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1 A bill to be entitled

2 An act relating to dependent children; amending s. 39.302,
3 F.S.; clarifying a right of access to records for certain
4 attorneys and providing a right to access for employees
5 and agents of educational institutions; authorizing the
6 Department of Children and Family Services and specified
7 law enforcement agencies to release certain information
8 when a child is under investigation or supervision;
9 providing an exception; providing that persons releasing
10 such information are not subject to civil or criminal
11 penalty for the release; creating s. 39.0136, F.S.;
12 providing standards for background screening of persons
13 seeking approval as relative and nonrelative caregivers of
14 children; enumerating offenses the existence of which will
15 cause disapproval; amending ss. 39.301, 39.401, 39.521,
16 F.S.; clarifying the screening that must occur for
17 purposes of a child protective investigation, for the
18 placement of a child, and for providing information to the
19 court; amending s. 39.811, F.S.; requiring certain
20 screening of prospective adoptive parents; amending s.
21 63.092, F.S.; conforming a cross-reference; creating s.
22 435.12, F.S.; specifying that offenses considered as part
23 of background screening are to be considered regardless of
24 the date of commission; creating s. 409.017, F.S.;
25 providing standards for background screening of persons in
26 a household seeking licensure as a foster home;
27 enumerating offenses the existence of which will cause
28 disapproval; providing for rescreening; imposing a duty
29 upon the licensee; amending s. 409.175, F.S.; redefining
30 the term "personnel" and deleting the definition of the



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31 term "screening"; creating s. 409.177, F.S.; providing
 32 standards for background screening for child-placing and
 33 residential child-caring agencies; providing for denial of
 34 a license and exclusion from employment; creating s.
 35 409.1759, F.S.; providing for background screening for
 36 summer camp personnel; providing an exception; amending s.
 37 435.07, F.S.; modifying the time period within which prior
 38 felonies must be considered when granting exemptions from
 39 disqualification; creating s. 435.13, F.S.; providing for
 40 rescreening; specifying conditions thereon and authorizing
 41 exceptions; requiring the retention of certain records;
 42 repealing s. 409.1757, F.S., relating to persons not
 43 required to be rescreened or refingerprinted; repealing s.
 44 435.045, F.S., relating to requirements for placement of
 45 dependent children; providing an effective date.

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

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49 Section 1. Subsection (2) of section 39.202, Florida
 50 Statutes, is amended, present subsections (4) through (7) of
 51 that section are renumbered as subsections (5) through (8),
 52 respectively, and a new subsection (4) is added to that section
 53 to read:

54 39.202 Confidentiality of reports and records in cases of
 55 child abuse or neglect.--

56 (2) Except as provided in subsection (4), access to such
 57 records, excluding the name of the reporter which shall be
 58 released only as provided in subsection (5)~~(4)~~, shall be granted
 59 only to the following persons, officials, and agencies:



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60 (a) Employees, authorized agents, or contract providers of
61 the department, the Department of Health, or county agencies
62 responsible for carrying out:

- 63 1. Child or adult protective investigations;
- 64 2. Ongoing child or adult protective services;
- 65 3. Healthy Start services; or
- 66 4. Licensure or approval of adoptive homes, foster homes,
67 or child care facilities, or family day care homes or informal
68 child care providers who receive subsidized child care funding,
69 or other homes used to provide for the care and welfare of
70 children.

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72 Also, employees or agents of the Department of Juvenile Justice
73 responsible for the provision of services to children, pursuant
74 to chapters 984 and 985.

75 (b) Criminal justice agencies of appropriate jurisdiction.

76 (c) The state attorney of the judicial circuit in which
77 the child resides or in which the alleged abuse or neglect
78 occurred.

79 (d) The parent or legal custodian of any child who is
80 alleged to have been abused, abandoned, or neglected, and the
81 child, and their attorneys, including any attorney representing
82 a child in civil or criminal proceedings. This access shall be
83 made available no later than 30 days after the department
84 receives the initial report of abuse, neglect, or abandonment.
85 However, any information otherwise made confidential or exempt
86 by law shall not be released pursuant to this paragraph.

