

By the Committees on Ways and Means; Health Care; and Senators Brown-Waite, Latvala, Bronson, McKay and Grant

301-2157-98

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; amending s. 415.107,
24 F.S.; providing that the Department of Children
25 and Family Services may impose a charge in an
26 amount up to the actual cost for screening a
27 volunteer; providing for applicability;
28 providing an effective date.

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30 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Subsection (5) is added to section 400.121,
2 Florida Statutes, to read:

3 400.121 Denial, suspension, revocation of license;
4 moratorium on admissions; administrative fines; procedure.--

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

18 Section 2. Section 400.215, Florida Statutes, is
19 created to read:

20 400.215 Employee screening required.--

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

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

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1 (b) Notwithstanding any other provision of law to the
2 contrary, an applicant subject to this section who has been
3 screened and was not disqualified from employment and who has
4 not been unemployed for more than 6 months since completion of
5 the screening or who does not immediately accept employment
6 from the facility that caused the screening to be performed,
7 need not be rescreened during the 12 months following
8 completion of the screening.

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

13 (b) An employee or applicant who is subject to this
14 section and who is determined to have met Level 1 background
15 screening standards but who has not maintained continuous
16 residence within the state for the 5 years immediately
17 preceding the completion date of the Level 1 background
18 screening, may work in a conditional status pending the
19 receipt of written findings evidencing the completion of Level
20 2 screening, as provided in chapter 435. In order to complete
21 the requirements for Level 2 screening, the employee or
22 applicant must furnish to the nursing facility a full set of
23 fingerprints to enable a criminal background investigation to
24 be conducted. The nursing facility shall submit the completed
25 fingerprint card to the agency and the agency shall forward
26 the request to the Department of Law Enforcement, which may
27 submit the fingerprints to the Federal Bureau of Investigation
28 for a national criminal history records check. The results of
29 the criminal history records check shall be returned to the
30 agency. With respect to information received from the Federal
31 Bureau of Investigation, the agency shall inform the facility

1 whether the employee or applicant is qualified for employment
2 or licensure based on the requirements of the Level 2
3 screening conducted according to chapter 435.

4 (3) For purposes of this section, notwithstanding the
5 provisions of s. 435.09 to the contrary, a nursing home
6 facility administrator licensed under s. 468.1645 may
7 acknowledge receipt of a qualifying or a disqualifying
8 screening report to another nursing home administrator
9 licensed under s. 468.1645 and must provide the date of the
10 screening report.

11 (4) Each employee and applicant who is subject to this
12 section is responsible for paying all fees associated with
13 background screening under chapter 435. The employee or
14 applicant shall submit payment for screening investigations
15 directly to the Florida Department of Law Enforcement and the
16 Department of Children and Family Services. Once employed by a
17 facility licensed under this part, an employee may be
18 reimbursed by the facility for the costs of background
19 screening.

20 (5)(a) The Department of Health shall decide whether
21 to grant an exemption from disqualification, as provided in s.
22 435.07, to an employee or applicant who is subject to this
23 section and who has received a professional license or
24 certification from the department.

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

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

1 Section 3. Subsection (10) of section 415.107, Florida
2 Statutes, is amended to read:

3 415.107 Confidentiality of reports and records.--

4 (10) The department may charge a user fee to an
5 employer or the agency in charge of a volunteer, whichever is
6 applicable, for an amount up to the total ~~for a search of the~~
7 ~~central abuse registry and tracking system of up to one-third~~
8 ~~of the~~ actual cost of the screening process. All fees
9 received by the department under this section shall be
10 deposited in an administrative trust fund of the department
11 and may be expended only for the caregiver screening program.

12 Section 4. An employee who is subject to this act and
13 who is employed by a facility licensed under part II of
14 chapter 400, Florida Statutes, on the effective date of this
15 act must comply with this act by October 1, 1998. An applicant
16 who is subject to this act and who applies for employment
17 after July 1, 1998, must comply with this act.

18 Section 5. This act shall take effect July 1, 1998.

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20 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
21 COMMITTEE SUBSTITUTE FOR
22 CS for SB 208

23 Changes the allowable charge for screening of employees from
24 one-third of the cost of the search of the central abuse
25 registry and tracking system to an amount up to the total of
the actual cost of the screening process.

26 Establishes the requirement for Level 2 screening of employees
27 by requiring the applicant to submit fingerprints to be sent
28 to AHCA and forwarded to FDLE.
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