

By Senator Lynn

7-757A-04

See HB

1                                   A bill to be entitled  
2           An act relating to sexual misconduct; creating  
3           ss. 393.135, 394.4593, and 916.1075, F.S.;  
4           defining the terms "employee," "sexual  
5           activity," and "sexual misconduct"; providing  
6           that it is a second-degree felony for an  
7           employee to engage in sexual misconduct with  
8           certain developmentally disabled clients,  
9           certain mental health patients, or certain  
10          forensic clients; providing certain exceptions;  
11          prohibiting certain employment, and providing  
12          for dismissal from employment, of a person who  
13          has engaged in sexual misconduct with certain  
14          developmentally disabled clients, certain  
15          mental health patients, or certain forensic  
16          clients; requiring certain employees to report  
17          sexual misconduct to the central abuse hotline  
18          of the Department of Children and Family  
19          Services; providing for notification to the  
20          inspector general of the Department of Children  
21          and Family Services; providing that it is a  
22          first-degree misdemeanor to knowingly and  
23          willfully fail to make a report as required, or  
24          to prevent another from doing so, or to submit  
25          inaccurate or untruthful information; providing  
26          that it is a third-degree felony to coerce or  
27          threaten another person to alter testimony or a  
28          report with respect to an incident of sexual  
29          misconduct; providing criminal penalties;  
30          amending s. 435.03, F.S.; expanding level 1  
31          screening standards to include criminal

1 offenses related to sexual misconduct with  
2 certain developmentally disabled clients,  
3 mental health patients, or forensic clients and  
4 the reporting of such sexual misconduct;  
5 amending s. 435.04, F.S.; expanding level 2  
6 screening standards to include the offenses  
7 related to sexual misconduct with certain  
8 developmentally disabled clients, mental health  
9 patients, or forensic clients and the reporting  
10 of such sexual misconduct; amending s.  
11 943.0585, F.S., relating to court-ordered  
12 expunction of criminal history records, for the  
13 purpose of incorporating the amendment to s.  
14 943.059, F.S., in a reference thereto;  
15 providing that certain criminal history records  
16 relating to sexual misconduct with  
17 developmentally disabled clients, mental health  
18 patients, or forensic clients, or the reporting  
19 of such sexual misconduct, shall not be  
20 expunged; providing that the application for  
21 eligibility for expunction certify that the  
22 criminal history record does not relate to an  
23 offense involving sexual misconduct with  
24 certain developmentally disabled clients,  
25 mental health patients, or forensic clients, or  
26 the reporting of such sexual misconduct;  
27 amending s. 943.059, F.S., relating to  
28 court-ordered sealing of criminal history  
29 records, for the purpose of incorporating the  
30 amendment to s. 943.0585, F.S., in a reference  
31 thereto; providing that certain criminal

1 history records relating to sexual misconduct  
2 with developmentally disabled clients, mental  
3 health patients, or forensic clients, or the  
4 reporting of such sexual misconduct, shall not  
5 be sealed; providing that the application for  
6 eligibility for sealing certify that the  
7 criminal history record does not relate to an  
8 offense involving sexual misconduct with  
9 certain developmentally disabled clients,  
10 mental health patients, or forensic clients, or  
11 the reporting of such sexual misconduct;  
12 amending s. 400.215, F.S., and reenacting  
13 paragraphs (b) and (c) of subsection (2) and  
14 subsection (3), relating to background  
15 screening requirements for certain nursing home  
16 personnel, for the purpose of incorporating the  
17 amendments to ss. 435.03 and 435.04, F.S., in  
18 references thereto; correcting a  
19 cross-reference; amending s. 400.964, F.S., and  
20 reenacting subsections (1), (2), and (7),  
21 relating to background screening requirements  
22 for certain personnel employed by intermediate  
23 care facilities for the developmentally  
24 disabled, for the purpose of incorporating the  
25 amendments to ss. 435.03 and 435.04, F.S., in  
26 references thereto; correcting a  
27 cross-reference; amending s. 435.045, F.S., and  
28 reenacting paragraph (a) of subsection (1),  
29 relating to requirements for the placement of  
30 dependent children, for the purpose of  
31 incorporating the amendment to s. 435.04, F.S.,

1 in a reference thereto; correcting a  
2 cross-reference; reenacting ss. 400.414(1)(f)  
3 and (g), 400.4174, 400.509(4)(a), (b), (c),  
4 (d), (f), and (g), 400.556(2)(c), 400.6065(1),  
5 (2), and (4), 400.980(4)(a), (b), (c), (d),  
6 (f), and (g), 409.175(2)(k), 409.907(8)(d),  
7 435.05(1) and (3), 744.3135, and 985.04(2),  
8 F.S., relating to denial, revocation, or  
9 suspension of license to operate an assisted  
10 living facility; background screening  
11 requirements for certain personnel employed by  
12 assisted living facilities; registration of  
13 particular home health care service providers;  
14 denial, suspension, or revocation of license to  
15 operate adult day care centers; background  
16 screening requirements for certain hospice  
17 personnel; background screening requirements  
18 for registrants of the health care service  
19 pools; the definition of "screening" in  
20 connection with the licensure of family foster  
21 homes, residential child-caring agencies, and  
22 child-placing agencies; background screening  
23 requirements of Medicaid providers; employment  
24 of persons in positions requiring background  
25 screening; credit and criminal investigations  
26 of guardians; and oaths, records, and  
27 confidential information pertaining to juvenile  
28 offenders, respectively, for the purpose of  
29 incorporating the amendments to ss. 435.03 and  
30 435.04, F.S., in references thereto; reenacting  
31 ss. 400.512, 400.619(4), 400.6194(1), 400.953,

1 409.912(32), 435.07(4), 464.018(1)(e),  
2 744.309(3), 744.474(12), and 985.407(4), F.S.,  
3 relating to background screening of home health  
4 agency personnel, nurse registry personnel,  
5 companions, and homemakers; application and  
6 renewal of adult family-care home provider  
7 licenses; denial, revocation, or suspension of  
8 adult family-care home provider license;  
9 background screening of home medical equipment  
10 provider personnel and background screening  
11 requirements for certain persons responsible  
12 for managed care plans; exemptions from  
13 disqualification from employment; denial of  
14 nursing license and disciplinary actions  
15 against such licensees; disqualification of  
16 guardians; removal of guardians; and background  
17 screening requirements for certain Department  
18 of Juvenile Justice personnel, respectively,  
19 for the purpose of incorporating the amendment  
20 to s. 435.03, F.S., in references thereto;  
21 reenacting ss. 39.001(2)(b), 39.821(1),  
22 110.1127(3)(a) and (c), 112.0455(12)(a),  
23 381.0059(1), (2), and (4), 381.60225(1)(a),  
24 (b), (c), (d), (f), and (g), 383.305(7)(a),  
25 (b), (c), (d), (f), and (g), 390.015(3)(a),  
26 (b), (c), (d), (f), and (g), 393.0655(1),  
27 393.067(6)(a), (b), (c), (d), (f), and (g),  
28 394.4572(1)(a), 394.875(13)(a), (b), (c), (d),  
29 (f), and (g), 395.0055(1), (2), (3), (4), (6),  
30 and (8), 395.0199(4)(a), (b), (c), (d), (f),  
31 and (g), 397.451(1)(a), 400.071(4)(a), (b),

1 (c), (d), and (f), 400.471(4)(a), (b), (c),  
2 (d), (f), and (g), 400.506(2)(a), (b), (c),  
3 (d), (f), and (g), 400.5572, 400.607(3)(a),  
4 400.801(4)(a), (b), (c), (d), (f), and (g),  
5 400.805(3)(a), (b), (c), (d), (f), and (g),  
6 400.906(5)(a), (b), (c), (d), (f), and (g),  
7 400.931(5)(a), (b), (c), (e), and (f),  
8 400.962(10)(a), (b), (c), (d), and (f),  
9 400.991(7)(b) and (d), 402.302(2)(e),  
10 402.305(2)(a), 402.3054(3), 483.30(2)(a), (b),  
11 (c), (d), (f), and (g), 483.101(2)(a), (b),  
12 (c), (d), (f), and (g), 744.1085(5),  
13 984.01(2)(b), 985.01(2)(b), 1002.36(7)(a) and  
14 (b), F.S., relating to background screening  
15 requirements for certain Department of Children  
16 and Family Services personnel; qualifications  
17 of guardians ad litem; security checks of  
18 certain public officers and employees;  
19 background screening requirements of certain  
20 laboratory personnel in connection with the  
21 Drug-Free Workplace Act; background screening  
22 requirements for school health services  
23 personnel; background screening of certain  
24 personnel of the public health system;  
25 background screening and licensure of birth  
26 center personnel; background screening and  
27 licensure of abortion clinic personnel;  
28 background screening of direct service  
29 providers; background screening and licensure  
30 of personnel of intermediate care facilities  
31 for the developmentally disabled; background

1 screening of mental health personnel;  
2 background screening and licensure of personnel  
3 of crisis stabilization units, residential  
4 treatment facilities, and residential treatment  
5 centers for children and adolescents;  
6 background screening and licensure of personnel  
7 of hospitals, ambulatory surgical centers, and  
8 mobile surgical facilities; background  
9 screening of certain personnel in connection  
10 with registration for private utilization  
11 reviews; background screening of certain  
12 service provider personnel; background  
13 screening and licensure of certain long-term  
14 care facility personnel; background screening  
15 and licensure of certain home health agency  
16 personnel; background screening and licensure  
17 of nurse registry applicants; background  
18 screening of certain adult day care center  
19 personnel; denial or revocation of hospice  
20 license; background screening and licensure of  
21 certain transitional living facility personnel;  
22 background screening and licensure of certain  
23 prescribed pediatric extended care center  
24 personnel; background screening and licensure  
25 of certain home medical equipment provider  
26 personnel; background screening and licensure  
27 of certain personnel of intermediate care  
28 facilities for the developmentally disabled;  
29 background screening and licensure of health  
30 care clinic personnel; the definition of "child  
31 care facility" in connection with background

1 screening of operators; background screening  
2 requirements for personnel of child care  
3 facilities; background screening requirements  
4 for child enrichment service providers;  
5 background screening and licensure of certain  
6 personnel of multiphasic health testing  
7 centers; background screening and licensure of  
8 certain clinical laboratory personnel;  
9 regulation of professional guardians;  
10 background screening of certain Department of  
11 Juvenile Justice and Department of Children and  
12 Family Services personnel in connection with  
13 programs for children and families in need of  
14 services; and background screening of certain  
15 Department of Juvenile Justice and Department  
16 of Children and Family Services personnel in  
17 connection with juvenile justice programs,  
18 background screening of personnel of the  
19 Florida School for the Deaf and the Blind,  
20 respectively, for the purposes of incorporating  
21 the amendment to s. 435.04, F.S., in references  
22 thereto; reenacting s. 943.0582(2)(a) and (6),  
23 F.S., relating to prearrest, postarrest, or  
24 teen court diversion program expunction for the  
25 purpose of incorporating the amendments to ss.  
26 943.0585 and 943.059, F.S., in references  
27 thereto; reenacting s. 943.053(7), (8), and  
28 (9), F.S., relating to dissemination of  
29 criminal justice information, for the purpose  
30 of incorporating the amendment to s. 943.059,  
31



1 F.S., in references thereto; providing  
2 applicability; providing an effective date.

3  
4 Be It Enacted by the Legislature of the State of Florida:

5  
6 Section 1. Section 393.135, Florida Statutes, is  
7 created to read:

8 393.135 Sexual misconduct prohibited; reporting  
9 required; penalties.--

10 (1) As used in this section, the term:

11 (a) "Employee" includes any person under contract with  
12 the agency or the department and any paid staff member,  
13 volunteer, or intern of the agency or the department or any  
14 person under contract with the agency or the department.

15 (b) "Sexual activity" means fondling the genital area,  
16 groin, inner thighs, buttocks, or breasts of a person; the  
17 oral, anal, or vaginal penetration by or union with the sexual  
18 organ of another; or the anal or vaginal penetration of  
19 another by any other object.

20 (c) "Sexual misconduct" means any sexual activity  
21 between an employee and a client, regardless of the consent of  
22 the client. The term does not include an act done for a bona  
23 fide medical purpose or an internal search conducted in the  
24 lawful performance of duty by an employee.

