

By the Committee on Criminal Justice; and Senator Saunders

307-2531-03

1 A bill to be entitled
2 An act relating to employment background
3 screening; providing that certain prior
4 offenses shall be considered in conducting
5 employment screening, notwithstanding the
6 provisions of section 64 of ch. 95-228, Laws of
7 Florida; reenacting and amending s. 400.980,
8 F.S.; providing that the provisions governing
9 background screening of persons involved with
10 health care services pools shall not stand
11 repealed; amending s. 435.03, F.S.; providing
12 additional criminal offenses and deleting an
13 offense that would disqualify a person subject
14 to level 1 screening standards from employment;
15 amending s. 435.04, F.S.; providing additional
16 criminal offenses and deleting an offense that
17 would disqualify a person subject to level 2
18 screening standards from employment; amending
19 ss. 943.0585 and 943.059, F.S.; adding the
20 Agency for Health Care Administration to the
21 list of agencies permitted to receive expunged
22 criminal history records and sealed criminal
23 history records; providing additional offenses
24 for which a person may not lawfully deny or
25 fail to acknowledge an arrest with respect to
26 an expunged or sealed record; reenacting ss.
27 39.821(1) and 400.414(1)(g), F.S., relating to
28 guardians ad litem and assisted living
29 facilities, to incorporate the amendment to ss.
30 435.03 and 435.04, F.S., in references thereto;
31 providing an effective date.

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

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3 Section 1. Notwithstanding the provisions of section
4 64 of chapter 95-228, Laws of Florida, the provisions of
5 chapter 435, Florida Statutes, as created therein and as
6 subsequently amended, and any reference thereto, shall apply
7 to all offenses regardless of the date on which offenses
8 referenced in chapter 435, Florida Statutes, were committed,
9 unless specifically provided otherwise in a provision other
10 than section 64 of chapter 95-228, Laws of Florida.

11 Section 2. Subsection (4) of section 400.980, Florida
12 Statutes, is amended to read:

13 400.980 Health care services pools.--

14 (4) Each applicant for registration must comply with
15 the following requirements:

16 (a) Upon receipt of a completed, signed, and dated
17 application, the agency shall require background screening, in
18 accordance with the level 1 standards for screening set forth
19 in chapter 435, of every individual who will have contact with
20 patients. The agency shall require background screening of the
21 managing employee or other similarly titled individual who is
22 responsible for the operation of the entity, and of the
23 financial officer or other similarly titled individual who is
24 responsible for the financial operation of the entity,
25 including billings for services in accordance with the level 2
26 standards for background screening as set forth in chapter
27 435.

28 (b) The agency may require background screening of any
29 other individual who is affiliated with the applicant if the
30 agency has a reasonable basis for believing that he or she has
31 been convicted of a crime or has committed any other offense

1 prohibited under the level 2 standards for screening set forth
2 in chapter 435.

3 (c) Proof of compliance with the level 2 background
4 screening requirements of chapter 435 which has been submitted
5 within the previous 5 years in compliance with any other
6 health care or assisted living licensure requirements of this
7 state is acceptable in fulfillment of paragraph (a).

8 (d) A provisional registration may be granted to an
9 applicant when each individual required by this section to
10 undergo background screening has met the standards for the
11 Department of Law Enforcement background check but the agency
12 has not yet received background screening results from the
13 Federal Bureau of Investigation. A standard registration may
14 be granted to the applicant upon the agency's receipt of a
15 report of the results of the Federal Bureau of Investigation
16 background screening for each individual required by this
17 section to undergo background screening which confirms that
18 all standards have been met, or upon the granting of a
19 disqualification exemption by the agency as set forth in
20 chapter 435. Any other person who is required to undergo level
21 2 background screening may serve in his or her capacity
22 pending the agency's receipt of the report from the Federal
23 Bureau of Investigation. However, the person may not continue
24 to serve if the report indicates any violation of background
25 screening standards and if a disqualification exemption has
26 not been requested of and granted by the agency as set forth
27 in chapter 435.

