

By Senator Saunders

25-1593-02

1                                   A bill to be entitled  
2           An act relating to background screening;  
3           amending ss. 435.03, 435.04, F.S.; revising the  
4           level 1 and level 2 screening standards;  
5           providing additional screening standards for  
6           persons employed in a health care facility or  
7           seeking professional licensure or certification  
8           by the Department of Health; creating s.  
9           435.12, F.S.; providing requirements for  
10          rescreening after a specified period; requiring  
11          that a person be rescreened following a break  
12          in service of more than a specified period;  
13          providing an exception for certain leaves of  
14          absence which are preapproved; providing an  
15          effective date.

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

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19           Section 1.   Section 435.03, Florida Statutes, is  
20 amended to read:

21           435.03   Level 1 screening standards.--

22           (1)   All employees required by law to be screened shall  
23 be required to undergo background screening as a condition of  
24 employment and continued employment.  For the purposes of this  
25 subsection, level 1 screenings shall include, but not be  
26 limited to, employment history checks and statewide criminal  
27 correspondence checks through the Florida Department of Law  
28 Enforcement, and may include local criminal records checks  
29 through local law enforcement agencies.

30           (2)   Any person for whom employment screening is  
31 required by statute must not have been found guilty of,

1 regardless of adjudication, or entered a plea of nolo  
2 contendere or guilty to, any offense prohibited under any of  
3 the following provisions of the Florida Statutes or under any  
4 similar statute of another jurisdiction:

5 (a) Former s.Section 415.111, relating to abuse,  
6 neglect, or exploitation of a vulnerable adult.

7 (b) Section 782.04, relating to murder.

8 (c) Section 782.07, relating to manslaughter,  
9 aggravated manslaughter of an elderly person or disabled  
10 adult, or aggravated manslaughter of a child.

11 (d) Section 782.071, relating to vehicular homicide.

12 (e) Section 782.09, relating to killing of an unborn  
13 child by injury to the mother.

14 (f) Chapter 784, relating to assault, battery, and  
15 culpable negligence, if the offense was a felony.

16 (g)~~(f)~~ Section 784.011, relating to assault, if the  
17 victim of the offense was a minor.

18 ~~(g) Section 784.021, relating to aggravated assault.~~

19 (h) Section 784.03, relating to battery, if the victim  
20 of the offense was a minor.

21 ~~(i) Section 784.045, relating to aggravated battery.~~

22 (i)~~(j)~~ Section 787.01, relating to kidnapping.

23 (j)~~(k)~~ Section 787.02, relating to false imprisonment.

24 (k) Section 790.115(1), relating to exhibiting  
25 firearms or weapons within 1,000 feet of a school.

26 (l) Section 790.115(2)(b), relating to possessing an  
27 electric weapon or device, destructive device, or other weapon  
28 on school property.

29 (m) Section 790.15, relating to discharging a firearm  
30 in public, if the offense was a felony.

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1           (n) Section 790.19, relating to shooting into or  
2 throwing deadly missiles into a dwelling.  
3           ~~(o)(l) Chapter 794 Section 794.011,~~ relating to sexual  
4 battery.  
5           ~~(p)(m) Former s. 794.041,~~ relating to prohibited acts  
6 of persons in familial or custodial authority.  
7           ~~(q)(n) Chapter 796,~~ relating to prostitution, if the  
8 offense occurred within the previous 10 years.  
9           ~~(o) Section 798.02, relating to lewd and lascivious~~  
10 ~~behavior.~~  
11           ~~(r)(p) Chapter 800,~~ relating to lewdness and indecent  
12 exposure.  
13           ~~(s)(q) Section 806.01,~~ relating to arson.  
14           (t) Section 806.031, relating to arson resulting in  
15 injury to another.  
16           (u) Section 810.14, relating to voyeurism, if the  
17 offense was a felony.  
18           ~~(v)(r) Chapter 812,~~ relating to theft, robbery, and  
19 related crimes, if the offense was a felony.  
20           ~~(w)(s) Section 817.563,~~ relating to fraudulent sale of  
21 controlled substances, only if the offense was a felony.  
22           ~~(x)(t) Section 825.102,~~ relating to abuse, aggravated  
23 abuse, or neglect of an elderly person or disabled adult.  
24           ~~(y)(u) Section 825.1025,~~ relating to lewd or  
25 lascivious offenses committed upon or in the presence of an  
26 elderly person or disabled adult.  
27           ~~(z)(v) Section 825.103,~~ relating to exploitation of an  
28 elderly person or disabled adult, if the offense was a felony.  
29           ~~(aa)(w) Section 826.04,~~ relating to incest.  
30           ~~(bb)(x) Section 827.03,~~ relating to child abuse,  
31 aggravated child abuse, or neglect of a child.