87 (e) Any person alleged in the report as having caused the
88 abuse, abandonment, or neglect of a child. This access shall be
89 made available no later than 30 days after the department



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90 receives the initial report of abuse, abandonment, or neglect
91 and, when the alleged perpetrator is not a parent, shall be
92 limited to information involving the protective investigation
93 only and shall not include any information relating to
94 subsequent dependency proceedings. However, any information
95 otherwise made confidential or exempt by law shall not be
96 released pursuant to this paragraph.

97 (f) A court upon its finding that access to such records
98 may be necessary for the determination of an issue before the
99 court; however, such access shall be limited to inspection in
100 camera, unless the court determines that public disclosure of
101 the information contained therein is necessary for the
102 resolution of an issue then pending before it.

103 (g) A grand jury, by subpoena, upon its determination that
104 access to such records is necessary in the conduct of its
105 official business.

106 (h) Any appropriate official of the department responsible
107 for:

108 1. Administration or supervision of the department's
109 program for the prevention, investigation, or treatment of child
110 abuse, abandonment, or neglect, or abuse, neglect, or
111 exploitation of a vulnerable adult, when carrying out his or her
112 official function;

113 2. Taking appropriate administrative action concerning an
114 employee of the department alleged to have perpetrated child
115 abuse, abandonment, or neglect, or abuse, neglect, or
116 exploitation of a vulnerable adult; or

117 3. Employing and continuing employment of personnel of the
118 department.



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119 (i) Any person authorized by the department who is engaged
120 in the use of such records or information for bona fide
121 research, statistical, or audit purposes. Such individual or
122 entity shall enter into a privacy and security agreement with
123 the department and shall comply with all laws and rules
124 governing the use of such records and information for research
125 and statistical purposes. Information identifying the subjects
126 of such records or information shall be treated as confidential
127 by the researcher and shall not be released in any form.

128 (j) The Division of Administrative Hearings for purposes
129 of any administrative challenge.

130 (k) Any appropriate official of a Florida advocacy council
131 investigating a report of known or suspected child abuse,
132 abandonment, or neglect; the Auditor General or the Office of
133 Program Policy Analysis and Government Accountability for the
134 purpose of conducting audits or examinations pursuant to law; or
135 the guardian ad litem for the child.

136 (l) Employees or agents of an agency of another state that
137 has comparable jurisdiction to the jurisdiction described in
138 paragraph (a).

139 (m) The Public Employees Relations Commission for the sole
140 purpose of obtaining evidence for appeals filed pursuant to s.
141 447.207. Records may be released only after deletion of all
142 information which specifically identifies persons other than the
143 employee.

144 (n) Employees or agents of the Department of Revenue
145 responsible for child support enforcement activities.

146 (o) Any person in the event of the death of a child
147 determined to be a result of abuse, abandonment, or neglect.
148 Information identifying the person reporting abuse, abandonment,



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149 or neglect shall not be released. Any information otherwise made
150 confidential or exempt by law shall not be released pursuant to
151 this paragraph.

152 (p) Employees or agents of school boards, public schools,
153 private schools, and charter schools, or other educational
154 institutions.

155 (4) Notwithstanding any other provision of law, when a
156 child under investigation or supervision of the department or
157 its contracted service providers is determined to be missing,
158 the following shall apply:

159 (a) The department may release the following information
160 to the public when it believes the release of the information is
161 likely to assist efforts in locating the child or to promote the
162 safety or well-being of the child:

- 163 1. The name of the child and the child's date of birth;
- 164 2. A physical description of the child, including at a
165 minimum the height, weight, hair color, eye color, gender, and
166 any identifying physical characteristics of the child; and
- 167 3. A photograph of the child.

168 (b) With the concurrence of the law enforcement agency
169 primarily responsible for investigating the incident, the
170 department may release any additional information it believes
171 likely to assist efforts in locating the child or to promote the
172 safety or well-being of the child.

173 (c) The law enforcement agency primarily responsible for
174 investigating the incident may release any information received
175 from the department regarding the investigation, if it believes
176 the release of the information is likely to assist efforts in
177 locating the child or to promote the safety or well-being of the
178 child.



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The good-faith publication or release of this information by the department, a law enforcement agency, or any recipient of the information as specifically authorized by this subsection shall not subject the person, agency or entity releasing the information to any civil or criminal penalty. This subsection does not authorize the release of the name of the reporter, which may be released only as provided in subsection (5).

