

By Senator Lynn

7-939B-03

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

1 screening of persons in a household seeking  
2 licensure as a foster home; enumerating  
3 offenses the existence of which will cause  
4 disapproval; providing for rescreening;  
5 imposing a duty upon the licensee; amending s.  
6 409.175, F.S.; redefining the term "personnel"  
7 and deleting the definition of the term  
8 "screening"; creating s. 409.177, F.S.;  
9 providing standards for background screening  
10 for child-placing and residential child-caring  
11 agencies; providing for denial of a license and  
12 exclusion from employment; creating s.  
13 409.1759, F.S.; providing for background  
14 screening for summer camp personnel; providing  
15 an exception; amending s. 435.07, F.S.;  
16 modifying the time period within which prior  
17 felonies must be considered when granting  
18 exemptions from disqualification; creating s.  
19 435.13, F.S.; providing for rescreening;  
20 specifying conditions thereon and authorizing  
21 exceptions; requiring the retention of certain  
22 records; repealing s. 409.1757, F.S., relating  
23 to persons not required to be rescreened or  
24 refingerprinted; repealing s. 435.045, F.S.,  
25 relating to requirements for placement of  
26 dependent children; providing an effective  
27 date.

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29 Be It Enacted by the Legislature of the State of Florida:  
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1           Section 1. Subsection (2) of section 39.202, Florida  
2 Statutes, is amended, present subsections (4) through (7) of  
3 that section are renumbered as subsections (5) through (8),  
4 respectively, and a new subsection (4) is added to that  
5 section to read:

6           39.202 Confidentiality of reports and records in cases  
7 of child abuse or neglect.--

8           (2) Except as provided in subsection (4), access to  
9 such records, excluding the name of the reporter which shall  
10 be released only as provided in subsection (5)~~(4)~~, shall be  
11 granted only to the following persons, officials, and  
12 agencies:

13           (a) Employees, authorized agents, or contract  
14 providers of the department, the Department of Health, or  
15 county agencies responsible for carrying out:

- 16           1. Child or adult protective investigations;  
17           2. Ongoing child or adult protective services;  
18           3. Healthy Start services; or  
19           4. Licensure or approval of adoptive homes, foster  
20 homes, or child care facilities, or family day care homes or  
21 informal child care providers who receive subsidized child  
22 care funding, or other homes used to provide for the care and  
23 welfare of children.

24  
25 Also, employees or agents of the Department of Juvenile  
26 Justice responsible for the provision of services to children,  
27 pursuant to chapters 984 and 985.

28           (b) Criminal justice agencies of appropriate  
29 jurisdiction.

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1 (c) The state attorney of the judicial circuit in  
2 which the child resides or in which the alleged abuse or  
3 neglect occurred.

4 (d) The parent or legal custodian of any child who is  
5 alleged to have been abused, abandoned, or neglected, and the  
6 child, and their attorneys, including any attorney  
7 representing a child in civil or criminal proceedings. This  
8 access shall be made available no later than 30 days after the  
9 department receives the initial report of abuse, neglect, or  
10 abandonment. However, any information otherwise made  
11 confidential or exempt by law shall not be released pursuant  
12 to this paragraph.

13 (e) Any person alleged in the report as having caused  
14 the abuse, abandonment, or neglect of a child. This access  
15 shall be made available no later than 30 days after the  
16 department receives the initial report of abuse, abandonment,  
17 or neglect and, when the alleged perpetrator is not a parent,  
18 shall be limited to information involving the protective  
19 investigation only and shall not include any information  
20 relating to subsequent dependency proceedings. However, any  
21 information otherwise made confidential or exempt by law shall  
22 not be released pursuant to this paragraph.

23 (f) A court upon its finding that access to such  
24 records may be necessary for the determination of an issue  
25 before the court; however, such access shall be limited to  
26 inspection in camera, unless the court determines that public  
27 disclosure of the information contained therein is necessary  
28 for the resolution of an issue then pending before it.