25 (2) An employee who engages in sexual misconduct with  
26 a client who:

27 (a) Is committed to the custody of the department;

28 (b) Resides in a residential facility, including any  
29 comprehensive transitional education program, developmental  
30 services institution, foster care facility, group home

31

1 facility, intermediate care facility for the developmentally  
2 disabled, or residential habilitation center; or  
3 (c) Receives services from a family care program  
4  
5 commits a felony of the second degree, punishable as provided  
6 in s. 775.082, s. 775.083, or s. 775.084. An employee may be  
7 found guilty of violating this subsection without having  
8 committed the crime of sexual battery.  
9 (3) The consent of the client to sexual activity is  
10 not a defense to prosecution under this section.  
11 (4) This section does not apply to an employee who:  
12 (a) Is legally married to the client; or  
13 (b) Had no reason to believe that the person with whom  
14 the employee engaged in sexual misconduct is a client  
15 receiving services as described in subsection (2).  
16 (5) Notwithstanding prosecution, any violation of this  
17 subsection, as determined by the Public Employees Relations  
18 Commission, constitutes sufficient cause under s. 110.227 for  
19 dismissal from employment, and such person may not again be  
20 employed in any capacity in connection with the developmental  
21 services system.  
22 (6) An employee who witnesses sexual misconduct, or  
23 who otherwise knows or has reasonable cause to suspect that a  
24 person has engaged in sexual misconduct, shall immediately  
25 report the incident to the department's central abuse hotline.  
26 Such employee shall also prepare, date, and sign an  
27 independent report that specifically describes the nature of  
28 the sexual misconduct, the location and time of the incident,  
29 and the persons involved. The employee shall deliver the  
30 report to the supervisor or program director, who is  
31 responsible for providing copies to the department's inspector

1 general. The inspector general shall immediately conduct an  
2 appropriate administrative investigation, and, if there is  
3 probable cause to believe that sexual misconduct has occurred,  
4 the inspector general shall notify the state attorney in the  
5 circuit in which the incident occurred.

6 (7)(a) Any person who is required to make a report  
7 under this section and who knowingly or willfully fails to do  
8 so, or who knowingly or willfully prevents another person from  
9 doing so, commits a misdemeanor of the first degree,  
10 punishable as provided in s. 775.082 or s. 775.083.

11 (b) Any person who knowingly or willfully submits  
12 inaccurate, incomplete, or untruthful information with respect  
13 to a report required under this section commits a misdemeanor  
14 of the first degree, punishable as provided in s. 775.082 or  
15 s. 775.083.

16 (c) Any person who knowingly or willfully coerces or  
17 threatens any other person with the intent to alter testimony  
18 or a written report regarding an incident of sexual misconduct  
19 commits a felony of the third degree, punishable as provided  
20 in s. 775.082, s. 775.083, or s. 775.084.

21 Section 2. Section 394.4593, Florida Statutes, is  
22 created to read:

23 394.4593 Sexual misconduct prohibited; reporting  
24 required; penalties.--

25 (1) As used in this section, the term:

26 (a) "Employee" includes any person under contract with  
27 the department and any paid staff member, volunteer, or intern  
28 of the department or any person under contract with the  
29 department.

30 (b) "Sexual activity" means fondling the genital area,  
31 groin, inner thighs, buttocks, or breasts of a person; the

1 oral, anal, or vaginal penetration by or union with the sexual  
2 organ of another; or the anal or vaginal penetration of  
3 another by any other object.

4 (c) "Sexual misconduct" means any sexual activity  
5 between an employee and a patient, regardless of the consent  
6 of the patient. The term does not include an act done for a  
7 bona fide medical purpose or an internal search conducted in  
8 the lawful performance of duty by an employee.

9 (2) An employee who engages in sexual misconduct with  
10 a patient who:

11 (a) Is committed to the custody of the department; or

12 (b) Resides in a facility that provides for the  
13 evaluation, diagnosis, care, treatment, training, or  
14 hospitalization of persons who appear to have a mental illness  
15 or have been diagnosed as having a mental illness

16  
17 commits a felony of the second degree, punishable as provided  
18 in s. 775.082, s. 775.083, or s. 775.084. An employee may be  
19 found guilty of violating this subsection without having  
20 committed the crime of sexual battery.

21 (3) The consent of the patient to sexual activity is  
22 not a defense to prosecution under this section.

23 (4) This section does not apply to an employee who:

24 (a) Is legally married to the patient; or

25 (b) Had no reason to believe that the person with whom  
26 the employee engaged in sexual misconduct is a patient  
27 receiving services as described in subsection (2).

28 (5) Notwithstanding prosecution, any violation of this  
29 subsection, as determined by the Public Employees Relations  
30 Commission, constitutes sufficient cause under s. 110.227 for  
31 dismissal from employment, and such person may not again be

1 employed in any capacity in connection with the mental health  
2 services system.

3 (6) An employee who witnesses sexual misconduct, or  
4 who otherwise knows or has reasonable cause to suspect that a  
5 person has engaged in sexual misconduct, shall immediately  
6 report the incident to the department's central abuse hotline.  
7 Such employee shall also prepare, date, and sign an  
8 independent report that specifically describes the nature of  
9 the sexual misconduct, the location and time of the incident,  
10 and the persons involved. The employee shall deliver the  
11 report to the supervisor or program director, who is  
12 responsible for providing copies to the department's inspector  
13 general. The inspector general shall immediately conduct an  
14 appropriate administrative investigation, and, if there is  
15 probable cause to believe that sexual misconduct has occurred,  
16 the inspector general shall notify the state attorney in the  
17 circuit in which the incident occurred.

18 (7)(a) Any person who is required to make a report  
19 under this section and who knowingly or willfully fails to do  
20 so, or who knowingly or willfully prevents another person from  
21 doing so, commits a misdemeanor of the first degree,  
22 punishable as provided in s. 775.082 or s. 775.083.

23 (b) Any person who knowingly or willfully submits  
24 inaccurate, incomplete, or untruthful information with respect  
25 to a report required under this section commits a misdemeanor  
26 of the first degree, punishable as provided in s. 775.082 or  
27 s. 775.083.

28 (c) Any person who knowingly or willfully coerces or  
29 threatens any other person with the intent to alter testimony  
30 or a written report regarding an incident of sexual misconduct  
31

1 commits a felony of the third degree, punishable as provided  
2 in s. 775.082, s. 775.083, or s. 775.084.

3 Section 3. Section 916.1075, Florida Statutes, is  
4 created to read:

5 916.1075 Sexual misconduct prohibited; reporting  
6 required; penalties.--

7 (1) As used in this section, the term:

8 (a) "Employee" includes any person under contract with  
9 the department and any paid staff member, volunteer, or intern  
10 of the department or any person under contract with the  
11 department.

12 (b) "Sexual activity" means fondling the genital area,  
13 groin, inner thighs, buttocks, or breasts of a person; the  
14 oral, anal, or vaginal penetration by or union with the sexual  
15 organ of another; or the anal or vaginal penetration of  
16 another by any other object.

17 (c) "Sexual misconduct" means any sexual activity  
18 between an employee and a client, regardless of the consent of  
19 the client. The term does not include an act done for a bona  
20 fide medical purpose or an internal search conducted in the  
21 lawful performance of duty by an employee.

22 (2) An employee who engages in sexual misconduct with  
23 a client who resides in a civil or forensic facility commits a  
24 felony of the second degree, punishable as provided in s.  
25 775.082, s. 775.083, or s. 775.084. An employee may be found  
26 guilty of violating this subsection without having committed  
27 the crime of sexual battery.

28 (3) The consent of the client to sexual activity is  
29 not a defense to prosecution under this section.

30 (4) This section does not apply to an employee who:

31 (a) Is legally married to the client; or

1           (b) Had no reason to believe that the person with whom  
2 the employee engaged in sexual misconduct is a client  
3 receiving services as described in subsection (2).

4           (5) Notwithstanding prosecution, any violation of this  
5 subsection, as determined by the Public Employees Relations  
6 Commission, constitutes sufficient cause under s. 110.227 for  
7 dismissal from employment, and such person may not again be  
8 employed in any capacity in connection with the  
9 developmentally disabled or mental health services systems.

10           (6) An employee who witnesses sexual misconduct, or  
11 who otherwise knows or has reasonable cause to suspect that a  
12 person has engaged in sexual misconduct, shall immediately  
13 report the incident to the department's central abuse hotline.  
14 Such employee shall also prepare, date, and sign an  
15 independent report that specifically describes the nature of  
16 the sexual misconduct, the location and time of the incident,  
17 and the persons involved. The employee shall deliver the  
18 report to the supervisor or program director, who is  
19 responsible for providing copies to the department's inspector  
20 general. The inspector general shall immediately conduct an  
21 appropriate administrative investigation, and, if there is  
22 probable cause to believe that sexual misconduct has occurred,  
23 the inspector general shall notify the state attorney in the  
24 circuit in which the incident occurred.

25           (7)(a) Any person who is required to make a report  
26 under this section and who knowingly or willfully fails to do  
27 so, or who knowingly or willfully prevents another person from  
28 doing so, commits a misdemeanor of the first degree,  
29 punishable as provided in s. 775.082 or s. 775.083.

30           (b) Any person who knowingly or willfully submits  
31 inaccurate, incomplete, or untruthful information with respect

1 to a report required under this section commits a misdemeanor  
2 of the first degree, punishable as provided in s. 775.082 or  
3 s. 775.083.

4 (c) Any person who knowingly or willfully coerces or  
5 threatens any other person with the intent to alter testimony  
6 or a written report regarding an incident of sexual misconduct  
7 commits a felony of the third degree, punishable as provided  
8 in s. 775.082, s. 775.083, or s. 775.084.

9 Section 4. Subsection (2) of section 435.03, Florida  
10 Statutes, is amended to read:

11 435.03 Level 1 screening standards.--

12 (2) Any person for whom employment screening is  
13 required by statute must not have been found guilty of,  
14 regardless of adjudication, or entered a plea of nolo  
15 contendere or guilty to, any offense prohibited under any of  
16 the following provisions of the Florida Statutes or under any  
17 similar statute of another jurisdiction:

18 (a) Section 393.135, relating to sexual misconduct  
19 with certain developmentally disabled clients and reporting of  
20 such sexual misconduct.

21 (b) Section 394.4593, relating to sexual misconduct  
22 with certain mental health patients and reporting of such  
23 sexual misconduct.

24 ~~(c)(a)~~ Section 415.111, relating to abuse, neglect, or  
25 exploitation of a vulnerable adult.

26 ~~(d)(b)~~ Section 782.04, relating to murder.

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

30 ~~(f)(d)~~ Section 782.071, relating to vehicular  
31 homicide.



1           (g)~~(e)~~ Section 782.09, relating to killing of an  
2 unborn child by injury to the mother.  
3           (h)~~(f)~~ Section 784.011, relating to assault, if the  
4 victim of the offense was a minor.  
5           (i)~~(g)~~ Section 784.021, relating to aggravated  
6 assault.  
7           (j)~~(h)~~ Section 784.03, relating to battery, if the  
8 victim of the offense was a minor.  
9           (k)~~(i)~~ Section 784.045, relating to aggravated  
10 battery.  
11           (l)~~(j)~~ Section 787.01, relating to kidnapping.  
12           (m)~~(k)~~ Section 787.02, relating to false imprisonment.  
13           (n)~~(l)~~ Section 794.011, relating to sexual battery.  
14           (o)~~(m)~~ Former s. 794.041, relating to prohibited acts  
15 of persons in familial or custodial authority.  
16           (p)~~(n)~~ Chapter 796, relating to prostitution.  
17           (q)~~(o)~~ Section 798.02, relating to lewd and lascivious  
18 behavior.  
19           (r)~~(p)~~ Chapter 800, relating to lewdness and indecent  
20 exposure.  
21           (s)~~(q)~~ Section 806.01, relating to arson.  
22           (t)~~(r)~~ Chapter 812, relating to theft, robbery, and  
23 related crimes, if the offense was a felony.  
24           (u)~~(s)~~ Section 817.563, relating to fraudulent sale of  
25 controlled substances, only if the offense was a felony.  
26           (v)~~(t)~~ Section 825.102, relating to abuse, aggravated  
27 abuse, or neglect of an elderly person or disabled adult.  
28           (w)~~(u)~~ Section 825.1025, relating to lewd or  
29 lascivious offenses committed upon or in the presence of an  
30 elderly person or disabled adult.  
31

1           ~~(x)(v)~~ Section 825.103, relating to exploitation of an  
2 elderly person or disabled adult, if the offense was a felony.

3           ~~(y)(w)~~ Section 826.04, relating to incest.

4           ~~(z)(x)~~ Section 827.03, relating to child abuse,  
5 aggravated child abuse, or neglect of a child.

6           ~~(aa)(y)~~ Section 827.04, relating to contributing to  
7 the delinquency or dependency of a child.

8           ~~(bb)(z)~~ Former s. 827.05, relating to negligent  
9 treatment of children.