Section 2. Section 39.0136, Florida Statutes, is created to read:

39.0136 Security background investigations.--

(1) The department shall conduct security background investigations for any relative or nonrelative caregiver who is not a licensed foster or shelter parent and who is being considered for placement of a child subject to the provisions of this chapter. The security background investigation shall include all persons over the age of 12 residing in the home of the potential caregiver.

(2) For the purposes of this section, security background investigations shall include, but not be limited to, fingerprinting for all purposes and checks in this subsection, statewide criminal and juvenile records checks through the Florida Department of Law Enforcement and the Florida Department of Juvenile Justice, national criminal records checks through the Federal Bureau of Investigation, and local criminal records checks through local law enforcement agencies. For children over the age of 12, the security background investigation shall be limited to statewide criminal and juvenile records checks



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208 through the Florida Department of Law Enforcement and local
209 criminal records checks through local law enforcement agencies.

210 (3) When fingerprinting is required under this section and
211 a placement decision is being made under exigent circumstances,
212 the placement may be made based on the results of a national
213 name check through the National Crime Information Center, so
214 long as the required fingerprint information is provided to the
215 Federal Bureau of Investigation within the timeframe established
216 by the Federal Government after placement of the child.

217 (4) The security background investigations under this
218 section must ensure that no person over the age of 12 residing
219 in the home of a relative or nonrelative with whom a child is to
220 be placed has been found guilty of, regardless of adjudication,
221 or entered a plea of nolo contendere or guilty to, any felony
222 offense prohibited under any of the following provisions of the
223 Florida Statutes or under any similar statute of another
224 jurisdiction at any time:

225 (a) Section 782.04, relating to murder.

226 (b) Section 782.07, relating to manslaughter, aggravated
227 manslaughter of an elderly person or disabled adult, or
228 aggravated manslaughter of a child.

229 (c) Section 794.011, relating to sexual battery.

230 (d) Former s. 794.041, relating to prohibited act of
231 persons in familial or custodial authority.

232 (e) Section 796.03, relating to procuring a person under
233 the age of 18 for prostitution.

234 (f) Section 800.04, relating to lewd or lascivious
235 offenses committed upon or in the presence of persons less than
236 16 years of age.



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237 (g) Section 827.03, relating to child abuse, aggravated
238 child abuse, or neglect of a child.

239 (h) Section 827.04(3), relating to the impregnation of a
240 child under the age of 16 by a person over the age of 21.

241 (i) Former s. 827.05, relating to negligent treatment of
242 children.

243 (j) Section 827.071, relating to sexual performance by a
244 child.

245 (k) Section 847.0135, relating to computer pornography.

246 (l) Section 847.0145, relating to selling or buying of
247 minors.

248 (m) Any statute creating a felony offense relating to
249 domestic violence as defined in s. 741.28.

250 (n) Section 784.021, relating to aggravated assault.

251 (o) Section 784.045, relating to aggravated battery.

252 (5) The security background investigations under this
253 section must ensure that no person over the age of 12 residing
254 in the home of a relative or nonrelative with whom a child is to
255 be placed has been found guilty of, regardless of adjudication,
256 or entered a plea of nolo contendere or guilty to, any felony
257 offense prohibited under any of the following provisions of the
258 Florida Statutes or under any similar statute of another
259 jurisdiction and the offense was committed within the previous 5
260 years:

261 (a) Section 893.13, relating to prohibited acts (drug
262 abuse).

263 (b) Section 893.149, relating to the unlawful possession
264 of listed chemicals.

265 (c) Chapter 837, relating to perjury.

266 (d) Section 831.01, relating to forgery.



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267 (e) Section 414.39, relating to public assistance fraud.

268 (6) If the security background investigation of a relative
269 or nonrelative being considered for placement of a child reveals
270 any misdemeanor conviction, any findings of delinquency, or any
271 felony conviction, this information shall be recorded in the
272 record of the investigation and shall be considered as a part of
273 the risk assessment that is used to determine the appropriate
274 placement for the child.

275 (7) All information concerning any person with whom the
276 child is placed which was obtained through the security
277 background investigation shall be presented to the court at the
278 shelter hearing. All information from the Federal Bureau of
279 Investigation and any information that has been sealed or any
280 reference to the existence of expunged information may be shared
281 only with the court in an inspection in camera.

282 (8) Any caregiver who becomes aware of a person becoming a
283 household member of a household where a child is placed must,
284 within 5 days after that person has become a household member,
285 submit to the department the information necessary to conduct a
286 screening under this section.