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

1 (h) Any appropriate official of the department  
2 responsible for:

3 1. Administration or supervision of the department's  
4 program for the prevention, investigation, or treatment of  
5 child abuse, abandonment, or neglect, or abuse, neglect, or  
6 exploitation of a vulnerable adult, when carrying out his or  
7 her official function;

8 2. Taking appropriate administrative action concerning  
9 an employee of the department alleged to have perpetrated  
10 child abuse, abandonment, or neglect, or abuse, neglect, or  
11 exploitation of a vulnerable adult; or

12 3. Employing and continuing employment of personnel of  
13 the department.

14 (i) Any person authorized by the department who is  
15 engaged in the use of such records or information for bona  
16 fide research, statistical, or audit purposes. Such individual  
17 or entity shall enter into a privacy and security agreement  
18 with the department and shall comply with all laws and rules  
19 governing the use of such records and information for research  
20 and statistical purposes. Information identifying the subjects  
21 of such records or information shall be treated as  
22 confidential by the researcher and shall not be released in  
23 any form.

24 (j) The Division of Administrative Hearings for  
25 purposes of any administrative challenge.

26 (k) Any appropriate official of a Florida advocacy  
27 council investigating a report of known or suspected child  
28 abuse, abandonment, or neglect; the Auditor General or the  
29 Office of Program Policy Analysis and Government  
30 Accountability for the purpose of conducting audits or  
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1 examinations pursuant to law; or the guardian ad litem for the  
2 child.

3 (l) Employees or agents of an agency of another state  
4 that has comparable jurisdiction to the jurisdiction described  
5 in paragraph (a).

6 (m) The Public Employees Relations Commission for the  
7 sole purpose of obtaining evidence for appeals filed pursuant  
8 to s. 447.207. Records may be released only after deletion of  
9 all information which specifically identifies persons other  
10 than the employee.

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

13 (o) Any person in the event of the death of a child  
14 determined to be a result of abuse, abandonment, or neglect.  
15 Information identifying the person reporting abuse,  
16 abandonment, or neglect shall not be released. Any information  
17 otherwise made confidential or exempt by law shall not be  
18 released pursuant to this paragraph.

19 (p) Employees or agents of school boards, public  
20 schools, private schools, and charter schools, or other  
21 educational institutions.

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

26 (a) The department may release the following  
27 information to the public when it believes the release of the  
28 information is likely to assist efforts in locating the child  
29 or to promote the safety or well-being of the child:

30 1. The name of the child and the child's date of  
31 birth;

1           2. A physical description of the child, including at a  
2 minimum the height, weight, hair color, eye color, gender, and  
3 any identifying physical characteristics of the child; and

4           3. A photograph of the child.

5           (b) With the concurrence of the law enforcement agency  
6 primarily responsible for investigating the incident, the  
7 department may release any additional information it believes  
8 likely to assist efforts in locating the child or to promote  
9 the safety or well-being of the child.

10           (c) The law enforcement agency primarily responsible  
11 for investigating the incident may release any information  
12 received from the department regarding the investigation, if  
13 it believes the release of the information is likely to assist  
14 efforts in locating the child or to promote the safety or  
15 well-being of the child.

16  
17 The good-faith publication or release of this information by  
18 the department, a law enforcement agency, or any recipient of  
19 the information as specifically authorized by this subsection  
20 shall not subject the person, agency or entity releasing the  
21 information to any civil or criminal penalty. This subsection  
22 does not authorize the release of the name of the reporter,  
23 which may be released only as provided in subsection (5).

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

26           39.0136 Security background investigations.--

27           (1) The department shall conduct security background  
28 investigations for any relative or nonrelative caregiver who  
29 is not a licensed foster or shelter parent and who is being  
30 considered for placement of a child subject to the provisions  
31 of this chapter. The security background investigation shall

1 include all persons over the age of 12 residing in the home of  
2 the potential caregiver.