1           ~~(cc)(y)~~ Section 827.04, relating to contributing to  
2 the delinquency or dependency of a child.

3           ~~(dd)(z)~~ Former s. 827.05, relating to negligent  
4 treatment of children.

5           ~~(ee)(aa)~~ Section 827.071, relating to sexual  
6 performance by a child.

7           ~~(ff)(bb)~~ Chapter 847, relating to obscene literature.

8           ~~(gg)(cc)~~ Chapter 893, relating to drug abuse  
9 prevention and control, only if the offense was a felony or if  
10 any other person involved in the offense was a minor.

11           (3) Standards must also ensure that the person+

12           ~~(a) For employees and employers licensed or registered  
13 pursuant to chapter 400, and for employees and employers of  
14 developmental services institutions as defined in s. 393.063,  
15 intermediate care facilities for the developmentally disabled  
16 as defined in s. 393.063, and mental health treatment  
17 facilities as defined in s. 394.455, meets the requirements of  
18 this chapter.~~

19           ~~(b)~~ has not committed an act that constitutes domestic  
20 violence as defined in s. 741.28(1) or committed a violation  
21 of any order for injunction for protection as described in s.  
22 741.30 or s. 741.31.

23           (4) Each person employed in a health care facility  
24 licensed or registered by the Agency for Health Care  
25 Administration and each person seeking professional licensure  
26 or certification by the Department of Health who is designated  
27 by law to undergo background screening must not have been  
28 found guilty of, regardless of adjudication, or entered a plea  
29 of nolo contendere or guilty to, any offense prohibited under  
30 this section, under this paragraph, or under any similar  
31 statute of another jurisdiction:

- 1           (a) Section 810.02, relating to burglary.  
2           (b) Section 817.034, relating to fraudulent acts  
3 through mail, wire, radio, electromagnetic, photoelectronic,  
4 or photooptical systems.  
5           (c) Section 817.505, relating to patient brokering.  
6           (d) Section 817.568, relating to personal  
7 identification theft.  
8           (e) Section 817.61, relating to fraudulent use of  
9 credit cards if the offense was a felony.  
10           (f) Section 831.01, relating to forgery.  
11           (g) Section 831.02, relating to uttering forged  
12 instruments.  
13           (h) Section 831.07, relating to forging bank bills or  
14 promissory notes.  
15           (i) Section 831.09, relating to uttering forged bills.  
16           (j) Section 831.31, relating to the sale, manufacture,  
17 delivery, or possession with the intent to sell any  
18 counterfeit controlled substance, if the offense was a felony.  
19           Section 2. Section 435.04, Florida Statutes, is  
20 amended to read:  
21           435.04 Level 2 screening standards.--  
22           (1) All employees in positions designated by law as  
23 positions of trust or responsibility shall be required to  
24 undergo security background investigations as a condition of  
25 employment and continued employment. For the purposes of this  
26 subsection, security background investigations shall include,  
27 but not be limited to, fingerprinting for all purposes and  
28 checks in this subsection, statewide criminal and juvenile  
29 records checks through the Florida Department of Law  
30 Enforcement, and federal criminal records checks through the  
31 Federal Bureau of Investigation, and may include local

1 criminal records checks through local law enforcement  
2 agencies.

3 (2) The security background investigations under this  
4 section must ensure that no persons subject to the provisions  
5 of this section have been found guilty of, regardless of  
6 adjudication, or entered a plea of nolo contendere or guilty  
7 to, any offense prohibited under any of the following  
8 provisions of the Florida Statutes or under any similar  
9 statute of another jurisdiction:

10 (a) Former s. Section 415.111, relating to adult  
11 abuse, neglect, or exploitation of aged persons or disabled  
12 adults.

13 (b) Section 782.04, relating to murder.

14 (c) Section 782.07, relating to manslaughter,  
15 aggravated manslaughter of an elderly person or disabled  
16 adult, or aggravated manslaughter of a child.

17 (d) Section 782.071, relating to vehicular homicide.

18 (e) Section 782.09, relating to killing of an unborn  
19 child by injury to the mother.

20 (f) Chapter 784, relating to assault, battery, and  
21 culpable negligence, if the offense was a felony.

22 (g)(f) Section 784.011, relating to assault, if the  
23 victim of the offense was a minor.

24 ~~(g) Section 784.021, relating to aggravated assault.~~

25 (h) Section 784.03, relating to battery, if the victim  
26 of the offense was a minor.

27 ~~(i) Section 784.045, relating to aggravated battery.~~

28 (i)(j) Section 784.075, relating to battery on a  
29 detention or commitment facility staff.

30 (j)(k) Section 787.01, relating to kidnapping.

31 (k)(l) Section 787.02, relating to false imprisonment.