28 (e) Each applicant must submit to the agency, with its
29 application, a description and explanation of any exclusions,
30 permanent suspensions, or terminations of the applicant from
31 the Medicare or Medicaid programs. Proof of compliance with

1 the requirements for disclosure of ownership and controlling
2 interests under the Medicaid or Medicare programs may be
3 accepted in lieu of this submission.

4 (f) Each applicant must submit to the agency a
5 description and explanation of any conviction of an offense
6 prohibited under the level 2 standards of chapter 435 which
7 was committed by a member of the board of directors of the
8 applicant, its officers, or any individual owning 5 percent or
9 more of the applicant. This requirement does not apply to a
10 director of a not-for-profit corporation or organization who
11 serves solely in a voluntary capacity for the corporation or
12 organization, does not regularly take part in the day-to-day
13 operational decisions of the corporation or organization,
14 receives no remuneration for his or her services on the
15 corporation's or organization's board of directors, and has no
16 financial interest and no family members having a financial
17 interest in the corporation or organization, if the director
18 and the not-for-profit corporation or organization include in
19 the application a statement affirming that the director's
20 relationship to the corporation satisfies the requirements of
21 this paragraph.

22 (g) A registration may not be granted to an applicant
23 if the applicant or managing employee has been found guilty
24 of, regardless of adjudication, or has entered a plea of nolo
25 contendere or guilty to, any offense prohibited under the
26 level 2 standards for screening set forth in chapter 435,
27 unless an exemption from disqualification has been granted by
28 the agency as set forth in chapter 435.

29 ~~(h) The provisions of this section which require an~~
30 ~~applicant for registration to undergo background screening~~

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1 ~~shall stand repealed on June 30, 2001, unless reviewed and~~
2 ~~saved from repeal through reenactment by the Legislature.~~

3 (h)~~(i)~~ Failure to provide all required documentation
4 within 30 days after a written request from the agency will
5 result in denial of the application for registration.

6 (i)~~(j)~~ The agency must take final action on an
7 application for registration within 60 days after receipt of
8 all required documentation.

9 (j)~~(k)~~ The agency may deny, revoke, or suspend the
10 registration of any applicant or registrant who:

11 1. Has falsely represented a material fact in the
12 application required by paragraph (e) or paragraph (f), or has
13 omitted any material fact from the application required by
14 paragraph (e) or paragraph (f); or

15 2. Has had prior action taken against the applicant
16 under the Medicaid or Medicare program as set forth in
17 paragraph (e).

18 3. Fails to comply with this section or applicable
19 rules.

20 4. Commits an intentional, reckless, or negligent act
21 that materially affects the health or safety of a person
22 receiving services.

23 Section 3. Subsections (2) and (3) of section 435.03,
24 Florida Statutes, are amended to read:

25 435.03 Level 1 screening standards.--

26 (2) Any person for whom employment screening is
27 required by statute must not have been found guilty of,
28 regardless of adjudication, or entered a plea of nolo
29 contendere or guilty to, any offense prohibited under any of
30 the following provisions of the Florida Statutes or under any
31 similar statute of another jurisdiction:

- 1 (a) Former section ~~Section~~ 415.111, relating to abuse,
2 neglect, or exploitation of a vulnerable adult.
- 3 (b) Section 782.04, relating to murder.
- 4 (c) Section 782.07, relating to manslaughter,
5 aggravated manslaughter of an elderly person or disabled
6 adult, or aggravated manslaughter of a child.
- 7 (d) Section 782.071, relating to vehicular homicide.
- 8 (e) Section 782.09, relating to killing of an unborn
9 child by injury to the mother.
- 10 (f) Section 784.011, relating to assault, if the
11 victim of the offense was a minor.
- 12 (g) Section 784.021, relating to aggravated assault.
- 13 (h) Section 784.03, relating to battery, if the victim
14 of the offense was a minor.
- 15 (i) Section 784.045, relating to aggravated battery.
- 16 (j) Section 787.01, relating to kidnapping.
- 17 (k) Section 787.02, relating to false imprisonment.
- 18 (l) Chapter 794 ~~Section 794.011~~, relating to sexual
19 battery.
- 20 (m) Former s. 794.041, relating to prohibited acts of
21 persons in familial or custodial authority.
- 22 (n) Chapter 796, relating to prostitution.
- 23 ~~(o) Section 798.02, relating to lewd and lascivious~~
24 ~~behavior.~~
- 25 (o)~~(p)~~ Chapter 800, relating to lewdness and indecent
26 exposure.
- 27 (p)~~(q)~~ Section 806.01, relating to arson.
- 28 (q)~~(r)~~ Chapter 812, relating to theft, robbery, and
29 related crimes, if the offense was a felony.
- 30 (r)~~(s)~~ Section 817.563, relating to fraudulent sale of
31 controlled substances, only if the offense was a felony.