10           ~~(cc)(aa)~~ Section 827.071, relating to sexual  
11 performance by a child.

12           ~~(dd)(bb)~~ Chapter 847, relating to obscene literature.

13           ~~(ee)(cc)~~ Chapter 893, relating to drug abuse  
14 prevention and control, only if the offense was a felony or if  
15 any other person involved in the offense was a minor.

16           ~~(ff)~~ Section 916.0175, relating to sexual misconduct  
17 with certain forensic clients and reporting of such sexual  
18 misconduct.

19           Section 5. Subsection (2) of section 435.04, Florida  
20 Statutes, is amended to read:

21           435.04 Level 2 screening standards.--

22           (2) The security background investigations under this  
23 section must ensure that no persons subject to the provisions  
24 of this section have been found guilty of, regardless of  
25 adjudication, or entered a plea of nolo contendere or guilty  
26 to, any offense prohibited under any of the following  
27 provisions of the Florida Statutes or under any similar  
28 statute of another jurisdiction:

29           ~~(a)~~ Section 393.135, relating to sexual misconduct  
30 with certain developmentally disabled clients and reporting of  
31 such sexual misconduct.

1           (b) Section 394.4593, relating to sexual misconduct  
2 with certain mental health patients and reporting of such  
3 sexual misconduct.

4           ~~(c)(a)~~ Section 415.111, relating to adult abuse,  
5 neglect, or exploitation of aged persons or disabled adults.

6           ~~(d)(b)~~ Section 782.04, relating to murder.

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

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

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

14           ~~(h)(f)~~ Section 784.011, relating to assault, if the  
15 victim of the offense was a minor.

16           ~~(i)(g)~~ Section 784.021, relating to aggravated  
17 assault.

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

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

22           ~~(l)(j)~~ Section 784.075, relating to battery on a  
23 detention or commitment facility staff.

24           ~~(m)(k)~~ Section 787.01, relating to kidnapping.

25           ~~(n)(l)~~ Section 787.02, relating to false imprisonment.

26           ~~(o)(m)~~ Section 787.04(2), relating to taking,  
27 enticing, or removing a child beyond the state limits with  
28 criminal intent pending custody proceedings.

29           ~~(p)(n)~~ Section 787.04(3), relating to carrying a child  
30 beyond the state lines with criminal intent to avoid producing  
31

1 a child at a custody hearing or delivering the child to the  
2 designated person.

3 (q)~~(o)~~ Section 790.115(1), relating to exhibiting  
4 firearms or weapons within 1,000 feet of a school.

5 (r)~~(p)~~ Section 790.115(2)(b), relating to possessing  
6 an electric weapon or device, destructive device, or other  
7 weapon on school property.

8 (s)~~(q)~~ Section 794.011, relating to sexual battery.

9 (t)~~(r)~~ Former s. 794.041, relating to prohibited acts  
10 of persons in familial or custodial authority.

11 (u)~~(s)~~ Chapter 796, relating to prostitution.

12 (v)~~(t)~~ Section 798.02, relating to lewd and lascivious  
13 behavior.

14 (w)~~(u)~~ Chapter 800, relating to lewdness and indecent  
15 exposure.

16 (x)~~(v)~~ Section 806.01, relating to arson.

17 (y)~~(w)~~ Chapter 812, relating to theft, robbery, and  
18 related crimes, if the offense is a felony.

19 (z)~~(x)~~ Section 817.563, relating to fraudulent sale of  
20 controlled substances, only if the offense was a felony.

21 (aa)~~(y)~~ Section 825.102, relating to abuse, aggravated  
22 abuse, or neglect of an elderly person or disabled adult.

23 (bb)~~(z)~~ Section 825.1025, relating to lewd or  
24 lascivious offenses committed upon or in the presence of an  
25 elderly person or disabled adult.

26 (cc)~~(aa)~~ Section 825.103, relating to exploitation of  
27 an elderly person or disabled adult, if the offense was a  
28 felony.

29 (dd)~~(bb)~~ Section 826.04, relating to incest.

30 (ee)~~(cc)~~ Section 827.03, relating to child abuse,  
31 aggravated child abuse, or neglect of a child.

1           ~~(dd)~~ (ff) Section 827.04, relating to contributing to  
2 the delinquency or dependency of a child.  
3           ~~(ee)~~ (gg) Former s. 827.05, relating to negligent  
4 treatment of children.  
5           ~~(ff)~~ (hh) Section 827.071, relating to sexual  
6 performance by a child.  
7           ~~(gg)~~ (ii) Section 843.01, relating to resisting arrest  
8 with violence.  
9           ~~(hh)~~ (jj) Section 843.025, relating to depriving a law  
10 enforcement, correctional, or correctional probation officer  
11 means of protection or communication.  
12           ~~(ii)~~ (kk) Section 843.12, relating to aiding in an  
13 escape.  
14           ~~(jj)~~ (ll) Section 843.13, relating to aiding in the  
15 escape of juvenile inmates in correctional institutions.  
16           ~~(kk)~~ (mm) Chapter 847, relating to obscene literature.  
17           ~~(ll)~~ (nn) Section 874.05(1), relating to encouraging or  
18 recruiting another to join a criminal gang.  
19           ~~(mm)~~ (oo) Chapter 893, relating to drug abuse  
20 prevention and control, only if the offense was a felony or if  
21 any other person involved in the offense was a minor.  
22           (pp) Section 916.0175, relating to sexual misconduct  
23 with certain forensic clients and reporting of such sexual  
24 misconduct.  
25           ~~(nn)~~ (qq) Section 944.35(3), relating to inflicting  
26 cruel or inhuman treatment on an inmate resulting in great  
27 bodily harm.  
28           ~~(oo)~~ (rr) Section 944.46, relating to harboring,  
29 concealing, or aiding an escaped prisoner.  
30           ~~(pp)~~ (ss) Section 944.47, relating to introduction of  
31 contraband into a correctional facility.

1            (tt)~~(qq)~~ Section 985.4045, relating to sexual  
2 misconduct in juvenile justice programs.

3            (uu)~~(rr)~~ Section 985.4046, relating to contraband  
4 introduced into detention facilities.

5            Section 6. Section 943.0585, Florida Statutes, is  
6 amended to read:

7            943.0585 Court-ordered expunction of criminal history  
8 records.--The courts of this state have jurisdiction over  
9 their own procedures, including the maintenance, expunction,  
10 and correction of judicial records containing criminal history  
11 information to the extent such procedures are not inconsistent  
12 with the conditions, responsibilities, and duties established  
13 by this section. Any court of competent jurisdiction may order  
14 a criminal justice agency to expunge the criminal history  
15 record of a minor or an adult who complies with the  
16 requirements of this section. The court shall not order a  
17 criminal justice agency to expunge a criminal history record  
18 until the person seeking to expunge a criminal history record  
19 has applied for and received a certificate of eligibility for  
20 expunction pursuant to subsection (2). A criminal history  
21 record that relates to a violation of s. 393.135, s. 394.4593,  
22 s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 817.034, s.  
23 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135,  
24 s. 847.0145, s. 893.135, s. 916.1075, or a violation  
25 enumerated in s. 907.041 may not be expunged, without regard  
26 to whether adjudication was withheld, if the defendant was  
27 found guilty of or pled guilty or nolo contendere to the  
28 offense, or if the defendant, as a minor, was found to have  
29 committed, or pled guilty or nolo contendere to committing,  
30 the offense as a delinquent act. The court may only order  
31 expunction of a criminal history record pertaining to one

1 arrest or one incident of alleged criminal activity, except as  
2 provided in this section. The court may, at its sole  
3 discretion, order the expunction of a criminal history record  
4 pertaining to more than one arrest if the additional arrests  
5 directly relate to the original arrest. If the court intends  
6 to order the expunction of records pertaining to such  
7 additional arrests, such intent must be specified in the  
8 order. A criminal justice agency may not expunge any record  
9 pertaining to such additional arrests if the order to expunge  
10 does not articulate the intention of the court to expunge a  
11 record pertaining to more than one arrest. This section does  
12 not prevent the court from ordering the expunction of only a  
13 portion of a criminal history record pertaining to one arrest  
14 or one incident of alleged criminal activity. Notwithstanding  
15 any law to the contrary, a criminal justice agency may comply  
16 with laws, court orders, and official requests of other  
17 jurisdictions relating to expunction, correction, or  
18 confidential handling of criminal history records or  
19 information derived therefrom. This section does not confer  
20 any right to the expunction of any criminal history record,  
21 and any request for expunction of a criminal history record  
22 may be denied at the sole discretion of the court.

23 (1) PETITION TO EXPUNGE A CRIMINAL HISTORY  
24 RECORD.--Each petition to a court to expunge a criminal  
25 history record is complete only when accompanied by:

26 (a) A certificate of eligibility for expunction issued  
27 by the department pursuant to subsection (2).

28 (b) The petitioner's sworn statement attesting that  
29 the petitioner:

30 1. Has never, prior to the date on which the petition  
31 is filed, been adjudicated guilty of a criminal offense or

1 comparable ordinance violation or adjudicated delinquent for  
2 committing a felony or a misdemeanor specified in s.  
3 943.051(3)(b).

4           2. Has not been adjudicated guilty of, or adjudicated  
5 delinquent for committing, any of the acts stemming from the  
6 arrest or alleged criminal activity to which the petition  
7 pertains.

8           3. Has never secured a prior sealing or expunction of  
9 a criminal history record under this section, former s.  
10 893.14, former s. 901.33, or former s. 943.058, or from any  
11 jurisdiction outside the state.

12           4. Is eligible for such an expunction to the best of  
13 his or her knowledge or belief and does not have any other  
14 petition to expunge or any petition to seal pending before any  
15 court.

16  
17 Any person who knowingly provides false information on such  
18 sworn statement to the court commits a felony of the third  
19 degree, punishable as provided in s. 775.082, s. 775.083, or  
20 s. 775.084.

21           (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.--Prior  
22 to petitioning the court to expunge a criminal history record,  
23 a person seeking to expunge a criminal history record shall  
24 apply to the department for a certificate of eligibility for  
25 expunction. The department shall, by rule adopted pursuant to  
26 chapter 120, establish procedures pertaining to the  
27 application for and issuance of certificates of eligibility  
28 for expunction. The department shall issue a certificate of  
29 eligibility for expunction to a person who is the subject of a  
30 criminal history record if that person:

31



1 (a) Has obtained, and submitted to the department, a  
2 written, certified statement from the appropriate state  
3 attorney or statewide prosecutor which indicates:

4 1. That an indictment, information, or other charging  
5 document was not filed or issued in the case.

6 2. That an indictment, information, or other charging  
7 document, if filed or issued in the case, was dismissed or  
8 nolle prosequi by the state attorney or statewide prosecutor,  
9 or was dismissed by a court of competent jurisdiction.

10 3. That the criminal history record does not relate to  
11 a violation of s. 393.135, s. 394.4593, s. 787.025, chapter  
12 794, s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s.  
13 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145,  
14 s. 893.135, s. 916.1075, or a violation enumerated in s.  
15 907.041, where the defendant was found guilty of, or pled  
16 guilty or nolo contendere to any such offense, or that the  
17 defendant, as a minor, was found to have committed, or pled  
18 guilty or nolo contendere to committing, such an offense as a  
19 delinquent act, without regard to whether adjudication was  
20 withheld.

21 (b) Remits a \$75 processing fee to the department for  
22 placement in the Department of Law Enforcement Operating Trust  
23 Fund, unless such fee is waived by the executive director.

24 (c) Has submitted to the department a certified copy  
25 of the disposition of the charge to which the petition to  
26 expunge pertains.

27 (d) Has never, prior to the date on which the  
28 application for a certificate of eligibility is filed, been  
29 adjudicated guilty of a criminal offense or comparable  
30 ordinance violation or adjudicated delinquent for committing a  
31 felony or a misdemeanor specified in s. 943.051(3)(b).

1           (e) Has not been adjudicated guilty of, or adjudicated  
2 delinquent for committing, any of the acts stemming from the  
3 arrest or alleged criminal activity to which the petition to  
4 expunge pertains.

5           (f) Has never secured a prior sealing or expunction of  
6 a criminal history record under this section, former s.  
7 893.14, former s. 901.33, or former s. 943.058.

8           (g) Is no longer under court supervision applicable to  
9 the disposition of the arrest or alleged criminal activity to  
10 which the petition to expunge pertains.

11           (h) Is not required to wait a minimum of 10 years  
12 prior to being eligible for an expunction of such records  
13 because all charges related to the arrest or criminal activity  
14 to which the petition to expunge pertains were dismissed prior  
15 to trial, adjudication, or the withholding of adjudication.  
16 Otherwise, such criminal history record must be sealed under  
17 this section, former s. 893.14, former s. 901.33, or former s.  
18 943.058 for at least 10 years before such record is eligible  
19 for expunction.

