239 exemption from disqualification have paid any court-

240 ordered monetary penalty in full before being eligible

241 to apply; amending s. 435.12, F.S.; requiring that a

242 photograph of the person taken at the time the

243 fingerprints are processed be submitted to the Care

244 Provider Background Screening Clearinghouse before



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245 submission of the electronic fingerprints; requiring
246 specified information to be included with the
247 initiation of the screening registration within the
248 clearinghouse; providing an effective date.