- 1           ~~(l)(m)~~ Section 787.04(2), relating to taking,  
2 enticing, or removing a child beyond the state limits with  
3 criminal intent pending custody proceedings.
- 4           ~~(m)(n)~~ Section 787.04(3), relating to carrying a child  
5 beyond the state lines with criminal intent to avoid producing  
6 a child at a custody hearing or delivering the child to the  
7 designated person.
- 8           ~~(n)(o)~~ Section 790.115(1), relating to exhibiting  
9 firearms or weapons within 1,000 feet of a school.
- 10           ~~(o)(p)~~ Section 790.115(2)(b), relating to possessing  
11 an electric weapon or device, destructive device, or other  
12 weapon on school property.
- 13           (p) Section 790.15, relating to discharging a firearm  
14 in public, if the offense was a felony.
- 15           (q) Section 790.19, relating to shooting into or  
16 throwing deadly missiles into a dwelling.
- 17           ~~(r)(q)~~ Section 794.011, relating to sexual battery.
- 18           ~~(s)(r)~~ Former s. 794.041, relating to prohibited acts  
19 of persons in familial or custodial authority.
- 20           ~~(t)(s)~~ Chapter 796, relating to prostitution, if the  
21 offense occurred within the previous 10 years.
- 22           ~~(t) Section 798.02, relating to lewd and lascivious~~  
23 ~~behavior.~~
- 24           (u) Chapter 800, relating to lewdness and indecent  
25 exposure.
- 26           (v) Section 806.01, relating to arson.
- 27           (w) Section 806.031, relating to arson resulting in  
28 injury to another.
- 29           (x) Section 810.14, relating to voyeurism, if the  
30 offense was a felony.
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1           (y)~~(w)~~ Chapter 812, relating to theft, robbery, and  
2 related crimes, if the offense is a felony.  
3           (z)~~(x)~~ Section 817.563, relating to fraudulent sale of  
4 controlled substances, only if the offense was a felony.  
5           (aa)~~(y)~~ Section 825.102, relating to abuse, aggravated  
6 abuse, or neglect of an elderly person or disabled adult.  
7           (bb)~~(z)~~ Section 825.1025, relating to lewd or  
8 lascivious offenses committed upon or in the presence of an  
9 elderly person or disabled adult.  
10           (cc)~~(aa)~~ Section 825.103, relating to exploitation of  
11 an elderly person or disabled adult, if the offense was a  
12 felony.  
13           (dd)~~(bb)~~ Section 826.04, relating to incest.  
14           (ee)~~(cc)~~ Section 827.03, relating to child abuse,  
15 aggravated child abuse, or neglect of a child.  
16           (ff)~~(dd)~~ Section 827.04, relating to contributing to  
17 the delinquency or dependency of a child.  
18           (gg)~~(ee)~~ Former s. 827.05, relating to negligent  
19 treatment of children.  
20           (hh)~~(ff)~~ Section 827.071, relating to sexual  
21 performance by a child.  
22           (ii)~~(gg)~~ Section 843.01, relating to resisting arrest  
23 with violence.  
24           (jj)~~(hh)~~ Section 843.025, relating to depriving a law  
25 enforcement, correctional, or correctional probation officer  
26 means of protection or communication.  
27           (kk)~~(ii)~~ Section 843.12, relating to aiding in an  
28 escape.  
29           (ll)~~(jj)~~ Section 843.13, relating to aiding in the  
30 escape of juvenile inmates in correctional institutions.  
31           (mm)~~(kk)~~ Chapter 847, relating to obscene literature.



1           (nn)~~(ll)~~ Section 874.05(1), relating to encouraging or  
2 recruiting another to join a criminal gang.

3           (oo)~~(mm)~~ Chapter 893, relating to drug abuse  
4 prevention and control, only if the offense was a felony or if  
5 any other person involved in the offense was a minor.

6           (pp)~~(nn)~~ Section 944.35(3), relating to inflicting  
7 cruel or inhuman treatment on an inmate resulting in great  
8 bodily harm.

9           (qq)~~(oo)~~ Section 944.46, relating to harboring,  
10 concealing, or aiding an escaped prisoner.

11           (rr)~~(pp)~~ Section 944.47, relating to introduction of  
12 contraband into a correctional facility.

13           (ss)~~(qq)~~ Section 985.4045, relating to sexual  
14 misconduct in juvenile justice programs.

15           (tt)~~(rr)~~ Section 985.4046, relating to contraband  
16 introduced into detention facilities.

17           (3) The security background investigations conducted  
18 under this section for employees of the Department of Juvenile  
19 Justice must ensure that no persons subject to the provisions  
20 of this section have been found guilty of, regardless of  
21 adjudication, or entered a plea of nolo contendere or guilty  
22 to, any offense prohibited under any of the following  
23 provisions of the Florida Statutes or under any similar  
24 statute of another jurisdiction:

25           (a) Section 784.07, relating to assault or battery of  
26 law enforcement officers, firefighters, emergency medical care  
27 providers, public transit employees or agents, or other  
28 specified officers.