20           (3) PROCESSING OF A PETITION OR ORDER TO EXPUNGE.--

21           (a) In judicial proceedings under this section, a copy  
22 of the completed petition to expunge shall be served upon the  
23 appropriate state attorney or the statewide prosecutor and  
24 upon the arresting agency; however, it is not necessary to  
25 make any agency other than the state a party. The appropriate  
26 state attorney or the statewide prosecutor and the arresting  
27 agency may respond to the court regarding the completed  
28 petition to expunge.

29           (b) If relief is granted by the court, the clerk of  
30 the court shall certify copies of the order to the appropriate  
31 state attorney or the statewide prosecutor and the arresting

1 agency. The arresting agency is responsible for forwarding the  
2 order to any other agency to which the arresting agency  
3 disseminated the criminal history record information to which  
4 the order pertains. The department shall forward the order to  
5 expunge to the Federal Bureau of Investigation. The clerk of  
6 the court shall certify a copy of the order to any other  
7 agency which the records of the court reflect has received the  
8 criminal history record from the court.

9 (c) For an order to expunge entered by a court prior  
10 to July 1, 1992, the department shall notify the appropriate  
11 state attorney or statewide prosecutor of an order to expunge  
12 which is contrary to law because the person who is the subject  
13 of the record has previously been convicted of a crime or  
14 comparable ordinance violation or has had a prior criminal  
15 history record sealed or expunged. Upon receipt of such  
16 notice, the appropriate state attorney or statewide prosecutor  
17 shall take action, within 60 days, to correct the record and  
18 petition the court to void the order to expunge. The  
19 department shall seal the record until such time as the order  
20 is voided by the court.

21 (d) On or after July 1, 1992, the department or any  
22 other criminal justice agency is not required to act on an  
23 order to expunge entered by a court when such order does not  
24 comply with the requirements of this section. Upon receipt of  
25 such an order, the department must notify the issuing court,  
26 the appropriate state attorney or statewide prosecutor, the  
27 petitioner or the petitioner's attorney, and the arresting  
28 agency of the reason for noncompliance. The appropriate state  
29 attorney or statewide prosecutor shall take action within 60  
30 days to correct the record and petition the court to void the  
31 order. No cause of action, including contempt of court, shall

1 arise against any criminal justice agency for failure to  
2 comply with an order to expunge when the petitioner for such  
3 order failed to obtain the certificate of eligibility as  
4 required by this section or such order does not otherwise  
5 comply with the requirements of this section.

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

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

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

1           5. Is seeking to be employed or licensed by or to  
2 contract with the Department of Children and Family Services  
3 or the Department of Juvenile Justice or to be employed or  
4 used by such contractor or licensee in a sensitive position  
5 having direct contact with children, the developmentally  
6 disabled, the aged, or the elderly as provided in s.  
7 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.  
8 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.  
9 916.106(10) and (13), s. 985.407, or chapter 400; or

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

15           (b) Subject to the exceptions in paragraph (a), a  
16 person who has been granted an expunction under this section,  
17 former s. 893.14, former s. 901.33, or former s. 943.058 may  
18 not be held under any provision of law of this state to commit  
19 perjury or to be otherwise liable for giving a false statement  
20 by reason of such person's failure to recite or acknowledge an  
21 expunged criminal history record.

22           (c) Information relating to the existence of an  
23 expunged criminal history record which is provided in  
24 accordance with paragraph (a) is confidential and exempt from  
25 the provisions of s. 119.07(1) and s. 24(a), Art. I of the  
26 State Constitution, except that the department shall disclose  
27 the existence of a criminal history record ordered expunged to  
28 the entities set forth in subparagraphs (a)1., 4., 5., and 6.  
29 for their respective licensing and employment purposes, and to  
30 criminal justice agencies for their respective criminal  
31 justice purposes. It is unlawful for any employee of an entity

1 set forth in subparagraph (a)1., subparagraph (a)4.,  
2 subparagraph (a)5., or subparagraph (a)6. to disclose  
3 information relating to the existence of an expunged criminal  
4 history record of a person seeking employment or licensure  
5 with such entity or contractor, except to the person to whom  
6 the criminal history record relates or to persons having  
7 direct responsibility for employment or licensure decisions.  
8 Any person who violates this paragraph commits a misdemeanor  
9 of the first degree, punishable as provided in s. 775.082 or  
10 s. 775.083.

11 (5) STATUTORY REFERENCES.--Any reference to any other  
12 chapter, section, or subdivision of the Florida Statutes in  
13 this section constitutes a general reference under the  
14 doctrine of incorporation by reference.

15 Section 7. Section 943.059, Florida Statutes, is  
16 amended to read:

17 943.059 Court-ordered sealing of criminal history  
18 records.--The courts of this state shall continue to have  
19 jurisdiction over their own procedures, including the  
20 maintenance, sealing, and correction of judicial records  
21 containing criminal history information to the extent such  
22 procedures are not inconsistent with the conditions,  
23 responsibilities, and duties established by this section. Any  
24 court of competent jurisdiction may order a criminal justice  
25 agency to seal the criminal history record of a minor or an  
26 adult who complies with the requirements of this section. The  
27 court shall not order a criminal justice agency to seal a  
28 criminal history record until the person seeking to seal a  
29 criminal history record has applied for and received a  
30 certificate of eligibility for sealing pursuant to subsection  
31 (2). A criminal history record that relates to a violation of

1 s. 393.135, s. 394.4593,s. 787.025, chapter 794, s. 796.03,  
2 s. 800.04, s. 817.034, s. 825.1025, s. 827.071, chapter 839,  
3 s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.  
4 916.1075,or a violation enumerated in s. 907.041 may not be  
5 sealed, without regard to whether adjudication was withheld,  
6 if the defendant was found guilty of or pled guilty or nolo  
7 contendere to the offense, or if the defendant, as a minor,  
8 was found to have committed or pled guilty or nolo contendere  
9 to committing the offense as a delinquent act. The court may  
10 only order sealing of a criminal history record pertaining to  
11 one arrest or one incident of alleged criminal activity,  
12 except as provided in this section. The court may, at its sole  
13 discretion, order the sealing of a criminal history record  
14 pertaining to more than one arrest if the additional arrests  
15 directly relate to the original arrest. If the court intends  
16 to order the sealing of records pertaining to such additional  
17 arrests, such intent must be specified in the order. A  
18 criminal justice agency may not seal any record pertaining to  
19 such additional arrests if the order to seal does not  
20 articulate the intention of the court to seal records  
21 pertaining to more than one arrest. This section does not  
22 prevent the court from ordering the sealing of only a portion  
23 of a criminal history record pertaining to one arrest or one  
24 incident of alleged criminal activity. Notwithstanding any law  
25 to the contrary, a criminal justice agency may comply with  
26 laws, court orders, and official requests of other  
27 jurisdictions relating to sealing, correction, or confidential  
28 handling of criminal history records or information derived  
29 therefrom. This section does not confer any right to the  
30 sealing of any criminal history record, and any request for  
31

1 sealing a criminal history record may be denied at the sole  
2 discretion of the court.

3 (1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.--Each  
4 petition to a court to seal a criminal history record is  
5 complete only when accompanied by:

6 (a) A certificate of eligibility for sealing issued by  
7 the department pursuant to subsection (2).

8 (b) The petitioner's sworn statement attesting that  
9 the petitioner:

10 1. Has never, prior to the date on which the petition  
11 is filed, been adjudicated guilty of a criminal offense or  
12 comparable ordinance violation or adjudicated delinquent for  
13 committing a felony or a misdemeanor specified in s.  
14 943.051(3)(b).

15 2. Has not been adjudicated guilty of or adjudicated  
16 delinquent for committing any of the acts stemming from the  
17 arrest or alleged criminal activity to which the petition to  
18 seal pertains.

19 3. Has never secured a prior sealing or expunction of  
20 a criminal history record under this section, former s.  
21 893.14, former s. 901.33, former s. 943.058, or from any  
22 jurisdiction outside the state.

23 4. Is eligible for such a sealing to the best of his  
24 or her knowledge or belief and does not have any other  
25 petition to seal or any petition to expunge pending before any  
26 court.

27  
28 Any person who knowingly provides false information on such  
29 sworn statement to the court commits a felony of the third  
30 degree, punishable as provided in s. 775.082, s. 775.083, or  
31 s. 775.084.



1           (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.--Prior to  
2 petitioning the court to seal a criminal history record, a  
3 person seeking to seal a criminal history record shall apply  
4 to the department for a certificate of eligibility for  
5 sealing. The department shall, by rule adopted pursuant to  
6 chapter 120, establish procedures pertaining to the  
7 application for and issuance of certificates of eligibility  
8 for sealing. The department shall issue a certificate of  
9 eligibility for sealing to a person who is the subject of a  
10 criminal history record provided that such person:  
11           (a) Has submitted to the department a certified copy  
12 of the disposition of the charge to which the petition to seal  
13 pertains.  
14           (b) Remits a \$75 processing fee to the department for  
15 placement in the Department of Law Enforcement Operating Trust  
16 Fund, unless such fee is waived by the executive director.  
17           (c) Has never, prior to the date on which the  
18 application for a certificate of eligibility is filed, been  
19 adjudicated guilty of a criminal offense or comparable  
20 ordinance violation or adjudicated delinquent for committing a  
21 felony or a misdemeanor specified in s. 943.051(3)(b).  
22           (d) Has not been adjudicated guilty of or adjudicated  
23 delinquent for committing any of the acts stemming from the  
24 arrest or alleged criminal activity to which the petition to  
25 seal pertains.  
26           (e) Has never secured a prior sealing or expunction of  
27 a criminal history record under this section, former s.  
28 893.14, former s. 901.33, or former s. 943.058.  
29           (f) Is no longer under court supervision applicable to  
30 the disposition of the arrest or alleged criminal activity to  
31 which the petition to seal pertains.

1 (3) PROCESSING OF A PETITION OR ORDER TO SEAL.--

2 (a) In judicial proceedings under this section, a copy  
3 of the completed petition to seal shall be served upon the  
4 appropriate state attorney or the statewide prosecutor and  
5 upon the arresting agency; however, it is not necessary to  
6 make any agency other than the state a party. The appropriate  
7 state attorney or the statewide prosecutor and the arresting  
8 agency may respond to the court regarding the completed  
9 petition to seal.

10 (b) If relief is granted by the court, the clerk of  
11 the court shall certify copies of the order to the appropriate  
12 state attorney or the statewide prosecutor and to the  
13 arresting agency. The arresting agency is responsible for  
14 forwarding the order to any other agency to which the  
15 arresting agency disseminated the criminal history record  
16 information to which the order pertains. The department shall  
17 forward the order to seal to the Federal Bureau of  
18 Investigation. The clerk of the court shall certify a copy of  
19 the order to any other agency which the records of the court  
20 reflect has received the criminal history record from the  
21 court.

22 (c) For an order to seal entered by a court prior to  
23 July 1, 1992, the department shall notify the appropriate  
24 state attorney or statewide prosecutor of any order to seal  
25 which is contrary to law because the person who is the subject  
26 of the record has previously been convicted of a crime or  
27 comparable ordinance violation or has had a prior criminal  
28 history record sealed or expunged. Upon receipt of such  
29 notice, the appropriate state attorney or statewide prosecutor  
30 shall take action, within 60 days, to correct the record and  
31 petition the court to void the order to seal. The department

1 shall seal the record until such time as the order is voided  
2 by the court.

3 (d) On or after July 1, 1992, the department or any  
4 other criminal justice agency is not required to act on an  
5 order to seal entered by a court when such order does not  
6 comply with the requirements of this section. Upon receipt of  
7 such an order, the department must notify the issuing court,  
8 the appropriate state attorney or statewide prosecutor, the  
9 petitioner or the petitioner's attorney, and the arresting  
10 agency of the reason for noncompliance. The appropriate state  
11 attorney or statewide prosecutor shall take action within 60  
12 days to correct the record and petition the court to void the  
13 order. No cause of action, including contempt of court, shall  
14 arise against any criminal justice agency for failure to  
15 comply with an order to seal when the petitioner for such  
16 order failed to obtain the certificate of eligibility as  
17 required by this section or when such order does not comply  
18 with the requirements of this section.

19 (e) An order sealing a criminal history record  
20 pursuant to this section does not require that such record be  
21 surrendered to the court, and such record shall continue to be  
22 maintained by the department and other criminal justice  
23 agencies.