287 Section 3. Paragraph (c) of subsection (9) of section
288 39.301, Florida Statutes, is amended to read:

289 39.301 Initiation of protective investigations.--

290 (9) For each report it receives, the department shall
291 perform an onsite child protective investigation that includes a
292 face-to-face interview with the child, other siblings, parents,
293 and other adults in the household and an onsite assessment of
294 the child's residence in order to:

295 (c) Determine the immediate and long-term risk to each
296 child by conducting a security background check as provided in



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297 ~~s. 39.0136 state and federal records checks, including, when~~
298 ~~feasible, the records of the Department of Corrections, on the~~
299 ~~parents, legal custodians, or caregivers, and any other persons~~
300 ~~in the same household. This information shall be used solely for~~
301 ~~purposes supporting the detection, apprehension, prosecution,~~
302 ~~pretrial release, posttrial release, or rehabilitation of~~
303 ~~criminal offenders or persons accused of the crimes of child~~
304 ~~abuse, abandonment, or neglect and shall not be further~~
305 ~~disseminated or used for any other purpose. The department's~~
306 ~~child protection investigators are hereby designated a criminal~~
307 ~~justice agency for the purpose of accessing criminal justice~~
308 ~~information to be used for enforcing this state's laws~~
309 ~~concerning the crimes of child abuse, abandonment, and neglect.~~

310 Section 4. Subsection (3) of section 39.401, Florida
311 Statutes, is amended to read:

312 39.401 Taking a child alleged to be dependent into
313 custody; law enforcement officers and authorized agents of the
314 department.--

315 (3) If the child is taken into custody by, or is delivered
316 to, an authorized agent of the department, the authorized agent
317 shall review the facts supporting the removal with an attorney
318 representing the department. The purpose of this review shall be
319 to determine whether probable cause exists for the filing of a
320 shelter petition. If the facts are not sufficient to support
321 the filing of a shelter petition, the child shall immediately be
322 returned to the custody of the parent or legal custodian. If the
323 facts are sufficient to support the filing of the shelter
324 petition and the child has not been returned to the custody of
325 the parent or legal custodian, the department shall file the
326 petition and schedule a hearing, and the attorney representing



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327 the department shall request that a shelter hearing be held as
328 quickly as possible, not to exceed 24 hours after the removal of
329 the child. While awaiting the shelter hearing, the authorized
330 agent of the department may place the child in licensed shelter
331 care or may release the child to a parent or legal custodian or
332 responsible adult relative who shall be given priority
333 consideration over a licensed placement, or a responsible adult
334 approved by the department when this is in the best interests of
335 the child. Any placement of a child which is not in a licensed
336 shelter must be preceded by a security background investigation,
337 as described in s. 39.0136 ~~local and state criminal records~~
338 ~~check, as well as a search of the department's automated abuse~~
339 ~~information system, on all members of the household, to assess~~
340 ~~the child's safety within the home.~~ In addition, the department
341 may authorize placement of a housekeeper/homemaker in the home
342 of a child alleged to be dependent until the parent or legal
343 custodian assumes care of the child.

344 Section 5. Paragraphs (k) and (r) of subsection (2) of
345 section 39.521, Florida Statutes, are amended to read:

346 39.521 Disposition hearings; powers of disposition.--

347 (2) The predisposition study must provide the court with
348 the following documented information:

349 (k) A Florida Abuse Hotline ~~Information System (FAHIS)~~
350 history and criminal records check as provided for in s. 39.0136
351 for all caregivers, family members, and individuals residing
352 within the household from which the child was removed.

353 (r) If the child has been removed from the home and will
354 be remaining with a relative or other adult approved by the
355 court, a home study report concerning the proposed placement
356 shall be included in the predisposition report. Prior to



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357 recommending to the court any out-of-home placement for a child
358 other than placement in a licensed shelter or foster home, the
359 department shall conduct a study of the home of the proposed
360 legal custodians, which must include, at a minimum:

361 1. An interview with the proposed legal custodians to
362 assess their ongoing commitment and ability to care for the
363 child.