1 (s)~~(t)~~ Section 825.102, relating to abuse, aggravated
2 abuse, or neglect of an elderly person or disabled adult.
3 (t)~~(u)~~ Section 825.1025, relating to lewd or
4 lascivious offenses committed upon or in the presence of an
5 elderly person or disabled adult.
6 (u)~~(v)~~ Section 825.103, relating to exploitation of an
7 elderly person or disabled adult, if the offense was a felony.
8 (v)~~(w)~~ Section 826.04, relating to incest.
9 (w)~~(x)~~ Section 827.03, relating to child abuse,
10 aggravated child abuse, or neglect of a child.
11 (x)~~(y)~~ Section 827.04, relating to contributing to the
12 delinquency or dependency of a child.
13 (y)~~(z)~~ Former s. 827.05, relating to negligent
14 treatment of children.
15 (z)~~(aa)~~ Section 827.071, relating to sexual
16 performance by a child.
17 (aa)~~(bb)~~ Chapter 847, relating to obscene literature.
18 (bb)~~(cc)~~ Chapter 893, relating to drug abuse
19 prevention and control, only if the offense was a felony or if
20 any other person involved in the offense was a minor.
21 (3) Standards must also ensure that the person:
22 (a) For employees and employers licensed or registered
23 pursuant to chapter 400, and for employees and employers of
24 developmental services institutions as defined in s. 393.063,
25 intermediate care facilities for the developmentally disabled
26 as defined in s. 393.063, and mental health treatment
27 facilities as defined in s. 394.455, meets the requirements of
28 this chapter.
29 (b) Has not committed an act that constitutes domestic
30 violence as defined in s. 741.28(1) or committed a violation
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1 of any order for injunction for protection as described in s.
2 741.30 or s. 741.31 ~~s. 741.30~~.

3 Section 4. Subsections (2) and (4) of section 435.04,
4 Florida Statutes, are amended to read:

5 435.04 Level 2 screening standards.--

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

13 (a) Former section ~~Section~~ 415.111, relating to adult
14 abuse, neglect, or exploitation of aged persons or disabled
15 adults.

16 (b) Section 782.04, relating to murder.

17 (c) Section 782.07, relating to manslaughter,
18 aggravated manslaughter of an elderly person or disabled
19 adult, or aggravated manslaughter of a child.

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

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

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

25 (g) Section 784.021, relating to aggravated assault.

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

28 (i) Section 784.045, relating to aggravated battery.

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

31 (k) Section 787.01, relating to kidnapping.