24 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A  
25 criminal history record of a minor or an adult which is  
26 ordered sealed by a court of competent jurisdiction pursuant  
27 to this section is confidential and exempt from the provisions  
28 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution  
29 and is available only to the person who is the subject of the  
30 record, to the subject's attorney, to criminal justice  
31 agencies for their respective criminal justice purposes, or to

1 those entities set forth in subparagraphs (a)1., 4., 5., and  
2 6. for their respective licensing and employment purposes.

3 (a) The subject of a criminal history record sealed  
4 under this section or under other provisions of law, including  
5 former s. 893.14, former s. 901.33, and former s. 943.058, may  
6 lawfully deny or fail to acknowledge the arrests covered by  
7 the sealed record, except when the subject of the record:

8 1. Is a candidate for employment with a criminal  
9 justice agency;

10 2. Is a defendant in a criminal prosecution;

11 3. Concurrently or subsequently petitions for relief  
12 under this section or s. 943.0585;

13 4. Is a candidate for admission to The Florida Bar;

14 5. Is seeking to be employed or licensed by or to  
15 contract with the Department of Children and Family Services  
16 or the Department of Juvenile Justice or to be employed or  
17 used by such contractor or licensee in a sensitive position  
18 having direct contact with children, the developmentally  
19 disabled, the aged, or the elderly as provided in s.  
20 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.  
21 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.  
22 415.103, s. 916.106(10) and (13), s. 985.407, or chapter 400;  
23 or

24 6. Is seeking to be employed or licensed by the Office  
25 of Teacher Education, Certification, Staff Development, and  
26 Professional Practices of the Department of Education, any  
27 district school board, or any local governmental entity which  
28 licenses child care facilities.

29 (b) Subject to the exceptions in paragraph (a), a  
30 person who has been granted a sealing under this section,  
31 former s. 893.14, former s. 901.33, or former s. 943.058 may

1 not be held under any provision of law of this state to commit  
2 perjury or to be otherwise liable for giving a false statement  
3 by reason of such person's failure to recite or acknowledge a  
4 sealed criminal history record.

5 (c) Information relating to the existence of a sealed  
6 criminal record provided in accordance with the provisions of  
7 paragraph (a) is confidential and exempt from the provisions  
8 of s. 119.07(1) and s. 24(a), Art. I of the State  
9 Constitution, except that the department shall disclose the  
10 sealed criminal history record to the entities set forth in  
11 subparagraphs (a)1., 4., 5., and 6. for their respective  
12 licensing and employment purposes. It is unlawful for any  
13 employee of an entity set forth in subparagraph (a)1.,  
14 subparagraph (a)4., subparagraph (a)5., or subparagraph (a)6.  
15 to disclose information relating to the existence of a sealed  
16 criminal history record of a person seeking employment or  
17 licensure with such entity or contractor, except to the person  
18 to whom the criminal history record relates or to persons  
19 having direct responsibility for employment or licensure  
20 decisions. Any person who violates the provisions of this  
21 paragraph commits a misdemeanor of the first degree,  
22 punishable as provided in s. 775.082 or s. 775.083.

23 (5) STATUTORY REFERENCES.--Any reference to any other  
24 chapter, section, or subdivision of the Florida Statutes in  
25 this section constitutes a general reference under the  
26 doctrine of incorporation by reference.

27 Section 8. Paragraph (a) of subsection (2) of section  
28 400.215, Florida Statutes, is amended, and paragraphs (b) and  
29 (c) of subsection (2) and subsection (3) of that section are  
30 reenacted for the purpose of incorporating the amendments to  
31

1 sections 435.03 and 435.04, Florida Statutes, in references  
2 thereto, to read:

3 400.215 Personnel screening requirement.--

4 (2) Employers and employees shall comply with the  
5 requirements of s. 435.05.

6 (a) Notwithstanding the provisions of s. 435.05(1),  
7 facilities must have in their possession evidence that level 1  
8 screening has been completed before allowing an employee to  
9 begin working with patients as provided in subsection (1). All  
10 information necessary for conducting background screening  
11 using level 1 standards as specified in s. 435.03~~(1)~~ shall be  
12 submitted by the nursing facility to the agency. Results of  
13 the background screening shall be provided by the agency to  
14 the requesting nursing facility.

15 (b) Employees qualified under the provisions of  
16 paragraph (a) who have not maintained continuous residency  
17 within the state for the 5 years immediately preceding the  
18 date of request for background screening must complete level 2  
19 screening, as provided in chapter 435. Such employees may work  
20 in a conditional status up to 180 days pending the receipt of  
21 written findings evidencing the completion of level 2  
22 screening. Level 2 screening shall not be required of  
23 employees or prospective employees who attest in writing under  
24 penalty of perjury that they meet the residency requirement.  
25 Completion of level 2 screening shall require the employee or  
26 prospective employee to furnish to the nursing facility a full  
27 set of fingerprints to enable a criminal background  
28 investigation to be conducted. The nursing facility shall  
29 submit the completed fingerprint card to the agency. The  
30 agency shall establish a record of the request in the database  
31 provided for in paragraph (c) and forward the request to the

1 Department of Law Enforcement, which is authorized to submit  
2 the fingerprints to the Federal Bureau of Investigation for a  
3 national criminal history records check. The results of the  
4 national criminal history records check shall be returned to  
5 the agency, which shall maintain the results in the database  
6 provided for in paragraph (c). The agency shall notify the  
7 administrator of the requesting nursing facility or the  
8 administrator of any other facility licensed under chapter  
9 393, chapter 394, chapter 395, chapter 397, or this chapter,  
10 as requested by such facility, as to whether or not the  
11 employee has qualified under level 1 or level 2 screening. An  
12 employee or prospective employee who has qualified under level  
13 2 screening and has maintained such continuous residency  
14 within the state shall not be required to complete a  
15 subsequent level 2 screening as a condition of employment at  
16 another facility.

17 (c) The agency shall establish and maintain a database  
18 of background screening information which shall include the  
19 results of both level 1 and level 2 screening. The Department  
20 of Law Enforcement shall timely provide to the agency,  
21 electronically, the results of each statewide screening for  
22 incorporation into the database. The agency shall, upon  
23 request from any facility, agency, or program required by or  
24 authorized by law to screen its employees or applicants,  
25 notify the administrator of the facility, agency, or program  
26 of the qualifying or disqualifying status of the employee or  
27 applicant named in the request.

28 (3) The applicant is responsible for paying the fees  
29 associated with obtaining the required screening. Payment for  
30 the screening shall be submitted to the agency. The agency  
31 shall establish a schedule of fees to cover the costs of level

1 1 and level 2 screening. Facilities may reimburse employees  
2 for these costs. The Department of Law Enforcement shall  
3 charge the agency for a level 1 or level 2 screening a rate  
4 sufficient to cover the costs of such screening pursuant to s.  
5 943.053(3). The agency shall, as allowable, reimburse nursing  
6 facilities for the cost of conducting background screening as  
7 required by this section. This reimbursement will not be  
8 subject to any rate ceilings or payment targets in the  
9 Medicaid Reimbursement plan.

10 Section 9. For the purpose of incorporating the  
11 amendments to sections 435.03 and 435.04, Florida Statutes, in  
12 references thereto, subsections (1) and (2) of section  
13 400.964, Florida Statutes, are reenacted, and subsection (7)  
14 of that section is amended and reenacted, to read:

15 400.964 Personnel screening requirement.--

16 (1) The agency shall require level 2 background  
17 screening as provided in chapter 435 for all employees or  
18 prospective employees of facilities licensed under this part  
19 who are expected to be, or whose responsibilities are such  
20 that they would be considered to be, a direct service  
21 provider.

22 (2) Employers and employees shall comply with the  
23 requirements of chapter 435.

24 (7) All employees must comply with the requirements of  
25 this section by October 1, 2000. A person employed by a  
26 facility licensed pursuant to this part as of the effective  
27 date of this act is not required to submit to rescreening if  
28 the facility has in its possession written evidence that the  
29 person has been screened and qualified according to level 1  
30 standards as specified in s. 435.03~~(1)~~. Any current employee  
31 who meets the level 1 requirement but does not meet the 5-year



1 residency requirement must provide to the employing facility  
2 written attestation under penalty of perjury that the employee  
3 has not been convicted of a disqualifying offense in another  
4 state or jurisdiction. All applicants hired on or after  
5 October 1, 1999, must comply with the requirements of this  
6 section.

7 Section 10. For the purpose of incorporating the  
8 amendment to section 435.04, Florida Statutes, in a reference  
9 thereto, paragraph (a) of subsection (1) of section 435.045,  
10 Florida Statutes, is amended and reenacted to read:

11 435.045 Requirements for placement of dependent  
12 children.--

13 (1)(a) Unless an election provided for in subsection  
14 (2) is made with respect to the state, the department is  
15 authorized to conduct criminal records checks equivalent to  
16 the level 2 screening required in s. 435.04~~(1)~~for any person  
17 being considered by the department for placement of a child  
18 subject to a placement decision pursuant to chapter 39.  
19 Approval shall not be granted:

20 1. In any case in which a record check reveals a  
21 felony conviction for child abuse, abandonment, or neglect;  
22 for spousal abuse; for a crime against children, including  
23 child pornography, or for a crime involving violence,  
24 including rape, sexual assault, or homicide but not including  
25 other physical assault or battery, if the department finds  
26 that a court of competent jurisdiction has determined that the  
27 felony was committed at any time; and

28 2. In any case in which a record check reveals a  
29 felony conviction for physical assault, battery, or a  
30 drug-related offense, if the department finds that a court of  
31

1 competent jurisdiction has determined that the felony was  
2 committed within the past 5 years.

3 Section 11. For the purpose of incorporating the  
4 amendment to sections 435.03 and 435.04, Florida Statutes, in  
5 references thereto, paragraphs (f) and (g) of subsection (1)  
6 of section 400.414, Florida Statutes, are reenacted to read:

7 400.414 Denial, revocation, or suspension of license;  
8 imposition of administrative fine; grounds.--

9 (1) The agency may deny, revoke, or suspend any  
10 license issued under this part, or impose an administrative  
11 fine in the manner provided in chapter 120, for any of the  
12 following actions by an assisted living facility, for the  
13 actions of any person subject to level 2 background screening  
14 under s. 400.4174, or for the actions of any facility  
15 employee:

16 (f) A determination that a person subject to level 2  
17 background screening under s. 400.4174(1) does not meet the  
18 screening standards of s. 435.04 or that the facility is  
19 retaining an employee subject to level 1 background screening  
20 standards under s. 400.4174(2) who does not meet the screening  
21 standards of s. 435.03 and for whom exemptions from  
22 disqualification have not been provided by the agency.

23 (g) A determination that an employee, volunteer,  
24 administrator, or owner, or person who otherwise has access to  
25 the residents of a facility does not meet the criteria  
26 specified in s. 435.03(2), and the owner or administrator has  
27 not taken action to remove the person. Exemptions from  
28 disqualification may be granted as set forth in s. 435.07. No  
29 administrative action may be taken against the facility if the  
30 person is granted an exemption.

31

1 Administrative proceedings challenging agency action under  
2 this subsection shall be reviewed on the basis of the facts  
3 and conditions that resulted in the agency action.

4 Section 12. For the purpose of incorporating the  
5 amendment to sections 435.03 and 435.04, Florida Statutes, in  
6 references thereto, section 400.4174, Florida Statutes, is  
7 reenacted to read:

8 400.4174 Background screening; exemptions.--

9 (1)(a) Level 2 background screening must be conducted  
10 on each of the following persons, who shall be considered  
11 employees for the purposes of conducting screening under  
12 chapter 435:

13 1. The facility owner if an individual, the  
14 administrator, and the financial officer.

15 2. An officer or board member if the facility owner is  
16 a firm, corporation, partnership, or association, or any  
17 person owning 5 percent or more of the facility if the agency  
18 has probable cause to believe that such person has been  
19 convicted of any offense prohibited by s. 435.04. For each  
20 officer, board member, or person owning 5 percent or more who  
21 has been convicted of any such offense, the facility shall  
22 submit to the agency a description and explanation of the  
23 conviction at the time of license application. This  
24 subparagraph does not apply to a board member of a  
25 not-for-profit corporation or organization if the board member  
26 serves solely in a voluntary capacity, does not regularly take  
27 part in the day-to-day operational decisions of the  
28 corporation or organization, receives no remuneration for his  
29 or her services, and has no financial interest and has no  
30 family members with a financial interest in the corporation or  
31 organization, provided that the board member and facility

1 submit a statement affirming that the board member's  
2 relationship to the facility satisfies the requirements of  
3 this subparagraph.