364 2. Records checks through the Florida Abuse Hotline
365 Information System (FAHIS), and a security background
366 investigation as provided for in s. 39.0136 ~~local and statewide~~
367 ~~criminal and juvenile records checks through the Department of~~
368 ~~Law Enforcement, on all household members 12 years of age or~~
369 ~~older and any other persons made known to the department who are~~
370 ~~frequent visitors in the home. Out-of-state criminal records~~
371 ~~checks must be initiated for any individual designated above who~~
372 ~~has resided in a state other than Florida provided that state's~~
373 ~~laws allow the release of these records. The out-of-state~~
374 ~~criminal records must be filed with the court within 5 days~~
375 ~~after receipt by the department or its agent.~~

376 3. An assessment of the physical environment of the home.

377 4. A determination of the financial security of the
378 proposed legal custodians.

379 5. A determination of suitable child care arrangements if
380 the proposed legal custodians are employed outside of the home.

381 6. Documentation of counseling and information provided to
382 the proposed legal custodians regarding the dependency process
383 and possible outcomes.

384 7. Documentation that information regarding support
385 services available in the community has been provided to the
386 proposed legal custodians.



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The department shall not place the child or continue the placement of the child in a home under shelter or postdisposition placement if the results of the home study are unfavorable, unless the court finds that this placement is in the child's best interest.

Any other relevant and material evidence, including other written or oral reports, may be received by the court in its effort to determine the action to be taken with regard to the child and may be relied upon to the extent of its probative value, even though not competent in an adjudicatory hearing. Except as otherwise specifically provided, nothing in this section prohibits the publication of proceedings in a hearing.

Section 6. Present subsections (8) and (9) of section 39.811, Florida Statutes, are renumbered as subsections (9) and (10), respectively, and a new subsection (8) is added to that section, to read:

39.811 Powers of disposition; order of disposition.--

(8) Any person considered for placement for adoption of a child under this chapter must meet the screening requirements set forth in s. 39.0136.

Section 7. Subsection (3) of section 63.092, Florida Statutes, is amended to read:

63.092 Report to the court of intended placement by an adoption entity; at-risk placement; preliminary study.--

(3) PRELIMINARY HOME STUDY.--Before placing the minor in the intended adoptive home, a preliminary home study must be performed by a licensed child-placing agency, a child-caring



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417 agency registered under s. 409.176, a licensed professional, or
 418 agency described in s. 61.20(2), unless the petitioner is a
 419 stepparent, a spouse of the parent, or a relative. The
 420 preliminary study shall be completed within 30 days after the
 421 receipt by the court of the adoption entity's report, but in no
 422 event may the minor be placed in the prospective adoptive home
 423 prior to the completion of the preliminary study unless ordered
 424 by the court. If the petitioner is a stepparent, a spouse of the
 425 parent, or a relative, the preliminary home study may be
 426 required by the court for good cause shown. The department is
 427 required to perform the preliminary home study only if there is
 428 no licensed child-placing agency, child-caring agency registered
 429 under s. 409.176, licensed professional, or agency described in
 430 s. 61.20(2), in the county where the prospective adoptive
 431 parents reside. The preliminary home study must be made to
 432 determine the suitability of the intended adoptive parents and
 433 may be completed prior to identification of a prospective
 434 adoptive minor. A favorable preliminary home study is valid for
 435 1 year after the date of its completion. Upon its completion, a
 436 copy of the home study must be provided to the intended adoptive
 437 parents who were the subject of the home study. A minor may not
 438 be placed in an intended adoptive home before a favorable
 439 preliminary home study is completed unless the adoptive home is
 440 also a licensed foster home under s. 409.175. The preliminary
 441 home study must include, at a minimum:

- 442 (a) An interview with the intended adoptive parents;
- 443 (b) Records checks of the department's central abuse
 444 hotline registry and criminal records correspondence checks
 445 pursuant to s. 435.03 ~~s. 435.045~~ through the Department of Law
 446 Enforcement on the intended adoptive parents;



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- 447 (c) An assessment of the physical environment of the home;
- 448 (d) A determination of the financial security of the
- 449 intended adoptive parents;
- 450 (e) Documentation of counseling and education of the
- 451 intended adoptive parents on adoptive parenting;
- 452 (f) Documentation that information on adoption and the
- 453 adoption process has been provided to the intended adoptive
- 454 parents;
- 455 (g) Documentation that information on support services
- 456 available in the community has been provided to the intended
- 457 adoptive parents; and
- 458 (h) A copy of each signed acknowledgment required by s.
- 459 63.085.