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

16 (3) When fingerprinting is required under this section  
17 and a placement decision is being made under exigent  
18 circumstances, the placement may be made based on the results  
19 of a national name check through the National Crime  
20 Information Center, so long as the required fingerprint  
21 information is provided to the Federal Bureau of Investigation  
22 within the timeframe established by the Federal Government  
23 after placement of the child.

24 (4) The security background investigations under this  
25 section must ensure that no person over the age of 12 residing  
26 in the home of a relative or nonrelative with whom a child is  
27 to be placed has been found guilty of, regardless of  
28 adjudication, or entered a plea of nolo contendere or guilty  
29 to, any felony offense prohibited under any of the following  
30 provisions of the Florida Statutes or under any similar  
31 statute of another jurisdiction at any time:



- 1           (a) Section 782.04, relating to murder.  
2           (b) Section 782.07, relating to manslaughter,  
3 aggravated manslaughter of an elderly person or disabled  
4 adult, or aggravated manslaughter of a child.  
5           (c) Section 794.011, relating to sexual battery.  
6           (d) Former s. 794.041, relating to prohibited act of  
7 persons in familial or custodial authority.  
8           (e) Section 796.03, relating to procuring a person  
9 under the age of 18 for prostitution.  
10           (f) Section 800.04, relating to lewd or lascivious  
11 offenses committed upon or in the presence of persons less  
12 than 16 years of age.  
13           (g) Section 827.03, relating to child abuse,  
14 aggravated child abuse, or neglect of a child.  
15           (h) Section 827.04(3), relating to the impregnation of  
16 a child under the age of 16 by a person over the age of 21.  
17           (i) Former s. 827.05, relating to negligent treatment  
18 of children.  
19           (j) Section 827.071, relating to sexual performance by  
20 a child.  
21           (k) Section 847.0135, relating to computer  
22 pornography.  
23           (l) Section 847.0145, relating to selling or buying of  
24 minors.  
25           (m) Any statute creating a felony offense relating to  
26 domestic violence as defined in s. 741.28.  
27           (n) Section 784.021, relating to aggravated assault.  
28           (o) Section 784.045, relating to aggravated battery.  
29           (5) The security background investigations under this  
30 section must ensure that no person over the age of 12 residing  
31 in the home of a relative or nonrelative with whom a child is

1 to be placed has been found guilty of, regardless of  
2 adjudication, or entered a plea of nolo contendere or guilty  
3 to, any felony offense prohibited under any of the following  
4 provisions of the Florida Statutes or under any similar  
5 statute of another jurisdiction and the offense was committed  
6 within the previous 5 years:

7 (a) Section 893.13, relating to prohibited acts (drug  
8 abuse).

9 (b) Section 893.149, relating to the unlawful  
10 possession of listed chemicals.

11 (c) Chapter 837, relating to perjury.

12 (d) Section 831.01, relating to forgery.

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

15 (6) If the security background investigation of a  
16 relative or nonrelative being considered for placement of a  
17 child reveals any misdemeanor conviction, any findings of  
18 delinquency, or any felony conviction, this information shall  
19 be recorded in the record of the investigation and shall be  
20 considered as a part of the risk assessment that is used to  
21 determine the appropriate placement for the child.

22 (7) All information concerning any person with whom  
23 the child is placed which was obtained through the security  
24 background investigation shall be presented to the court at  
25 the shelter hearing. All information from the Federal Bureau  
26 of Investigation and any information that has been sealed or  
27 any reference to the existence of expunged information may be  
28 shared only with the court in an inspection in camera.

29 (8) Any caregiver who becomes aware of a person  
30 becoming a household member of a household where a child is  
31 placed must, within 5 days after that person has become a

1 household member, submit to the department the information  
2 necessary to conduct a screening under this section.