4 (b) Proof of compliance with level 2 screening  
5 standards which has been submitted within the previous 5 years  
6 to meet any facility or professional licensure requirements of  
7 the agency or the Department of Health satisfies the  
8 requirements of this subsection, provided that such proof is  
9 accompanied, under penalty of perjury, by an affidavit of  
10 compliance with the provisions of chapter 435. Proof of  
11 compliance with the background screening requirements of the  
12 Financial Services Commission and the Office of Insurance  
13 Regulation for applicants for a certificate of authority to  
14 operate a continuing care retirement community under chapter  
15 651, submitted within the last 5 years, satisfies the  
16 Department of Law Enforcement and Federal Bureau of  
17 Investigation portions of a level 2 background check.

18 (c) The agency may grant a provisional license to a  
19 facility applying for an initial license when each individual  
20 required by this subsection to undergo screening has completed  
21 the Department of Law Enforcement background checks, but has  
22 not yet received results from the Federal Bureau of  
23 Investigation, or when a request for an exemption from  
24 disqualification has been submitted to the agency pursuant to  
25 s. 435.07, but a response has not been issued.

26 (2) The owner or administrator of an assisted living  
27 facility must conduct level 1 background screening, as set  
28 forth in chapter 435, on all employees hired on or after  
29 October 1, 1998, who perform personal services as defined in  
30 s. 400.402(17). The agency may exempt an individual from  
31

1 employment disqualification as set forth in chapter 435. Such  
2 persons shall be considered as having met this requirement if:

3 (a) Proof of compliance with level 1 screening  
4 requirements obtained to meet any professional license  
5 requirements in this state is provided and accompanied, under  
6 penalty of perjury, by a copy of the person's current  
7 professional license and an affidavit of current compliance  
8 with the background screening requirements.

9 (b) The person required to be screened has been  
10 continuously employed in the same type of occupation for which  
11 the person is seeking employment without a breach in service  
12 which exceeds 180 days, and proof of compliance with the level  
13 1 screening requirement which is no more than 2 years old is  
14 provided. Proof of compliance shall be provided directly from  
15 one employer or contractor to another, and not from the person  
16 screened. Upon request, a copy of screening results shall be  
17 provided by the employer retaining documentation of the  
18 screening to the person screened.

19 (c) The person required to be screened is employed by  
20 a corporation or business entity or related corporation or  
21 business entity that owns, operates, or manages more than one  
22 facility or agency licensed under this chapter, and for whom a  
23 level 1 screening was conducted by the corporation or business  
24 entity as a condition of initial or continued employment.

25 Section 13. For the purpose of incorporating the  
26 amendment to sections 435.03 and 435.04, Florida Statutes, in  
27 references thereto, paragraphs (a), (b), (c), (d), (f), and  
28 (g) of subsection (4) of section 400.509, Florida Statutes,  
29 are reenacted to read:

30  
31

1           400.509 Registration of particular service providers  
2 exempt from licensure; certificate of registration; regulation  
3 of registrants.--

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

6           (a) Upon receipt of a completed, signed, and dated  
7 application, the agency shall require background screening, in  
8 accordance with the level 1 standards for screening set forth  
9 in chapter 435, of every individual who will have contact with  
10 the client. The agency shall require background screening of  
11 the managing employee or other similarly titled individual who  
12 is responsible for the operation of the entity, and of the  
13 financial officer or other similarly titled individual who is  
14 responsible for the financial operation of the entity,  
15 including billings for client services in accordance with the  
16 level 2 standards for background screening as set forth in  
17 chapter 435.

18           (b) The agency may require background screening of any  
19 other individual who is affiliated with the applicant if the  
20 agency has a reasonable basis for believing that he or she has  
21 been convicted of a crime or has committed any other offense  
22 prohibited under the level 2 standards for screening set forth  
23 in chapter 435.

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

29           (d) A provisional registration may be granted to an  
30 applicant when each individual required by this section to  
31 undergo background screening has met the standards for the

1 abuse-registry background check through the agency and the  
2 Department of Law Enforcement background check, but the agency  
3 has not yet received background screening results from the  
4 Federal Bureau of Investigation. A standard registration may  
5 be granted to the applicant upon the agency's receipt of a  
6 report of the results of the Federal Bureau of Investigation  
7 background screening for each individual required by this  
8 section to undergo background screening which confirms that  
9 all standards have been met, or upon the granting of a  
10 disqualification exemption by the agency as set forth in  
11 chapter 435. Any other person who is required to undergo level  
12 2 background screening may serve in his or her capacity  
13 pending the agency's receipt of the report from the Federal  
14 Bureau of Investigation. However, the person may not continue  
15 to serve if the report indicates any violation of background  
16 screening standards and if a disqualification exemption has  
17 not been requested of and granted by the agency as set forth  
18 in chapter 435.

19 (f) Each applicant must submit to the agency a  
20 description and explanation of any conviction of an offense  
21 prohibited under the level 2 standards of chapter 435 which  
22 was committed by a member of the board of directors of the  
23 applicant, its officers, or any individual owning 5 percent or  
24 more of the applicant. This requirement does not apply to a  
25 director of a not-for-profit corporation or organization who  
26 serves solely in a voluntary capacity for the corporation or  
27 organization, does not regularly take part in the day-to-day  
28 operational decisions of the corporation or organization,  
29 receives no remuneration for his or her services on the  
30 corporation's or organization's board of directors, and has no  
31 financial interest and no family members having a financial

1 interest in the corporation or organization, if the director  
2 and the not-for-profit corporation or organization include in  
3 the application a statement affirming that the director's  
4 relationship to the corporation satisfies the requirements of  
5 this paragraph.

6 (g) A registration may not be granted to an applicant  
7 if the applicant or managing employee has been found guilty  
8 of, regardless of adjudication, or has entered a plea of nolo  
9 contendere or guilty to, any offense prohibited under the  
10 level 2 standards for screening set forth in chapter 435,  
11 unless an exemption from disqualification has been granted by  
12 the agency as set forth in chapter 435.

13 Section 14. For the purpose of incorporating the  
14 amendment to sections 435.03 and 435.04, Florida Statutes, in  
15 references thereto, paragraph (c) of subsection (2) of section  
16 400.556, Florida Statutes, is reenacted to read:

17 400.556 Denial, suspension, revocation of license;  
18 administrative fines; investigations and inspections.--

19 (2) Each of the following actions by the owner of an  
20 adult day care center or by its operator or employee is a  
21 ground for action by the agency against the owner of the  
22 center or its operator or employee:

23 (c) A failure of persons subject to level 2 background  
24 screening under s. 400.4174(1) to meet the screening standards  
25 of s. 435.04, or the retention by the center of an employee  
26 subject to level 1 background screening standards under s.  
27 400.4174(2) who does not meet the screening standards of s.  
28 435.03 and for whom exemptions from disqualification have not  
29 been provided by the agency.

30 Section 15. For the purpose of incorporating the  
31 amendment to sections 435.03 and 435.04, Florida Statutes, in



1 references thereto, subsections (1), (2), and (4) of section  
2 400.6065, Florida Statutes, are reenacted to read:

3 400.6065 Background screening.--

4 (1) Upon receipt of a completed application under s.  
5 400.606, the agency shall require level 2 background screening  
6 on each of the following persons, who shall be considered  
7 employees for the purposes of conducting screening under  
8 chapter 435:

9 (a) The hospice administrator and financial officer.

10 (b) An officer or board member if the hospice is a  
11 firm, corporation, partnership, or association, or any person  
12 owning 5 percent or more of the hospice if the agency has  
13 probable cause to believe that such officer, board member, or  
14 owner has been convicted of any offense prohibited by s.  
15 435.04. For each officer, board member, or person owning 5  
16 percent or more who has been convicted of any such offense,  
17 the hospice shall submit to the agency a description and  
18 explanation of the conviction at the time of license  
19 application. This paragraph does not apply to a board member  
20 of a not-for-profit corporation or organization if the board  
21 member serves solely in a voluntary capacity, does not  
22 regularly take part in the day-to-day operational decisions of  
23 the corporation or organization, receives no remuneration for  
24 his or her services, and has no financial interest and has no  
25 family members with a financial interest in the corporation or  
26 organization, provided that the board member and the  
27 corporation or organization submit a statement affirming that  
28 the board member's relationship to the corporation or  
29 organization satisfies the requirements of this paragraph.

30 (2) Proof of compliance with level 2 screening  
31 standards which has been submitted within the previous 5 years

1 to meet any facility or professional licensure requirements of  
2 the agency or the Department of Health satisfies the  
3 requirements of this section.

4 (4) The agency shall require employment or contractor  
5 screening as provided in chapter 435, using the level 1  
6 standards for screening set forth in that chapter, for hospice  
7 personnel.

8 Section 16. For the purpose of incorporating the  
9 amendment to sections 435.03 and 435.04, Florida Statutes, in  
10 references thereto, paragraphs (a), (b), (c), (d), (f), and  
11 (g) of subsection (4) of section 400.980, Florida Statutes,  
12 are reenacted 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 (f) Each applicant must submit to the agency a  
29 description and explanation of any conviction of an offense  
30 prohibited under the level 2 standards of chapter 435 which  
31 was committed by a member of the board of directors of the

1 applicant, its officers, or any individual owning 5 percent or  
2 more of the applicant. This requirement does not apply to a  
3 director of a not-for-profit corporation or organization who  
4 serves solely in a voluntary capacity for the corporation or  
5 organization, does not regularly take part in the day-to-day  
6 operational decisions of the corporation or organization,  
7 receives no remuneration for his or her services on the  
8 corporation's or organization's board of directors, and has no  
9 financial interest and no family members having a financial  
10 interest in the corporation or organization, if the director  
11 and the not-for-profit corporation or organization include in  
12 the application a statement affirming that the director's  
13 relationship to the corporation satisfies the requirements of  
14 this paragraph.

15 (g) A registration may not be granted to an applicant  
16 if the applicant or managing employee has been found guilty  
17 of, regardless of adjudication, or has entered a plea of nolo  
18 contendere or guilty to, any offense prohibited under the  
19 level 2 standards for screening set forth in chapter 435,  
20 unless an exemption from disqualification has been granted by  
21 the agency as set forth in chapter 435.

22 Section 17. For the purpose of incorporating the  
23 amendment to sections 435.03 and 435.04, Florida Statutes, in  
24 references thereto, paragraph (k) of subsection (2) of section  
25 409.175, Florida Statutes, is reenacted to read:

26 409.175 Licensure of family foster homes, residential  
27 child-caring agencies, and child-placing agencies; public  
28 records exemption.--

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

30 (k) "Screening" means the act of assessing the  
31 background of personnel and includes, but is not limited to,

1 employment history checks as provided in chapter 435, using  
2 the level 2 standards for screening set forth in that chapter.  
3 Screening for employees and volunteers in summer day camps and  
4 summer 24-hour camps and screening for all volunteers included  
5 under the definition of "personnel" shall be conducted as  
6 provided in chapter 435, using the level 1 standards set forth  
7 in that chapter.

8 Section 18. For the purpose of incorporating the  
9 amendment to sections 435.03 and 435.04, Florida Statutes, in  
10 references thereto, paragraph (d) of subsection (8) of section  
11 409.907, Florida Statutes, is reenacted to read:

12 409.907 Medicaid provider agreements.--The agency may  
13 make payments for medical assistance and related services  
14 rendered to Medicaid recipients only to an individual or  
15 entity who has a provider agreement in effect with the agency,  
16 who is performing services or supplying goods in accordance  
17 with federal, state, and local law, and who agrees that no  
18 person shall, on the grounds of handicap, race, color, or  
19 national origin, or for any other reason, be subjected to  
20 discrimination under any program or activity for which the  
21 provider receives payment from the agency.

22 (8)

23 (d) Proof of compliance with the requirements of level  
24 2 screening under s. 435.04 conducted within 12 months prior  
25 to the date that the Medicaid provider application is  
26 submitted to the agency shall fulfill the requirements of this  
27 subsection. Proof of compliance with the requirements of level  
28 1 screening under s. 435.03 conducted within 12 months prior  
29 to the date that the Medicaid provider application is  
30 submitted to the agency shall meet the requirement that the  
31

1 Department of Law Enforcement conduct a state criminal history  
2 record check.

3 Section 19. For the purpose of incorporating the  
4 amendment to sections 435.03 and 435.04, Florida Statutes, in  
5 references thereto, subsections (1) and (3) of section 435.05,  
6 Florida Statutes, are reenacted to read:

7 435.05 Requirements for covered employees.--Except as  
8 otherwise provided by law, the following requirements shall  
9 apply to covered employees:

10 (1)(a) Every person employed in a position for which  
11 employment screening is required must, within 5 working days  
12 after starting to work, submit to the employer a complete set  
13 of information necessary to conduct a screening under this  
14 section.