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461 If the preliminary home study is favorable, a minor may be

462 placed in the home pending entry of the judgment of adoption. A

463 minor may not be placed in the home if the preliminary home

464 study is unfavorable. If the preliminary home study is

465 unfavorable, the adoption entity may, within 20 days after

466 receipt of a copy of the written recommendation, petition the

467 court to determine the suitability of the intended adoptive

468 home. A determination as to suitability under this subsection

469 does not act as a presumption of suitability at the final

470 hearing. In determining the suitability of the intended adoptive

471 home, the court must consider the totality of the circumstances

472 in the home. No minor may be placed in a home in which there

473 resides any person determined by the court to be a sexual

474 predator as defined in s. 775.21 or to have been convicted of an

475 offense listed in s. 63.089(4)(b)2.



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476 Section 8. Section 435.12, Florida Statutes, is created to
477 read:

478 435.12 Background screening; what covered.--Background
479 screening shall consider all offenses committed by an employee,
480 regardless of the date of commission of the offense.

481 Section 9. Section 409.017, Florida Statutes, is created
482 to read:

483 409.017 Background screening for foster parents.--

484 (1) The department shall conduct security background
485 investigations for any person being considered by the department
486 for licensure as a foster parent. This investigation shall be
487 completed before the person may be licensed as a foster parent
488 and before a child is placed with the prospective foster parent.
489 The screening shall include any person over the age of 12
490 residing in the home.

491 (2) For the purposes of this section, security background
492 investigations shall include, but not be limited to,
493 fingerprinting for all purposes and checks in this subsection,
494 statewide criminal and juvenile records checks through the
495 Florida Department of Law Enforcement, national criminal records
496 checks through the Federal Bureau of Investigation, and local
497 criminal records check through local law enforcement agencies.
498 For children over the age of 12, the security background
499 investigation shall be limited to statewide criminal and
500 juvenile records checks through the Florida Department of Law
501 Enforcement and local criminal records checks through local law
502 enforcement agencies.

503 (3) For purposes of this section, offenses that would
504 otherwise be disqualifying are not disqualifying if committed by



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505 a current or former foster child before the 18th birthday of the
506 child.

507 (4) The security background investigations under this
508 section must ensure that no foster parent licensed by the state
509 or person residing in a foster home, with the exception of
510 current or former foster children as specified in subsection
511 (3), has been found guilty of, regardless of adjudication, or
512 entered a plea of nolo contendere or guilty to, any felony
513 offense prohibited under any of the following provisions of the
514 Florida Statutes or under any similar statute of another
515 jurisdiction at any time:

516 (a) Section 782.04, relating to murder.

517 (b) Section 782.07, relating to manslaughter, aggravated
518 manslaughter of an elderly person or disabled adult, or
519 aggravated manslaughter of a child.

520 (c) Section 794.011, relating to sexual battery.

521 (d) Former s. 794.041, relating to prohibited act of
522 persons in familial or custodial authority.

523 (e) Section 796.03, relating to procuring a person under
524 the age of 18 for prostitution.

525 (f) Section 800.04, relating to lewd or lascivious
526 offenses committed upon or in the presence of persons less than
527 16 years of age.

528 (g) Section 827.03, relating to child abuse, aggravated
529 child abuse, or neglect of a child.

530 (h) Section 827.04(3), relating to the impregnation of a
531 child under the age of 16 by a person over the age of 21.

532 (i) Former s. 827.05, relating to negligent treatment of
533 children.



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534 (j) Section 827.071, relating to sexual performance by a
535 child.

536 (k) Section 847.0135, relating to computer pornography.

537 (l) Section 847.0145, relating to selling or buying of
538 minors.

539 (m) Any statute creating a felony offense relating to
540 domestic violence as defined in s. 741.28.

541 (n) Section 784.021, relating to aggravated assault.

542 (o) Section 784.045, relating to aggravated battery.

543 (5) The security background investigations under this
544 section must ensure that no foster parent licensed by the state
545 or person residing in a foster home, with the exception of
546 current or former foster children as specified in subsection
547 (3), has been found guilty of, regardless of adjudication, or
548 entered a plea of nolo contendere or guilty to, any felony
549 offense prohibited under any of the following provisions of the
550 Florida Statutes or under any similar statute of another
551 jurisdiction and the offense was committed within the previous 5
552 years:

553 (a) Section 893.13, relating to prohibited acts (drug
554 abuse).