29           (b) Section 810.02, relating to burglary, if the  
30 offense is a felony.

31           (c) Section 944.40, relating to escape.

1  
2 The Department of Juvenile Justice may not remove a  
3 disqualification from employment or grant an exemption to any  
4 person who is disqualified under this section for any offense  
5 disposed of during the most recent 7-year period.

6 (4) Each person employed in a health care facility  
7 licensed or registered by the Agency for Health Care  
8 Administration and each person seeking professional licensure  
9 or certification by the Department of Health who is designated  
10 by law to undergo background screening must not have been  
11 found guilty of, regardless of adjudication, or entered a plea  
12 of nolo contendere or guilty to, any offense prohibited under  
13 this section, under this paragraph, or under any similar  
14 statute of another jurisdiction:

15 (a) Section 810.02, relating to burglary.

16 (b) Section 817.034, relating to fraudulent acts  
17 through mail, wire, radio, electromagnetic, photoelectronic,  
18 or photooptical systems.

19 (c) Section 817.505, relating to patient brokering.

20 (d) Section 817.568, relating to personal  
21 identification theft.

22 (e) Section 817.61, relating to fraudulent use of  
23 credit cards, if the offense was a felony.

24 (f) Section 831.01, relating to forgery.

25 (g) Section 831.02, relating to uttering forged  
26 instruments.

27 (h) Section 831.07, relating to forging bank bills or  
28 promissory notes.

29 (i) Section 831.09, relating to uttering forged bills.  
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1           (j) Section 831.31, relating to the sale, manufacture,  
2 delivery, or possession with the intent to sell any  
3 counterfeit controlled substance, if the offense was a felony.

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5 An employee of the Department of Children and Family Services  
6 who is screened under s. 110.1127 is not subject to this  
7 subsection.

8           ~~(5)(4)~~ Standards must also ensure that the person+

9           ~~(a) For employees or employers licensed or registered~~  
10 ~~pursuant to chapter 400, does not have a confirmed report of~~  
11 ~~abuse, neglect, or exploitation as defined in s. 415.102(6),~~  
12 ~~which has been uncontested or upheld under s. 415.103.~~

13           ~~(b)~~ has not committed an act that constitutes domestic  
14 violence as defined in s. 741.28 or committed a violation of  
15 any order for injunction for protection as described in s.  
16 741.30 or s. 741.31.

17           ~~(6)(5)~~ Under penalty of perjury, all employees in such  
18 positions of trust or responsibility shall attest to meeting  
19 the requirements for qualifying for employment and agreeing to  
20 inform the employer immediately if convicted of any of the  
21 disqualifying offenses while employed by the employer. Each  
22 employer of employees in such positions of trust or  
23 responsibilities which is licensed or registered by a state  
24 agency shall submit to the licensing agency annually, under  
25 penalty of perjury, an affidavit of compliance with the  
26 provisions of this section.

27           Section 3. Section 435.12, Florida Statutes, is  
28 created to read:

29           435.12 Requirements for rescreening.--

30           (1) A screening conducted under this chapter is valid  
31 for 5 years, at which time a statewide rescreening must be

1 conducted. The 5-year rescreening must include, at a minimum,  
2 a statewide criminal check through the Department of Law  
3 Enforcement.

4 (2) In addition, a person must be rescreened following  
5 a break in service which exceeds 90 days. The person must  
6 undergo the same level of screening which was required prior  
7 to the break in service.

8 (3) The employer or licensing agency may grant a leave  
9 of absence to an employee for military leave, maternity leave,  
10 or medical leave, including family sickness leave, for up to 6  
11 months. In such case, the employee is not required to undergo  
12 rescreening if the leave was preapproved.

13 (4) Personnel who have undergone fingerprinting  
14 pursuant to this chapter and teachers and noninstructional  
15 personnel who have undergone fingerprinting pursuant to  
16 chapter 231, who have not been unemployed for more than 90  
17 days following the fingerprinting, and who attest to  
18 completing such fingerprinting and to compliance with this  
19 section need not be refingerprinted in order to comply with  
20 the screening or fingerprinting requirements for caretakers.

21 Section 4. This act shall take effect July 1, 2002.

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24 SENATE SUMMARY

25 Revises various offenses that are included under the  
26 level 1 and level 2 screening standards. Requires that  
27 persons employed in a health care facility or seeking  
28 professional licensure or certification by the Department  
29 of Health be subject to more stringent screening  
30 standards. Requires that a person be rescreened after 5  
31 years or following a break in service which exceeds 90  
days. (See bill for details.)