3 Section 3. Paragraph (c) of subsection (9) of section  
4 39.301, Florida Statutes, is amended to read:

5 39.301 Initiation of protective investigations.--

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

11 (c) Determine the immediate and long-term risk to each  
12 child by conducting a security background check as provided in  
13 s. 39.0136 ~~state and federal records checks, including, when~~  
14 ~~feasible, the records of the Department of Corrections, on the~~  
15 ~~parents, legal custodians, or caregivers, and any other~~  
16 ~~persons in the same household. This information shall be used~~  
17 ~~solely for purposes supporting the detection, apprehension,~~  
18 ~~prosecution, pretrial release, posttrial release, or~~  
19 ~~rehabilitation of criminal offenders or persons accused of the~~  
20 ~~crimes of child abuse, abandonment, or neglect and shall not~~  
21 ~~be further disseminated or used for any other purpose. The~~  
22 department's child protection investigators are hereby  
23 designated a criminal justice agency for the purpose of  
24 accessing criminal justice information to be used for  
25 enforcing this state's laws concerning the crimes of child  
26 abuse, abandonment, and neglect.

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

29 39.401 Taking a child alleged to be dependent into  
30 custody; law enforcement officers and authorized agents of the  
31 department.--

1           (3) If the child is taken into custody by, or is  
2 delivered to, an authorized agent of the department, the  
3 authorized agent shall review the facts supporting the removal  
4 with an attorney representing the department. The purpose of  
5 this review shall be to determine whether probable cause  
6 exists for the filing of a shelter petition. If the facts are  
7 not sufficient to support the filing of a shelter petition,  
8 the child shall immediately be returned to the custody of the  
9 parent or legal custodian. If the facts are sufficient to  
10 support the filing of the shelter petition and the child has  
11 not been returned to the custody of the parent or legal  
12 custodian, the department shall file the petition and schedule  
13 a hearing, and the attorney representing the department shall  
14 request that a shelter hearing be held as quickly as possible,  
15 not to exceed 24 hours after the removal of the child. While  
16 awaiting the shelter hearing, the authorized agent of the  
17 department may place the child in licensed shelter care or may  
18 release the child to a parent or legal custodian or  
19 responsible adult relative who shall be given priority  
20 consideration over a licensed placement, or a responsible  
21 adult approved by the department when this is in the best  
22 interests of the child. Any placement of a child which is not  
23 in a licensed shelter must be preceded by a security  
24 background investigation, as described in s. 39.0136 ~~local and~~  
25 ~~state criminal records check, as well as a search of the~~  
26 ~~department's automated abuse information system, on all~~  
27 ~~members of the household, to assess the child's safety within~~  
28 ~~the home.~~ In addition, the department may authorize placement  
29 of a housekeeper/homemaker in the home of a child alleged to  
30 be dependent until the parent or legal custodian assumes care  
31 of the child.

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

3 39.521 Disposition hearings; powers of disposition.--

4 (2) The predisposition study must provide the court  
5 with the following documented information:

6 (k) A Florida Abuse Hotline ~~Information System (FAHIS)~~  
7 history and criminal records check as provided for in s.  
8 39.0136 for all caregivers, family members, and individuals  
9 residing within the household from which the child was  
10 removed.

11 (r) If the child has been removed from the home and  
12 will be remaining with a relative or other adult approved by  
13 the court, a home study report concerning the proposed  
14 placement shall be included in the predisposition report.  
15 Prior to recommending to the court any out-of-home placement  
16 for a child other than placement in a licensed shelter or  
17 foster home, the department shall conduct a study of the home  
18 of the proposed legal custodians, which must include, at a  
19 minimum:

20 1. An interview with the proposed legal custodians to  
21 assess their ongoing commitment and ability to care for the  
22 child.

