

By the Committee on Health Care and Senators Brown-Waite,  
Latvala, Bronson, McKay and Grant

317-677B-98

1                                   A bill to be entitled

2           An act relating to nursing home facilities;

3           amending s. 400.121, F.S.; providing for an

4           expedited administrative hearing upon the

5           request of a licensee following an action by

6           the Agency for Health Care Administration to

7           suspend, deny, or revoke a facility's license;

8           creating s. 400.215, F.S.; requiring certain

9           nursing home facilities to investigate the

10          background of their employees and of certain

11          applicants for employment; providing for

12          rescreening; specifying the period for which

13          screenings are to remain valid, subject to

14          certain conditions; authorizing nursing home

15          facility administrators to acknowledge the

16          receipt of background screening reports;

17          requiring employees and applicants to pay the

18          costs associated with background screening

19          investigations; requiring the Department of

20          Health and the Agency for Health Care

21          Administration to determine certain exemptions

22          from disqualification from employment;

23          authorizing rulemaking; providing for

24          applicability; providing an effective date.

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

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28           Section 1. Subsection (5) is added to section 400.121,  
29 Florida Statutes, to read:

30           400.121 Denial, suspension, revocation of license;  
31 moratorium on admissions; administrative fines; procedure.--

1           (5) An action taken by the agency to suspend, deny, or  
2 revoke a facility's license under this part, in which the  
3 agency claims that the facility owner or an employee of the  
4 facility has threatened the health, safety, or welfare of a  
5 resident of the facility, shall be heard by the Division of  
6 Administrative Hearings of the Department of Management  
7 Services within 120 days after receipt of the facility's  
8 request for a hearing, unless the time limitation is waived by  
9 both parties. The administrative law judge must render a  
10 decision within 30 days after the hearing. This subsection  
11 does not modify the requirement that an administrative hearing  
12 be held within 90 days after a license is suspended under  
13 paragraph (4)(b).

14           Section 2. Section 400.215, Florida Statutes, is  
15 created to read:

16           400.215 Employee screening required.--

17           (1) As a condition of licensure, each facility  
18 licensed under this part is responsible for Level 1 background  
19 screening, in accordance with chapter 435, of each employee  
20 and each applicant who is under final consideration for  
21 employment.

22           (a) If a screened employee discontinues working for  
23 the facility for more than 12 months, the employee must  
24 undergo another Level 1 background screening in accordance  
25 with chapter 435, before starting employment with the facility  
26 again.

27           (b) Notwithstanding any other provision of law to the  
28 contrary, an applicant subject to this section who has been  
29 screened and was not disqualified from employment and who has  
30 not been unemployed for more than 6 months since completion of  
31 the screening or who does not immediately accept employment

1 from the facility that caused the screening to be performed,  
2 need not be rescreened during the 12 months following  
3 completion of the screening.

4 (2)(a) Before an applicant may be employed to work  
5 directly with residents of the facility, the facility  
6 administrator must obtain written findings evidencing  
7 completion of Level 1 screening, as provided in chapter 435.

8 (b) An employee or applicant who is subject to this  
9 section and who is determined to have met Level 1 background  
10 screening standards but who has not maintained continuous  
11 residence within the state for the 5 years immediately  
12 preceding the completion date of the Level 1 background  
13 screening, may work in a conditional status pending the  
14 receipt of written findings evidencing the completion of Level  
15 2 screening, as provided in chapter 435.

16 (3) For purposes of this section, notwithstanding the  
17 provisions of s. 435.09 to the contrary, a nursing home  
18 facility administrator licensed under s. 468.1645 may  
19 acknowledge receipt of a qualifying or a disqualifying  
20 screening report to another nursing home administrator  
21 licensed under s. 468.1645 and must provide the date of the  
22 screening report.

23 (4) Each employee and applicant who is subject to this  
24 section is responsible for paying all fees associated with  
25 background screening under chapter 435. The employee or  
26 applicant shall submit payment for screening investigations  
27 directly to the Florida Department of Law Enforcement and the  
28 Department of Children and Family Services. Once employed by a  
29 facility licensed under this part, an employee may be  
30 reimbursed by the facility for the costs of background  
31 screening.

1           (5)(a) The Department of Health shall decide whether  
2 to grant an exemption from disqualification, as provided in s.  
3 435.07, to an employee or applicant who is subject to this  
4 section and who has received a professional license or  
5 certification from the department.

6           (b) The agency shall decide whether to grant an  
7 exemption from disqualification, as provided in s. 435.07, to  
8 an employee or applicant who is subject to this section and  
9 who has not received a professional license or certification  
10 from the Department of Health.

11           (6) The agency and the Department of Health shall  
12 adopt rules to implement this section.

13           Section 3. An employee who is subject to this act and  
14 who is employed by a facility licensed under part II of  
15 chapter 400, Florida Statutes, on the effective date of this  
16 act must comply with this act by October 1, 1998. An applicant  
17 who is subject to this act and who applies for employment  
18 after July 1, 1998, must comply with this act.

19           Section 4. This act shall take effect July 1, 1998.  
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2 COMMITTEE SUBSTITUTE FOR  
3 SB 208

4 Requires a Division of Administrative Hearings law judge to  
5 schedule a hearing within 120 days, unless both parties waive  
6 that time period, for consideration of an action against a  
7 nursing home facility's license by the Agency for Health Care  
8 Administration, except when the licensure action relates to  
9 suspension of a facility's license for which such a hearing  
10 must be held within 90 days.

11 Changes the reference to persons who must be screened from  
12 "persons who have regular, unsupervised contact" to "employee  
13 and applicant under final consideration for employment."

14 Makes nursing home facilities, as a condition of licensure,  
15 responsible for background screening of employees and  
16 applicants under final consideration for employment.

17 Requires a screened employee who discontinues working for a  
18 facility for more than 12 months to be re-screened prior to  
19 being reemployed by that facility.

20 Provides that an applicant who is screened and not  
21 disqualified from employment and who has not been unemployed  
22 for more than 6 months since completion of the screening or  
23 who does not immediately accept employment from the facility  
24 need not be re-screened during the 12-month period following  
25 completion of the screening.

26 Allows an employee or applicant under final consideration for  
27 employment with a nursing home facility who is required to  
28 undergo Level 2 (federal) background screening to work in the  
29 facility in a conditional status until such screening report  
30 is received.

31 Authorizes licensed nursing home administrators to acknowledge  
to other licensed nursing home administrators receipt of a  
qualifying or disqualifying background screening report and  
requires disclosure of the report date. Disclosure of report  
contents is prohibited.

Requires the Department of Health and the Agency for Health  
Care Administration to conduct exemption hearings for nursing  
home facility employees or applicants under final  
consideration for employment in a nursing home facility whose  
screening results disqualify them from employment in a nursing  
home facility.

Requires the Agency for Health Care Administration and the  
Department of Health to adopt rules to implement the  
provisions of the bill.

Requires nursing home facility employees affected by the bill  
to comply with its provisions by October 1, 1998, and subjects  
applicants who apply on or after July 1, 1998, to comply with  
the provisions of the bill.