- 1 (l) Section 787.02, relating to false imprisonment.
2 (m) Section 787.04(2), relating to taking, enticing,
3 or removing a child beyond the state limits with criminal
4 intent pending custody proceedings.
5 (n) Section 787.04(3), relating to carrying a child
6 beyond the state lines with criminal intent to avoid producing
7 a child at a custody hearing or delivering the child to the
8 designated person.
9 (o) Section 790.115(1), relating to exhibiting
10 firearms or weapons within 1,000 feet of a school.
11 (p) Section 790.115(2)(b), relating to possessing an
12 electric weapon or device, destructive device, or other weapon
13 on school property.
14 (q) Chapter 794 ~~Section 794.011~~, relating to sexual
15 battery.
16 (r) Former s. 794.041, relating to prohibited acts of
17 persons in familial or custodial authority.
18 (s) Chapter 796, relating to prostitution.
19 ~~(t) Section 798.02, relating to lewd and lascivious~~
20 ~~behavior.~~
21 (t)~~(u)~~ Chapter 800, relating to lewdness and indecent
22 exposure.
23 (u)~~(v)~~ Section 806.01, relating to arson.
24 (v)~~(w)~~ Chapter 812, relating to theft, robbery, and
25 related crimes, if the offense is a felony.
26 (w)~~(x)~~ Section 817.563, relating to fraudulent sale of
27 controlled substances, only if the offense was a felony.
28 (x)~~(y)~~ Section 825.102, relating to abuse, aggravated
29 abuse, or neglect of an elderly person or disabled adult.
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1 (y)~~(z)~~ Section 825.1025, relating to lewd or
2 lascivious offenses committed upon or in the presence of an
3 elderly person or disabled adult.
4 (z)~~(aa)~~ Section 825.103, relating to exploitation of
5 an elderly person or disabled adult, if the offense was a
6 felony.
7 (aa)~~(bb)~~ Section 826.04, relating to incest.
8 (bb)~~(cc)~~ Section 827.03, relating to child abuse,
9 aggravated child abuse, or neglect of a child.
10 (cc)~~(dd)~~ Section 827.04, relating to contributing to
11 the delinquency or dependency of a child.
12 (dd)~~(ee)~~ Former s. 827.05, relating to negligent
13 treatment of children.
14 (ee)~~(ff)~~ Section 827.071, relating to sexual
15 performance by a child.
16 (ff)~~(gg)~~ Section 843.01, relating to resisting arrest
17 with violence.
18 (gg)~~(hh)~~ Section 843.025, relating to depriving a law
19 enforcement, correctional, or correctional probation officer
20 means of protection or communication.
21 (hh)~~(ii)~~ Section 843.12, relating to aiding in an
22 escape.
23 (ii)~~(jj)~~ Section 843.13, relating to aiding in the
24 escape of juvenile inmates in correctional institutions.
25 (jj)~~(kk)~~ Chapter 847, relating to obscene literature.
26 (kk)~~(ll)~~ Section 874.05(1), relating to encouraging or
27 recruiting another to join a criminal gang.
28 (ll)~~(mm)~~ Chapter 893, relating to drug abuse
29 prevention and control, only if the offense was a felony or if
30 any other person involved in the offense was a minor.
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1 (mm)~~(nn)~~ Section 944.35(3), relating to inflicting
2 cruel or inhuman treatment on an inmate resulting in great
3 bodily harm.

4 (nn)~~(oo)~~ Section 944.46, relating to harboring,
5 concealing, or aiding an escaped prisoner.

6 (oo)~~(pp)~~ Section 944.47, relating to introduction of
7 contraband into a correctional facility.

8 (pp)~~(qq)~~ Section 985.4045, relating to sexual
9 misconduct in juvenile justice programs.

10 (qq)~~(rr)~~ Section 985.4046, relating to contraband
11 introduced into detention facilities.

12 (4) Standards must also ensure that the person+

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

17 ~~(b)~~ has not committed an act that constitutes domestic
18 violence as defined in s. 741.28 ~~s. 741.30~~.

19 Section 5. Paragraph (a) of subsection (4) of section
20 943.0585, Florida Statutes, is amended to read:

21 943.0585 Court-ordered expunction of criminal history
22 records.--The courts of this state have jurisdiction over
23 their own procedures, including the maintenance, expunction,
24 and correction of judicial records containing criminal history
25 information to the extent such procedures are not inconsistent
26 with the conditions, responsibilities, and duties established
27 by this section. Any court of competent jurisdiction may order
28 a criminal justice agency to expunge the criminal history
29 record of a minor or an adult who complies with the
30 requirements of this section. The court shall not order a
31 criminal justice agency to expunge a criminal history record