15 (b) For level 1 screening, the employer must submit  
16 the information necessary for screening to the Florida  
17 Department of Law Enforcement within 5 working days after  
18 receiving it. The Florida Department of Law Enforcement will  
19 conduct a search of its records and will respond to the  
20 employer agency. The employer will inform the employee whether  
21 screening has revealed any disqualifying information.

22 (c) For level 2 screening, the employer or licensing  
23 agency must submit the information necessary for screening to  
24 the Florida Department of Law Enforcement within 5 working  
25 days after receiving it. The Florida Department of Law  
26 Enforcement will conduct a search of its criminal and juvenile  
27 records and will request that the Federal Bureau of  
28 Investigation conduct a search of its records for each  
29 employee for whom the request is made. The Florida Department  
30 of Law Enforcement will respond to the employer or licensing  
31 agency, and the employer or licensing agency will inform the

1 employee whether screening has revealed disqualifying  
2 information.

3 (d) The person whose background is being checked must  
4 supply any missing criminal or other necessary information to  
5 the employer within 30 days after the employer makes a request  
6 for the information or be subject to automatic  
7 disqualification.

8 (3) Each employer required to conduct level 2  
9 background screening must sign an affidavit annually, under  
10 penalty of perjury, stating that all covered employees have  
11 been screened or are newly hired and are awaiting the results  
12 of the required screening checks.

13 Section 20. For the purpose of incorporating the  
14 amendment to sections 435.03 and 435.04, Florida Statutes, in  
15 references thereto, section 744.3135, Florida Statutes, as  
16 amended by chapter 2003-402, Laws of Florida, is reenacted to  
17 read:

18 744.3135 Credit and criminal investigation.--The court  
19 may require a nonprofessional guardian and shall require a  
20 professional or public guardian, and all employees of a  
21 professional guardian who have a fiduciary responsibility to a  
22 ward, to submit, at their own expense, to an investigation of  
23 the guardian's credit history and to undergo level 2  
24 background screening as required under s. 435.04. The clerk of  
25 the court shall obtain fingerprint cards from the Federal  
26 Bureau of Investigation and make them available to guardians.  
27 Any guardian who is so required shall have his or her  
28 fingerprints taken and forward the proper fingerprint card  
29 along with the necessary fee to the Florida Department of Law  
30 Enforcement for processing. The professional guardian shall  
31 pay to the clerk of the court a fee of up to \$7.50 for

1 handling and processing professional guardian files. The  
2 results of the fingerprint checks shall be forwarded to the  
3 clerk of court who shall maintain the results in a guardian  
4 file and shall make the results available to the court. If  
5 credit or criminal investigations are required, the court must  
6 consider the results of the investigations in appointing a  
7 guardian. Professional guardians and all employees of a  
8 professional guardian who have a fiduciary responsibility to a  
9 ward, so appointed, must resubmit, at their own expense, to an  
10 investigation of credit history, and undergo level 1  
11 background screening as required under s. 435.03, at least  
12 every 2 years after the date of their appointment. At any  
13 time, the court may require guardians or their employees to  
14 submit to an investigation of credit history and undergo level  
15 1 background screening as required under s. 435.03. The court  
16 must consider the results of these investigations in  
17 reappointing a guardian. This section shall not apply to a  
18 professional guardian, or to the employees of a professional  
19 guardian, that is a trust company, a state banking corporation  
20 or state savings association authorized and qualified to  
21 exercise fiduciary powers in this state, or a national banking  
22 association or federal savings and loan association authorized  
23 and qualified to exercise fiduciary powers in this state

24 Section 21. For the purpose of incorporating the  
25 amendment to sections 435.03 and 435.04, Florida Statutes, in  
26 references thereto, subsection (2) of section 985.04, Florida  
27 Statutes, is reenacted to read:

28 985.04 Oaths; records; confidential information.--

29 (2) Records maintained by the Department of Juvenile  
30 Justice, including copies of records maintained by the court,  
31 which pertain to a child found to have committed a delinquent



1 act which, if committed by an adult, would be a crime  
2 specified in ss. 435.03 and 435.04 may not be destroyed  
3 pursuant to this section for a period of 25 years after the  
4 youth's final referral to the department, except in cases of  
5 the death of the child. Such records, however, shall be sealed  
6 by the court for use only in meeting the screening  
7 requirements for personnel in s. 402.3055 and the other  
8 sections cited above, or pursuant to departmental rule;  
9 however, current criminal history information must be obtained  
10 from the Department of Law Enforcement in accordance with s.  
11 943.053. The information shall be released to those persons  
12 specified in the above cited sections for the purposes of  
13 complying with those sections. The court may punish by  
14 contempt any person who releases or uses the records for any  
15 unauthorized purpose.

16 Section 22. For the purpose of incorporating the  
17 amendment to section 435.03, Florida Statutes, in references  
18 thereto, section 400.512, Florida Statutes, is reenacted to  
19 read:

20 400.512 Screening of home health agency personnel;  
21 nurse registry personnel; and companions and homemakers.--The  
22 agency shall require employment or contractor screening as  
23 provided in chapter 435, using the level 1 standards for  
24 screening set forth in that chapter, for home health agency  
25 personnel; persons referred for employment by nurse  
26 registries; and persons employed by companion or homemaker  
27 services registered under s. 400.509.

28 (1)(a) The Agency for Health Care Administration may,  
29 upon request, grant exemptions from disqualification from  
30 employment or contracting under this section as provided in s.  
31 435.07, except for health care practitioners licensed by the

1 Department of Health or a regulatory board within that  
2 department.

3 (b) The appropriate regulatory board within the  
4 Department of Health, or that department itself when there is  
5 no board, may, upon request of the licensed health care  
6 practitioner, grant exemptions from disqualification from  
7 employment or contracting under this section as provided in s.  
8 435.07.

9 (2) The administrator of each home health agency, the  
10 managing employee of each nurse registry, and the managing  
11 employee of each companion or homemaker service registered  
12 under s. 400.509 must sign an affidavit annually, under  
13 penalty of perjury, stating that all personnel hired,  
14 contracted with, or registered on or after October 1, 1994,  
15 who enter the home of a patient or client in their service  
16 capacity have been screened and that its remaining personnel  
17 have worked for the home health agency or registrant  
18 continuously since before October 1, 1994.

19 (3) As a prerequisite to operating as a home health  
20 agency, nurse registry, or companion or homemaker service  
21 under s. 400.509, the administrator or managing employee,  
22 respectively, must submit to the agency his or her name and  
23 any other information necessary to conduct a complete  
24 screening according to this section. The agency shall submit  
25 the information to the Department of Law Enforcement for state  
26 processing. The agency shall review the record of the  
27 administrator or manager with respect to the offenses  
28 specified in this section and shall notify the owner of its  
29 findings. If disposition information is missing on a criminal  
30 record, the administrator or manager, upon request of the  
31 agency, must obtain and supply within 30 days the missing

1 disposition information to the agency. Failure to supply  
2 missing information within 30 days or to show reasonable  
3 efforts to obtain such information will result in automatic  
4 disqualification.

5           (4) Proof of compliance with the screening  
6 requirements of chapter 435 shall be accepted in lieu of the  
7 requirements of this section if the person has been  
8 continuously employed or registered without a breach in  
9 service that exceeds 180 days, the proof of compliance is not  
10 more than 2 years old, and the person has been screened by the  
11 Department of Law Enforcement. A home health agency, nurse  
12 registry, or companion or homemaker service registered under  
13 s. 400.509 shall directly provide proof of compliance to  
14 another home health agency, nurse registry, or companion or  
15 homemaker service registered under s. 400.509. The recipient  
16 home health agency, nurse registry, or companion or homemaker  
17 service registered under s. 400.509 may not accept any proof  
18 of compliance directly from the person who requires screening.  
19 Proof of compliance with the screening requirements of this  
20 section shall be provided upon request to the person screened  
21 by the home health agencies; nurse registries; or companion or  
22 homemaker services registered under s. 400.509.

23           (5) There is no monetary liability on the part of, and  
24 no cause of action for damages arises against, a licensed home  
25 health agency, licensed nurse registry, or companion or  
26 homemaker service registered under s. 400.509, that, upon  
27 notice that the employee or contractor has been found guilty  
28 of, regardless of adjudication, or entered a plea of nolo  
29 contendere or guilty to, any offense prohibited under s.  
30 435.03 or under any similar statute of another jurisdiction,  
31 terminates the employee or contractor, whether or not the

1 employee or contractor has filed for an exemption with the  
2 agency in accordance with chapter 435 and whether or not the  
3 time for filing has expired.

4 (6) The costs of processing the statewide  
5 correspondence criminal records checks must be borne by the  
6 home health agency; the nurse registry; or the companion or  
7 homemaker service registered under s. 400.509, or by the  
8 person being screened, at the discretion of the home health  
9 agency, nurse registry, or s. 400.509 registrant.

10 (7)(a) It is a misdemeanor of the first degree,  
11 punishable under s. 775.082 or s. 775.083, for any person  
12 willfully, knowingly, or intentionally to:

13 1. Fail, by false statement, misrepresentation,  
14 impersonation, or other fraudulent means, to disclose in any  
15 application for voluntary or paid employment a material fact  
16 used in making a determination as to such person's  
17 qualifications to be an employee under this section;

18 2. Operate or attempt to operate an entity licensed or  
19 registered under this part with persons who do not meet the  
20 minimum standards for good moral character as contained in  
21 this section; or

22 3. Use information from the criminal records obtained  
23 under this section for any purpose other than screening that  
24 person for employment as specified in this section or release  
25 such information to any other person for any purpose other  
26 than screening for employment under this section.

27 (b) It is a felony of the third degree, punishable  
28 under s. 775.082, s. 775.083, or s. 775.084, for any person  
29 willfully, knowingly, or intentionally to use information from  
30 the juvenile records of a person obtained under this section

31

1 for any purpose other than screening for employment under this  
2 section.

3 Section 23. For the purpose of incorporating the  
4 amendment to section 435.03, Florida Statutes, in references  
5 thereto, subsection (4) of section 400.619, Florida Statutes,  
6 is reenacted to read:

7 400.619 Licensure application and renewal.--

8 (4) Upon receipt of a completed license application or  
9 license renewal, and the fee, the agency shall initiate a  
10 level 1 background screening as provided under chapter 435 on  
11 the adult family-care home provider, the designated relief  
12 person, all adult household members, and all staff members.  
13 The agency shall conduct an onsite visit to the home that is  
14 to be licensed.

15 (a) Proof of compliance with level 1 screening  
16 standards which has been submitted within the previous 5 years  
17 to meet any facility or professional licensure requirements of  
18 the agency or the Department of Health satisfies the  
19 requirements of this subsection. Such proof must be  
20 accompanied, under penalty of perjury, by a copy of the  
21 person's current professional license and an affidavit of  
22 current compliance with the background screening requirements.

23 (b) The person required to be screened must have been  
24 continuously employed in the same type of occupation for which  
25 the person is seeking employment without a breach in service  
26 that exceeds 180 days, and proof of compliance with the level  
27 1 screening requirement which is no more than 2 years old must  
28 be provided. Proof of compliance shall be provided directly  
29 from one employer or contractor to another, and not from the  
30 person screened. Upon request, a copy of screening results

31

1 shall be provided to the person screened by the employer  
2 retaining documentation of the screening.

3 Section 24. For the purpose of incorporating the  
4 amendment to section 435.03, Florida Statutes, in references  
5 thereto, subsection (1) of section 400.6194, Florida Statutes,  
6 is reenacted to read:

7 400.6194 Denial, revocation, or suspension of a  
8 license.--The agency may deny, suspend, or revoke a license  
9 for any of the following reasons:

10 (1) Failure of any of the persons required to undergo  
11 background screening under s. 400.619 to meet the level 1  
12 screening standards of s. 435.03, unless an exemption from  
13 disqualification has been provided by the agency.

14 Section 25. For the purpose of incorporating the  
15 amendment to section 435.03, Florida Statutes, in references  
16 thereto, section 400.953, Florida Statutes, is reenacted to  
17 read:

18 400.953 Background screening of home medical equipment  
19 provider personnel.--The agency shall require employment  
20 screening as provided in chapter 435, using the level 1  
21 standards for screening set forth in that chapter, for home  
22 medical equipment provider personnel.

23 (1) The agency may grant exemptions from  
24 disqualification from employment under this section as  
25 provided in s. 435.07.

26 (2) The general manager of each home medical equipment  
27 provider must sign an affidavit annually, under penalty of  
28 perjury, stating that all home medical equipment provider  
29 personnel hired on or after July 1, 1999, who enter the home  
30 of a patient in the capacity of their employment have been  
31 screened and that its remaining personnel have worked for the

1 home medical equipment provider continuously since before July  
2 1, 1999.