555 (b) Section 893.149, relating to the unlawful possession
556 of listed chemicals.

557 (c) Chapter 837, relating to perjury.

558 (d) Section 831.01, relating to forgery.

559 (e) Section 414.39, relating to public assistance fraud.

560 (6) If the security background investigation of a person
561 seeking licensure as a foster parent or any person residing in
562 the home, with the exception of current or former foster
563 children, reveals any findings of delinquency, any misdemeanor



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564 conviction, or any felony conviction, this information shall be
565 considered as a part of the determination as to whether to issue
566 a foster care license to the applicant or to revoke a foster
567 care license. In addition, any offenses which would otherwise be
568 disqualifying but which are not disqualifying as a result of
569 subsection (3) shall be considered as a part of the
570 determination as to whether to issue a foster care license to
571 the applicant or revoke a foster care license.

572 (7) The security background investigation of a prospective
573 foster parent must ensure that the previous licensing of any
574 prospective foster parent and any information relevant to such
575 previous license is considered in deciding whether or not to
576 issue a foster care license.

577 (8) Persons who are licensed as foster parents shall be
578 rescreened pursuant to this section no less frequently than upon
579 each application for relicensing. The rescreening must include,
580 at a minimum, statewide criminal records checks through the
581 Florida Department of Law Enforcement and local criminal records
582 checks through local law enforcement agencies. The department
583 may by rule provide for more frequent rescreening.

584 (9) The licensee is responsible for ensuring that any
585 person becoming a member of the household of a licensed foster
586 home submits to the department, within 5 days after becoming a
587 household member, the information necessary to conduct a
588 screening under this section.

589 Section 10. Paragraphs (i) and (k) of subsection (2) of
590 section 409.175, Florida Statutes, are amended to read:

591 409.175 Licensure of family foster homes, residential
592 child-caring agencies, and child-placing agencies.--

593 (2) As used in this section, the term:



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594 (i) "Personnel" means all owners, operators, employees,
595 and volunteers working in a child-placing agency, ~~family foster~~
596 ~~home,~~ or residential child-caring agency who may be employed by
597 or do volunteer work for a person, corporation, or agency which
598 holds a license as a child-placing agency or a residential
599 child-caring agency, but the term does not include those who do
600 not work on the premises where child care is furnished and
601 either have no direct contact with a child or have no contact
602 with a child outside of the presence of the child's parent or
603 guardian. ~~For purposes of screening, the term shall include any~~
604 ~~member, over the age of 12 years, of the family of the owner or~~
605 ~~operator or any person other than a client, over the age of 12~~
606 ~~years, residing with the owner or operator if the agency or~~
607 ~~family foster home is located in or adjacent to the home of the~~
608 ~~owner or operator or if the family member of, or person residing~~
609 ~~with, the owner or operator has any direct contact with the~~
610 ~~children. Members of the family of the owner or operator, or~~
611 ~~persons residing with the owner or operator, who are between the~~
612 ~~ages of 12 years and 18 years shall not be required to be~~
613 ~~fingerprinted, but shall be screened for delinquency records.~~
614 ~~For purposes of screening, the term "personnel" shall also~~
615 ~~include owners, operators, employees, and volunteers working in~~
616 ~~summer day camps, or summer 24-hour camps providing care for~~
617 ~~children. A volunteer who assists on an intermittent basis for~~
618 ~~less than 40 hours per month shall not be included in the term~~
619 ~~"personnel" for the purposes of screening, provided that the~~
620 ~~volunteer is under direct and constant supervision by persons~~
621 ~~who meet the personnel requirements of this section.~~

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623 ~~(k) "Screening" means the act of assessing the background~~
624 ~~of personnel and includes, but is not limited to, employment~~
625 ~~history checks as provided in chapter 435, using the level 2~~
626 ~~standards for screening set forth in that chapter. Screening for~~
627 ~~employees and volunteers in summer day camps and summer 24-hour~~
628 ~~camps and screening for all volunteers included under the~~
629 ~~definition of "personnel" shall be conducted as provided in~~
630 ~~chapter 435, using the level 1 standards set forth in that~~
631 ~~chapter.~~

632 Section 11. Section 409.177, Florida Statutes, is created
633 to read:

634 409.177 Background screening for personnel of child-
635 placing agencies and residential child-caring agencies providing
636 care for children.--

637 (1) The department must conduct criminal records checks
638 equivalent to the level 2 screening requirement of s. 435.04 for
639 the following persons:

640 (a) The personnel of any child-caring or child-placing
641 agency.