1 until the person seeking to expunge a criminal history record
2 has applied for and received a certificate of eligibility for
3 expunction pursuant to subsection (2). A criminal history
4 record that relates to a violation of s. 787.025, chapter 794,
5 s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s. 827.071,
6 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
7 893.135, or a violation enumerated in s. 907.041 may not be
8 expunged, without regard to whether adjudication was withheld,
9 if the defendant was found guilty of or pled guilty or nolo
10 contendere to the offense, or if the defendant, as a minor,
11 was found to have committed, or pled guilty or nolo contendere
12 to committing, the offense as a delinquent act. The court may
13 only order expunction of a criminal history record pertaining
14 to one arrest or one incident of alleged criminal activity,
15 except as provided in this section. The court may, at its sole
16 discretion, order the expunction of a criminal history record
17 pertaining to more than one arrest if the additional arrests
18 directly relate to the original arrest. If the court intends
19 to order the expunction of records pertaining to such
20 additional arrests, such intent must be specified in the
21 order. A criminal justice agency may not expunge any record
22 pertaining to such additional arrests if the order to expunge
23 does not articulate the intention of the court to expunge a
24 record pertaining to more than one arrest. This section does
25 not prevent the court from ordering the expunction of only a
26 portion of a criminal history record pertaining to one arrest
27 or one incident of alleged criminal activity. Notwithstanding
28 any law to the contrary, a criminal justice agency may comply
29 with laws, court orders, and official requests of other
30 jurisdictions relating to expunction, correction, or
31 confidential handling of criminal history records or

1 information derived therefrom. This section does not confer
2 any right to the expunction of any criminal history record,
3 and any request for expunction of a criminal history record
4 may be denied at the sole discretion of the court.

5 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
6 criminal history record of a minor or an adult which is
7 ordered expunged by a court of competent jurisdiction pursuant
8 to this section must be physically destroyed or obliterated by
9 any criminal justice agency having custody of such record;
10 except that any criminal history record in the custody of the
11 department must be retained in all cases. A criminal history
12 record ordered expunged that is retained by the department is
13 confidential and exempt from the provisions of s. 119.07(1)
14 and s. 24(a), Art. I of the State Constitution and not
15 available to any person or entity except upon order of a court
16 of competent jurisdiction. A criminal justice agency may
17 retain a notation indicating compliance with an order to
18 expunge.

19 (a) The person who is the subject of a criminal
20 history record that is expunged under this section or under
21 other provisions of law, including former s. 893.14, former s.
22 901.33, and former s. 943.058, may lawfully deny or fail to
23 acknowledge the arrests covered by the expunged record, except
24 when the subject of the record:

- 25 1. Is a candidate for employment with a criminal
26 justice agency;
- 27 2. Is a defendant in a criminal prosecution;
- 28 3. Concurrently or subsequently petitions for relief
29 under this section or s. 943.059;
- 30 4. Is a candidate for admission to The Florida Bar;

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1 5. Is seeking to be employed or licensed by or to
2 contract with the Agency for Health Care Administration, the
3 Department of Children and Family Services, or the Department
4 of Juvenile Justice or to be employed or used by such
5 contractor or licensee in a position subject to background
6 screening in accordance with chapter 435 or a sensitive
7 position having direct contact with children, the
8 developmentally disabled, the aged, or the elderly as provided
9 in s. 110.1127(3), s. 112.0455, s. 381.60225, s. 383.305, s.
10 390.015, s. 393.063(15), s. 394.4572(1), s. 394.875, s.
11 395.0055, s. 395.0199, s. 397.451, s. 402.302(3), s.
12 402.313(3), s. 409.175(2)(i), s. 415.102(4), s. 415.103, s.
13 483.101, s. 483.30, s. 985.407, or chapter 400; or

14 6. Is seeking to be employed or licensed by the Office
15 of Teacher Education, Certification, Staff Development, and
16 Professional Practices of the Department of Education, any
17 district school board, or any local governmental entity that
18 licenses child care facilities.