23 2. Records checks through the Florida Abuse Hotline  
24 Information System (FAHIS), and a security background  
25 investigation as provided for in s. 39.0136 ~~local and~~  
26 ~~statewide criminal and juvenile records checks through the~~  
27 ~~Department of Law Enforcement, on all household members 12~~  
28 ~~years of age or older and any other persons made known to the~~  
29 ~~department who are frequent visitors in the home.~~  
30 ~~Out-of-state criminal records checks must be initiated for any~~  
31 ~~individual designated above who has resided in a state other~~

1 ~~than Florida provided that state's laws allow the release of~~  
2 ~~these records. The out-of-state criminal records must be filed~~  
3 ~~with the court within 5 days after receipt by the department~~  
4 ~~or its agent.~~

5           3. An assessment of the physical environment of the  
6 home.

7           4. A determination of the financial security of the  
8 proposed legal custodians.

9           5. A determination of suitable child care arrangements  
10 if the proposed legal custodians are employed outside of the  
11 home.

12           6. Documentation of counseling and information  
13 provided to the proposed legal custodians regarding the  
14 dependency process and possible outcomes.

15           7. Documentation that information regarding support  
16 services available in the community has been provided to the  
17 proposed legal custodians.

18  
19 The department shall not place the child or continue the  
20 placement of the child in a home under shelter or  
21 postdisposition placement if the results of the home study are  
22 unfavorable, unless the court finds that this placement is in  
23 the child's best interest.

24  
25 Any other relevant and material evidence, including other  
26 written or oral reports, may be received by the court in its  
27 effort to determine the action to be taken with regard to the  
28 child and may be relied upon to the extent of its probative  
29 value, even though not competent in an adjudicatory hearing.  
30 Except as otherwise specifically provided, nothing in this  
31 section prohibits the publication of proceedings in a hearing.

1           Section 6. Present subsections (8) and (9) of section  
2 39.811, Florida Statutes, are renumbered as subsections (9)  
3 and (10), respectively, and a new subsection (8) is added to  
4 that section, to read:

5           39.811 Powers of disposition; order of disposition.--  
6           (8) Any person considered for placement for adoption  
7 of a child under this chapter must meet the screening  
8 requirements set forth in s. 39.0136.

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

11           63.092 Report to the court of intended placement by an  
12 adoption entity; at-risk placement; preliminary study.--

13           (3) PRELIMINARY HOME STUDY.--Before placing the minor  
14 in the intended adoptive home, a preliminary home study must  
15 be performed by a licensed child-placing agency, a  
16 child-caring agency registered under s. 409.176, a licensed  
17 professional, or agency described in s. 61.20(2), unless the  
18 petitioner is a stepparent, a spouse of the parent, or a  
19 relative. The preliminary study shall be completed within 30  
20 days after the receipt by the court of the adoption entity's  
21 report, but in no event may the minor be placed in the  
22 prospective adoptive home prior to the completion of the  
23 preliminary study unless ordered by the court. If the  
24 petitioner is a stepparent, a spouse of the parent, or a  
25 relative, the preliminary home study may be required by the  
26 court for good cause shown. The department is required to  
27 perform the preliminary home study only if there is no  
28 licensed child-placing agency, child-caring agency registered  
29 under s. 409.176, licensed professional, or agency described  
30 in s. 61.20(2), in the county where the prospective adoptive  
31 parents reside. The preliminary home study must be made to

1 determine the suitability of the intended adoptive parents and  
2 may be completed prior to identification of a prospective  
3 adoptive minor. A favorable preliminary home study is valid  
4 for 1 year after the date of its completion. Upon its  
5 completion, a copy of the home study must be provided to the  
6 intended adoptive parents who were the subject of the home  
7 study. A minor may not be placed in an intended adoptive home  
8 before a favorable preliminary home study is completed unless  
9 the adoptive home is also a licensed foster home under s.  
10 409.175. The preliminary home study must include, at a  
11 minimum:

- 12 (a) An interview with the intended adoptive parents;  
13 (b) Records checks of the department's central abuse  
14 hotline registry and criminal records correspondence checks  
15 pursuant to s. 435.03 ~~s. 435.045~~ through the Department of Law  
16 Enforcement on the intended adoptive parents;  
17 (c) An assessment of the physical environment of the  
18 home;  
19 (d) A determination of the financial security of the  
20 intended adoptive parents;  
21 (e) Documentation of counseling and education of the  
22 intended adoptive parents on adoptive parenting;  
23 (f) Documentation that information on adoption and the  
24 adoption process has been provided to the intended adoptive  
25 parents;  
26 (g) Documentation that information on support services  
27 available in the community has been provided to the intended  
28 adoptive parents; and  
29 (h) A copy of each signed acknowledgment required by  
30 s. 63.085.