642 (b) Any person other than a client over the age of 12
643 years residing with the owner or operator of a child-placing
644 agency or residential child-caring agency if the agency is
645 located in or adjacent to the home of the owner or operator or
646 if the person residing with the owner or operator has any direct
647 contact with the children.

648
649 For children over the age of 12 residing with the owner or
650 operator, the security background investigation shall be limited
651 to statewide criminal and juvenile records checks through the



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652 Florida Department of Law Enforcement and local criminal records
653 checks through local law enforcement agencies.

654 (2) When the department has reasonable cause to believe
655 that grounds exist for the denial of a license or exclusion from
656 employment based on the screening required by this section, it
657 shall follow the provisions of s. 435.06.

658 (3) Exemptions from disqualification may be granted, at
659 the discretion of the department, as provided in section 435.07.

660 Section 12. Section 409.1759, Florida Statutes, is created
661 to read:

662 409.1759 Background screening for summer day camps and
663 summer 24-hour camps.--

664 (1) Operators, owners, employees, and volunteers of summer
665 day camps and summer 24-hour camps must obtain criminal records
666 checks equivalent to the level 1 screening requirement of s.
667 435.03.

668 (2) A volunteer who assists on an intermittent basis for
669 less than 40 hours per month is not required to be screened if
670 the volunteer is under direct and constant supervision by
671 persons who have been screened pursuant to this section.

672 Section 13. Subsection (1) of section 435.07, Florida
673 Statutes, is amended to read:

674 435.07 Exemptions from disqualification.--Unless otherwise
675 provided by law, the provisions of this section shall apply to
676 exemptions from disqualification.

677 (1) The appropriate licensing agency may grant to any
678 employee otherwise disqualified from employment an exemption
679 from disqualification for:

680 (a) Felonies committed more than 5 ~~3~~ years prior to the
681 date of disqualification;



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682 (b) Misdemeanors prohibited under any of the Florida
683 Statutes cited in this chapter or under similar statutes of
684 other jurisdictions;

685 (c) Offenses that were felonies when committed but are now
686 misdemeanors;

687 (d) Findings of delinquency; or

688 (e) Commissions of acts of domestic violence as defined in
689 s. 741.30.

690

691 For the purposes of this subsection, the term "felonies" means
692 both felonies prohibited under any of the Florida Statutes cited
693 in this chapter or under similar statutes of other
694 jurisdictions.

695 Section 14. Section 435.13, Florida Statutes, is created
696 to read:

697 435.13 Rescreening.--

698 (1) A screening conducted under this chapter is valid for
699 5 years, at which time a statewide rescreening must be
700 conducted. The 5-year rescreening must include, at a minimum,
701 statewide criminal records checks through the Florida Department
702 of Law Enforcement.

703 (2) In addition, a person must be rescreened following a
704 break in service which exceeds 90 days. A person in this
705 category must undergo the same level of screening which was
706 required prior to the break in service.

707 (3) The employer may grant a leave of absence to an
708 employee for military leave, maternity leave, medical leave, or
709 family sickness leave for a period not exceeding 6 months. In
710 such a case, if the leave was preapproved, rescreening is not



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711 required unless the 5-year rescreening has become due while the
 712 employee is absent.

713 (4) Teachers and noninstructional personnel who have
 714 undergone fingerprinting pursuant to chapter 231, who have not
 715 been unemployed for more than 90 days following the
 716 fingerprinting, and who attest to completing such fingerprinting
 717 and to compliance with this section need not be refingerprinted
 718 in order to comply with the screening or fingerprinting
 719 requirements for caretakers.

720 (5) Records received from the Federal Bureau of
 721 Investigation and the Florida Department of Law Enforcement
 722 shall be retained by the department for the earlier of either 5
 723 years or 90 days after termination from employment.

724 Section 15. Sections 409.1757 and 435.045, Florida
 725 Statutes, are repealed.

726 Section 16. This act shall take effect July 1, 2003.