19 Section 6. Paragraph (a) of subsection (4) of section
20 943.059, Florida Statutes, is amended to read:

21 943.059 Court-ordered sealing of criminal history
22 records.--The courts of this state shall continue to have
23 jurisdiction over their own procedures, including the
24 maintenance, sealing, and correction of judicial records
25 containing criminal history information to the extent such
26 procedures are not inconsistent with the conditions,
27 responsibilities, and duties established by this section. Any
28 court of competent jurisdiction may order a criminal justice
29 agency to seal the criminal history record of a minor or an
30 adult who complies with the requirements of this section. The
31 court shall not order a criminal justice agency to seal a

1 criminal history record until the person seeking to seal a
2 criminal history record has applied for and received a
3 certificate of eligibility for sealing pursuant to subsection
4 (2). A criminal history record that relates to a violation of
5 s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 817.034, s.
6 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135,
7 s. 847.0145, s. 893.135, or a violation enumerated in s.
8 907.041 may not be sealed, without regard to whether
9 adjudication was withheld, if the defendant was found guilty
10 of or pled guilty or nolo contendere to the offense, or if the
11 defendant, as a minor, was found to have committed or pled
12 guilty or nolo contendere to committing the offense as a
13 delinquent act. The court may only order sealing of a criminal
14 history record pertaining to one arrest or one incident of
15 alleged criminal activity, except as provided in this section.
16 The court may, at its sole discretion, order the sealing of a
17 criminal history record pertaining to more than one arrest if
18 the additional arrests directly relate to the original arrest.
19 If the court intends to order the sealing of records
20 pertaining to such additional arrests, such intent must be
21 specified in the order. A criminal justice agency may not seal
22 any record pertaining to such additional arrests if the order
23 to seal does not articulate the intention of the court to seal
24 records pertaining to more than one arrest. This section does
25 not prevent the court from ordering the sealing of only a
26 portion of a criminal history record pertaining to one arrest
27 or one incident of alleged criminal activity. Notwithstanding
28 any law to the contrary, a criminal justice agency may comply
29 with laws, court orders, and official requests of other
30 jurisdictions relating to sealing, correction, or confidential
31 handling of criminal history records or information derived

1 therefrom. This section does not confer any right to the
2 sealing of any criminal history record, and any request for
3 sealing a criminal history record may be denied at the sole
4 discretion of the court.

5 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A
6 criminal history record of a minor or an adult which is
7 ordered sealed by a court of competent jurisdiction pursuant
8 to this section is confidential and exempt from the provisions
9 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution
10 and is available only to the person who is the subject of the
11 record, to the subject's attorney, to criminal justice
12 agencies for their respective criminal justice purposes, or to
13 those entities set forth in subparagraphs (a)1., 4., 5., and
14 6. for their respective licensing and employment purposes.

15 (a) The subject of a criminal history record sealed
16 under this section or under other provisions of law, including
17 former s. 893.14, former s. 901.33, and former s. 943.058, may
18 lawfully deny or fail to acknowledge the arrests covered by
19 the sealed record, except when the subject of the record:

- 20 1. Is a candidate for employment with a criminal
21 justice agency;
- 22 2. Is a defendant in a criminal prosecution;
- 23 3. Concurrently or subsequently petitions for relief
24 under this section or s. 943.0585;
- 25 4. Is a candidate for admission to The Florida Bar;
- 26 5. Is seeking to be employed or licensed by or to
27 contract with the Agency for Health Care Administration, the
28 Department of Children and Family Services, or the Department
29 of Juvenile Justice or to be employed or used by such
30 contractor or licensee in a position subject to background
31 screening in accordance with chapter 435 or a sensitive

1 position having direct contact with children, the
2 developmentally disabled, the aged, or the elderly as provided
3 in s. 110.1127(3), s. 112.0455, s. 381.60225, s. 383.305, s.
4 390.015, s. 393.063(15), s. 394.4572(1), s. 394.875, s.
5 395.0055, s. 395.0199, s. 397.451, s. 402.302(3), s.
6 402.313(3), s. 409.175(2)(i), s. 415.102(4), s. 415.103, s.
7 483.101, s. 483.30, s. 985.407, or chapter 400; or

8 6. Is seeking to be employed or licensed by the Office
9 of Teacher Education, Certification, Staff Development, and
10 Professional Practices of the Department of Education, any
11 district school board, or any local governmental entity which
12 licenses child care facilities.