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1 If the preliminary home study is favorable, a minor may be  
2 placed in the home pending entry of the judgment of adoption.  
3 A minor may not be placed in the home if the preliminary home  
4 study is unfavorable. If the preliminary home study is  
5 unfavorable, the adoption entity may, within 20 days after  
6 receipt of a copy of the written recommendation, petition the  
7 court to determine the suitability of the intended adoptive  
8 home. A determination as to suitability under this subsection  
9 does not act as a presumption of suitability at the final  
10 hearing. In determining the suitability of the intended  
11 adoptive home, the court must consider the totality of the  
12 circumstances in the home. No minor may be placed in a home in  
13 which there resides any person determined by the court to be a  
14 sexual predator as defined in s. 775.21 or to have been  
15 convicted of an offense listed in s. 63.089(4)(b)2.

16 Section 8. Section 435.12, Florida Statutes, is  
17 created to read:

18 435.12 Background screening; what covered.--Background  
19 screening shall consider all offenses committed by an  
20 employee, regardless of the date of commission of the offense.

21 Section 9. Section 409.017, Florida Statutes, is  
22 created to read:

23 409.017 Background screening for foster parents.--

24 (1) The department shall conduct security background  
25 investigations for any person being considered by the  
26 department for licensure as a foster parent. This  
27 investigation shall be completed before the person may be  
28 licensed as a foster parent and before a child is placed with  
29 the prospective foster parent. The screening shall include any  
30 person over the age of 12 residing in the home.

31

1           (2) For the purposes of this section, security  
2 background investigations shall include, but not be limited  
3 to, fingerprinting for all purposes and checks in this  
4 subsection, statewide criminal and juvenile records checks  
5 through the Florida Department of Law Enforcement, national  
6 criminal records checks through the Federal Bureau of  
7 Investigation, and local criminal records check through local  
8 law enforcement agencies. For children over the age of 12, the  
9 security background investigation shall be limited to  
10 statewide criminal and juvenile records checks through the  
11 Florida Department of Law Enforcement and local criminal  
12 records checks through local law enforcement agencies.

13           (3) For purposes of this section, offenses that would  
14 otherwise be disqualifying are not disqualifying if committed  
15 by a current or former foster child before the 18th birthday  
16 of the child.

17           (4) The security background investigations under this  
18 section must ensure that no foster parent licensed by the  
19 state or person residing in a foster home, with the exception  
20 of current or former foster children as specified in  
21 subsection (3), has been found guilty of, regardless of  
22 adjudication, or entered a plea of nolo contendere or guilty  
23 to, any felony offense prohibited under any of the following  
24 provisions of the Florida Statutes or under any similar  
25 statute of another jurisdiction at any time:

26           (a) Section 782.04, relating to murder.

27           (b) Section 782.07, relating to manslaughter,  
28 aggravated manslaughter of an elderly person or disabled  
29 adult, or aggravated manslaughter of a child.

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

31

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

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

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

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

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

12           (i) Former s. 827.05, relating to negligent treatment  
13 of children.

14           (j) Section 827.071, relating to sexual performance by  
15 a child.

16           (k) Section 847.0135, relating to computer  
17 pornography.

18           (l) Section 847.0145, relating to selling or buying of  
19 minors.