13 Section 7. For the purpose of incorporating the
14 amendment made by this act to section 435.04, Florida
15 Statutes, in references thereto, subsection (1) of section
16 39.821, Florida Statutes, is reenacted to read:

17 39.821 Qualifications of guardians ad litem.--

18 (1) Because of the special trust or responsibility
19 placed in a guardian ad litem, the Guardian Ad Litem Program
20 may use any private funds collected by the program, or any
21 state funds so designated, to conduct a security background
22 investigation before certifying a volunteer to serve. A
23 security background investigation must include, but need not
24 be limited to, employment history checks, checks of
25 references, local criminal records checks through local law
26 enforcement agencies, and statewide criminal records checks
27 through the Department of Law Enforcement. Upon request, an
28 employer shall furnish a copy of the personnel record for the
29 employee or former employee who is the subject of a security
30 background investigation conducted under this section. The
31 information contained in the personnel record may include, but

1 need not be limited to, disciplinary matters and the reason
2 why the employee was terminated from employment. An employer
3 who releases a personnel record for purposes of a security
4 background investigation is presumed to have acted in good
5 faith and is not liable for information contained in the
6 record without a showing that the employer maliciously
7 falsified the record. A security background investigation
8 conducted under this section must ensure that a person is not
9 certified as a guardian ad litem if the person has been
10 convicted of, regardless of adjudication, or entered a plea of
11 nolo contendere or guilty to, any offense prohibited under the
12 provisions of the Florida Statutes specified in s. 435.04(2)
13 or under any similar law in another jurisdiction. Before
14 certifying an applicant to serve as a guardian ad litem, the
15 chief judge of the circuit court may request a federal
16 criminal records check of the applicant through the Federal
17 Bureau of Investigation. In analyzing and evaluating the
18 information obtained in the security background investigation,
19 the program must give particular emphasis to past activities
20 involving children, including, but not limited to,
21 child-related criminal offenses or child abuse. The program
22 has the sole discretion in determining whether to certify a
23 person based on his or her security background investigation.
24 The information collected pursuant to the security background
25 investigation is confidential and exempt from s. 119.07(1).

26 Section 8. For the purpose of incorporating the
27 amendment made by this act to section 435.03, Florida
28 Statutes, in references thereto, paragraph (g) of subsection
29 (1) of section 400.414, Florida Statutes, is reenacted to
30 read:

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1 400.414 Denial, revocation, or suspension of license;
2 imposition of administrative fine; grounds.--

3 (1) The agency may deny, revoke, or suspend any
4 license issued under this part, or impose an administrative
5 fine in the manner provided in chapter 120, for any of the
6 following actions by an assisted living facility, any person
7 subject to level 2 background screening under s. 400.4174, or
8 any facility employee:

9 (g) A determination that an employee, volunteer,
10 administrator, or owner, or person who otherwise has access to
11 the residents of a facility does not meet the criteria
12 specified in s. 435.03(2), and the owner or administrator has
13 not taken action to remove the person. Exemptions from
14 disqualification may be granted as set forth in s. 435.07. No
15 administrative action may be taken against the facility if the
16 person is granted an exemption.

17
18 Administrative proceedings challenging agency action under
19 this subsection shall be reviewed on the basis of the facts
20 and conditions that resulted in the agency action.

21 Section 9. This act shall take effect upon becoming a
22 law.

23
24 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
25 COMMITTEE SUBSTITUTE FOR
26 Senate Bill 2330

- 27 - Deletes a number of criminal offenses that SB 2330 was
28 adding to the current background screening criteria for
29 both Level 1 and Level 2 screening.
30 - Deletes additional screening requirement for persons
31 employed in a licensed health care facility or seeking
licensure or certification as a health care professional.
- Deletes 5-year rescreening requirement, reducing the
potential economic impact.