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

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

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

24           (5) The security background investigations under this  
25 section must ensure that no foster parent licensed by the  
26 state or person residing in a foster home, with the exception  
27 of current or former foster children as specified in  
28 subsection (3), has been found guilty of, regardless of  
29 adjudication, or entered a plea of nolo contendere or guilty  
30 to, any felony offense prohibited under any of the following  
31 provisions of the Florida Statutes or under any similar

1 statute of another jurisdiction and the offense was committed  
2 within the previous 5 years:

3 (a) Section 893.13, relating to prohibited acts (drug  
4 abuse).

5 (b) Section 893.149, relating to the unlawful  
6 possession of listed chemicals.

7 (c) Chapter 837, relating to perjury.

8 (d) Section 831.01, relating to forgery.

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

11 (6) If the security background investigation of a  
12 person seeking licensure as a foster parent or any person  
13 residing in the home, with the exception of current or former  
14 foster children, reveals any findings of delinquency, any  
15 misdemeanor conviction, or any felony conviction, this  
16 information shall be considered as a part of the determination  
17 as to whether to issue a foster care license to the applicant  
18 or to revoke a foster care license. In addition, any offenses  
19 which would otherwise be disqualifying but which are not  
20 disqualifying as a result of subsection (3) shall be  
21 considered as a part of the determination as to whether to  
22 issue a foster care license to the applicant or revoke a  
23 foster care license.

24 (7) The security background investigation of a  
25 prospective foster parent must ensure that the previous  
26 licensing of any prospective foster parent and any information  
27 relevant to such previous license is considered in deciding  
28 whether or not to issue a foster care license.

29 (8) Persons who are licensed as foster parents shall  
30 be rescreened pursuant to this section no less frequently than  
31 upon each application for relicensing. The rescreening must

1 include, at a minimum, statewide criminal records checks  
2 through the Florida Department of Law Enforcement and local  
3 criminal records checks through local law enforcement  
4 agencies. The department may by rule provide for more frequent  
5 rescreening.

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

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

13 409.175 Licensure of family foster homes, residential  
14 child-caring agencies, and child-placing agencies.--

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

16 (i) "Personnel" means all owners, operators,  
17 employees, and volunteers working in a child-placing agency,  
18 ~~family foster home, or residential child-caring agency who may~~  
19 ~~be employed by or do volunteer work for a person, corporation,~~  
20 ~~or agency which holds a license as a child-placing agency or a~~  
21 ~~residential child-caring agency, but the term does not include~~  
22 ~~those who do not work on the premises where child care is~~  
23 ~~furnished and either have no direct contact with a child or~~  
24 ~~have no contact with a child outside of the presence of the~~  
25 ~~child's parent or guardian. For purposes of screening, the~~  
26 ~~term shall include any member, over the age of 12 years, of~~  
27 ~~the family of the owner or operator or any person other than a~~  
28 ~~client, over the age of 12 years, residing with the owner or~~  
29 ~~operator if the agency or family foster home is located in or~~  
30 ~~adjacent to the home of the owner or operator or if the family~~  
31 ~~member of, or person residing with, the owner or operator has~~

1 ~~any direct contact with the children. Members of the family of~~  
2 ~~the owner or operator, or persons residing with the owner or~~  
3 ~~operator, who are between the ages of 12 years and 18 years~~  
4 ~~shall not be required to be fingerprinted, but shall be~~  
5 ~~screened for delinquency records. For purposes of screening,~~  
6 ~~the term "personnel" shall also include owners, operators,~~  
7 ~~employees, and volunteers working in summer day camps, or~~  
8 ~~summer 24-hour camps providing care for children. A volunteer~~  
9 ~~who assists on an intermittent basis for less than 40 hours~~  
10 ~~per month shall not be included in the term "personnel" for~~  
11 ~~the purposes of screening, provided that the volunteer is~~  
12 ~~under direct and constant supervision by persons who meet the~~  
13 ~~personnel requirements of this section.~~

14 ~~(k) "Screening" means the act of assessing the~~  
15 ~~background of personnel and includes, but is not limited to,~~  
16 ~~employment history checks as provided in chapter 435, using~~  
17 ~~the level 2 standards for screening set forth in that chapter.~~  
18 ~~Screening for employees and volunteers in summer day camps and~~  
19 ~~summer 24-hour camps and screening for all volunteers included~~  
20 ~~under the definition of "personnel" shall be conducted as~~  
21 ~~provided in chapter 435, using the level 1 standards set forth~~  
22 ~~in that chapter.~~

23 Section 11. Section 409.177, Florida Statutes, is  
24 created to read:

25 409.177 Background screening for personnel of  
26 child-placing agencies and residential child-caring agencies  
27 providing care for children.--

28 (1) The department must conduct criminal records  
29 checks equivalent to the level 2 screening requirement of s.  
30 435.04 for the following persons:

31

1       (a) The personnel of any child-caring or child-placing  
2 agency.

3       (b) Any person other than a client over the age of 12  
4 years residing with the owner or operator of a child-placing  
5 agency or residential child-caring agency if the agency is  
6 located in or adjacent to the home of the owner or operator or  
7 if the person residing with the owner or operator has any  
8 direct contact with the children.

9  
10 For children over the age of 12 residing with the owner or  
11 operator, the security background investigation shall be  
12 limited to statewide criminal and juvenile records checks  
13 through the Florida Department of Law Enforcement and local  
14 criminal records checks through local law enforcement  
15 agencies.

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

20       (3) Exemptions from disqualification may be granted,  
21 at the discretion of the department, as provided in section  
22 435.07.

23       Section 12. Section 409.1759, Florida Statutes, is  
24 created to read:

25       409.1759 Background screening for summer day camps and  
26 summer 24-hour camps.--

27       (1) Operators, owners, employees, and volunteers of  
28 summer day camps and summer 24-hour camps must obtain criminal  
29 records checks equivalent to the level 1 screening requirement  
30 of s. 435.03.

31

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

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

8           435.07 Exemptions from disqualification.--Unless  
9 otherwise provided by law, the provisions of this section  
10 shall apply to exemptions from disqualification.

11           (1) The appropriate licensing agency may grant to any  
12 employee otherwise disqualified from employment an exemption  
13 from disqualification for:

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

16           (b) Misdemeanors prohibited under any of the Florida  
17 Statutes cited in this chapter or under similar statutes of  
18 other jurisdictions;

19           (c) Offenses that were felonies when committed but are  
20 now misdemeanors;

21           (d) Findings of delinquency; or

22           (e) Commissions of acts of domestic violence as  
23 defined in s. 741.30.

24

25 For the purposes of this subsection, the term "felonies" means  
26 both felonies prohibited under any of the Florida Statutes  
27 cited in this chapter or under similar statutes of other  
28 jurisdictions.

29           Section 14. Section 435.13, Florida Statutes, is  
30 created to read:

31           435.13 Rescreening.--



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

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

10           (3) The employer may grant a leave of absence to an  
11 employee for military leave, maternity leave, medical leave,  
12 or family sickness leave for a period not exceeding 6 months.  
13 In such a case, if the leave was preapproved, rescreening is  
14 not required unless the 5-year rescreening has become due  
15 while the employee is absent.

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

23           (5) Records received from the Federal Bureau of  
24 Investigation and the Florida Department of Law Enforcement  
25 shall be retained by the department for the earlier of either  
26 5 years or 90 days after termination from employment.

27           Section 15. Sections 409.1757 and 435.045, Florida  
28 Statutes, are repealed.

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

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SENATE SUMMARY

Authorizes the Department of Children and Family Services, and the law enforcement agency primarily responsible for investigating the case, to release certain identifying information concerning a missing dependent child when it is believed that releasing the information will assist in locating the child or will promote the child's safety or well-being. Revises standards that must be met by relative or nonrelative caregivers or foster parents of dependent children. Provides for background screening with respect to child protective investigations, placement of children, providing information to the court, prospective adoptive parents, licensure as a foster home, child-placing and child-caring agencies, and summer camp personnel. (See bill for details.)