3 (3) Proof of compliance with the screening  
4 requirements of s. 110.1127, s. 393.0655, s. 394.4572, s.  
5 397.451, s. 402.305, s. 402.313, s. 409.175, s. 464.008, or s.  
6 985.407 or this part must be accepted in lieu of the  
7 requirements of this section if the person has been  
8 continuously employed in the same type of occupation for which  
9 he or she is seeking employment without a breach in service  
10 that exceeds 180 days, the proof of compliance is not more  
11 than 2 years old, and the person has been screened by the  
12 Department of Law Enforcement. An employer or contractor shall  
13 directly provide proof of compliance to another employer or  
14 contractor, and a potential employer or contractor may not  
15 accept any proof of compliance directly from the person  
16 requiring screening. Proof of compliance with the screening  
17 requirements of this section shall be provided, upon request,  
18 to the person screened by the home medical equipment provider.

19 (4) There is no monetary liability on the part of, and  
20 no cause of action for damages arising against, a licensed  
21 home medical equipment provider that, upon notice that an  
22 employee has been found guilty of, regardless of adjudication,  
23 or entered a plea of nolo contendere or guilty to, any offense  
24 prohibited under s. 435.03 or under any similar statute of  
25 another jurisdiction, terminates the employee, whether or not  
26 the employee has filed for an exemption with the agency and  
27 whether or not the time for filing has expired.

28 (5) The costs of processing the statewide  
29 correspondence criminal records checks must be borne by the  
30 home medical equipment provider or by the person being  
31

1 screened, at the discretion of the home medical equipment  
2 provider.

3 (6) Neither the agency nor the home medical equipment  
4 provider may use the criminal records or juvenile records of a  
5 person for any purpose other than determining whether that  
6 person meets minimum standards of good moral character for  
7 home medical equipment provider personnel.

8 (7)(a) It is a misdemeanor of the first degree,  
9 punishable as provided in s. 775.082 or s. 775.083, for any  
10 person willfully, knowingly, or intentionally to:

11 1. Fail, by false statement, misrepresentation,  
12 impersonation, or other fraudulent means, to disclose in any  
13 application for paid employment a material fact used in making  
14 a determination as to the person's qualifications to be an  
15 employee under this section;

16 2. Operate or attempt to operate an entity licensed  
17 under this part with persons who do not meet the minimum  
18 standards for good moral character as contained in this  
19 section; or

20 3. Use information from the criminal records obtained  
21 under this section for any purpose other than screening that  
22 person for employment as specified in this section, or release  
23 such information to any other person for any purpose other  
24 than screening for employment under this section.

25 (b) It is a felony of the third degree, punishable as  
26 provided in s. 775.082, s. 775.083, or s. 775.084, for any  
27 person willfully, knowingly, or intentionally to use  
28 information from the juvenile records of a person obtained  
29 under this section for any purpose other than screening for  
30 employment under this section.

31



1           Section 26. For the purpose of incorporating the  
2 amendment to section 435.03, Florida Statutes, in references  
3 thereto, subsection (32) of section 409.912, Florida Statutes,  
4 is reenacted to read:

5           409.912 Cost-effective purchasing of health care.--The  
6 agency shall purchase goods and services for Medicaid  
7 recipients in the most cost-effective manner consistent with  
8 the delivery of quality medical care. The agency shall  
9 maximize the use of prepaid per capita and prepaid aggregate  
10 fixed-sum basis services when appropriate and other  
11 alternative service delivery and reimbursement methodologies,  
12 including competitive bidding pursuant to s. 287.057, designed  
13 to facilitate the cost-effective purchase of a case-managed  
14 continuum of care. The agency shall also require providers to  
15 minimize the exposure of recipients to the need for acute  
16 inpatient, custodial, and other institutional care and the  
17 inappropriate or unnecessary use of high-cost services. The  
18 agency may establish prior authorization requirements for  
19 certain populations of Medicaid beneficiaries, certain drug  
20 classes, or particular drugs to prevent fraud, abuse, overuse,  
21 and possible dangerous drug interactions. The Pharmaceutical  
22 and Therapeutics Committee shall make recommendations to the  
23 agency on drugs for which prior authorization is required. The  
24 agency shall inform the Pharmaceutical and Therapeutics  
25 Committee of its decisions regarding drugs subject to prior  
26 authorization.

27           (32) Each managed care plan that is under contract  
28 with the agency to provide health care services to Medicaid  
29 recipients shall annually conduct a background check with the  
30 Florida Department of Law Enforcement of all persons with  
31 ownership interest of 5 percent or more or executive

1 management responsibility for the managed care plan and shall  
2 submit to the agency information concerning any such person  
3 who has been found guilty of, regardless of adjudication, or  
4 has entered a plea of nolo contendere or guilty to, any of the  
5 offenses listed in s. 435.03.

6 Section 27. For the purpose of incorporating the  
7 amendment to section 435.03, Florida Statutes, in references  
8 thereto, subsection (4) of section 435.07, Florida Statutes,  
9 is reenacted to read:

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

13 (4) Disqualification from employment under subsection  
14 (1) may not be removed from, nor may an exemption be granted  
15 to, any personnel who is found guilty of, regardless of  
16 adjudication, or who has entered a plea of nolo contendere or  
17 guilty to, any felony covered by s. 435.03 solely by reason of  
18 any pardon, executive clemency, or restoration of civil  
19 rights.

20 Section 28. For the purpose of incorporating the  
21 amendment to section 435.03, Florida Statutes, in references  
22 thereto, paragraph (e) of subsection (1) of section 464.018,  
23 Florida Statutes, is reenacted to read:

24 464.018 Disciplinary actions.--

25 (1) The following acts constitute grounds for denial  
26 of a license or disciplinary action, as specified in s.  
27 456.072(2):

28 (e) Having been found guilty of, regardless of  
29 adjudication, or entered a plea of nolo contendere or guilty  
30 to, any offense prohibited under s. 435.03 or under any  
31 similar statute of another jurisdiction; or having committed

1 an act which constitutes domestic violence as defined in s.  
2 741.28.

3 Section 29. For the purpose of incorporating the  
4 amendment to section 435.03, Florida Statutes, in references  
5 thereto, subsection (3) of section 744.309, Florida Statutes,  
6 is reenacted to read:

7 744.309 Who may be appointed guardian of a resident  
8 ward.--

9 (3) DISQUALIFIED PERSONS.--No person who has been  
10 convicted of a felony or who, from any incapacity or illness,  
11 is incapable of discharging the duties of a guardian, or who  
12 is otherwise unsuitable to perform the duties of a guardian,  
13 shall be appointed to act as guardian. Further, no person who  
14 has been judicially determined to have committed abuse,  
15 abandonment, or neglect against a child as defined in s. 39.01  
16 or s. 984.03(1), (2), and (37), or who has been found guilty  
17 of, regardless of adjudication, or entered a plea of nolo  
18 contendere or guilty to, any offense prohibited under s.  
19 435.03 or under any similar statute of another jurisdiction,  
20 shall be appointed to act as a guardian. Except as provided in  
21 subsection (5) or subsection (6), a person who provides  
22 substantial services to the proposed ward in a professional or  
23 business capacity, or a creditor of the proposed ward, may not  
24 be appointed guardian and retain that previous professional or  
25 business relationship. A person may not be appointed a  
26 guardian if he or she is in the employ of any person, agency,  
27 government, or corporation that provides service to the  
28 proposed ward in a professional or business capacity, except  
29 that a person so employed may be appointed if he or she is the  
30 spouse, adult child, parent, or sibling of the proposed ward  
31 or the court determines that the potential conflict of

1 interest is insubstantial and that the appointment would  
2 clearly be in the proposed ward's best interest. The court may  
3 not appoint a guardian in any other circumstance in which a  
4 conflict of interest may occur.

5 Section 30. For the purpose of incorporating the  
6 amendment to section 435.03, Florida Statutes, in references  
7 thereto, subsection (12) of section 744.474, Florida Statutes,  
8 is reenacted to read:

9 744.474 Reasons for removal of guardian.--A guardian  
10 may be removed for any of the following reasons, and the  
11 removal shall be in addition to any other penalties prescribed  
12 by law:

13 (12) Having been found guilty of, regardless of  
14 adjudication, or entered a plea of nolo contendere or guilty  
15 to, any offense prohibited under s. 435.03 or under any  
16 similar statute of another jurisdiction.

17 Section 31. For the purpose of incorporating the  
18 amendment to section 435.03, Florida Statutes, in references  
19 thereto, subsection (4) of section 985.407, Florida Statutes,  
20 is reenacted to read:

21 985.407 Departmental contracting powers; personnel  
22 standards and screening.--

23 (4) The department shall require employment screening  
24 pursuant to chapter 435, using the level 1 standards for  
25 screening set forth in that chapter, for personnel in  
26 delinquency facilities, services, and programs.

27 Section 32. For the purpose of incorporating the  
28 amendment to section 435.04, Florida Statutes, in references  
29 thereto, paragraph (b) of subsection (2) of section 39.001,  
30 Florida Statutes, is reenacted to read:

31

1           39.001 Purposes and intent; personnel standards and  
2 screening.--

3           (2) DEPARTMENT CONTRACTS.--The department may contract  
4 with the Federal Government, other state departments and  
5 agencies, county and municipal governments and agencies,  
6 public and private agencies, and private individuals and  
7 corporations in carrying out the purposes of, and the  
8 responsibilities established in, this chapter.

9           (b) The department shall require employment screening,  
10 and rescreening no less frequently than once every 5 years,  
11 pursuant to chapter 435, using the level 2 standards set forth  
12 in that chapter for personnel in programs for children or  
13 youths.

14           Section 33. For the purpose of incorporating the  
15 amendment to section 435.04, Florida Statutes, in references  
16 thereto, subsection (1) of section 39.821, Florida Statutes,  
17 is reenacted to read:

18           39.821 Qualifications of guardians ad litem.--

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

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

27 Section 34. For the purpose of incorporating the  
28 amendment to section 435.04, Florida Statutes, in references  
29 thereto, paragraphs (a) and (c) of subsection (3) of section  
30 110.1127, Florida Statutes, are reenacted to read:

31 110.1127 Employee security checks.--

1           (3)(a) All positions in programs providing care to  
2 children, the developmentally disabled, or vulnerable adults  
3 for 15 hours or more per week; all permanent and temporary  
4 employee positions of the central abuse hotline; and all  
5 persons working under contract who have access to abuse  
6 records are deemed to be persons and positions of special  
7 trust or responsibility, and require employment screening  
8 pursuant to chapter 435, using the level 2 standards set forth  
9 in that chapter.

10           (c) All persons and employees in such positions of  
11 trust or responsibility shall be required to undergo security  
12 background investigations as a condition of employment and  
13 continued employment. For the purposes of this subsection,  
14 security background investigations shall be conducted as  
15 provided in chapter 435, using the level 2 standards for  
16 screening set forth in that chapter.

17           Section 35. For the purpose of incorporating the  
18 amendment to section 435.04, Florida Statutes, in references  
19 thereto, paragraph (a) of subsection (12) of section 112.0455,  
20 Florida Statutes, is reenacted to read:

21           112.0455 Drug-Free Workplace Act.--

22           (12) DRUG-TESTING STANDARDS; LABORATORIES.--

23           (a) A laboratory may analyze initial or confirmation  
24 drug specimens only if:

25           1. The laboratory is licensed and approved by the  
26 Agency for Health Care Administration using criteria  
27 established by the United States Department of Health and  
28 Human Services as general guidelines for modeling the state  
29 drug testing program. Each applicant for licensure must comply  
30 with the following requirements:

31

1           a. Upon receipt of a completed, signed, and dated  
2 application, the agency shall require background screening, in  
3 accordance with the level 2 standards for screening set forth  
4 in chapter 435, of the managing employee, or other similarly  
5 titled individual responsible for the daily operation of the  
6 laboratory, and of the financial officer, or other similarly  
7 titled individual who is responsible for the financial  
8 operation of the laboratory, including billings for services.  
9 The applicant must comply with the procedures for level 2  
10 background screening as set forth in chapter 435, as well as  
11 the requirements of s. 435.03(3).

12           b. The agency may require background screening of any  
13 other individual who is an applicant if the agency has  
14 probable cause to believe that he or she has been convicted of  
15 an offense prohibited under the level 2 standards for  
16 screening set forth in chapter 435.

17           c. Proof of compliance with the level 2 background  
18 screening requirements of chapter 435 which has been submitted  
19 within the previous 5 years in compliance with any other  
20 health care licensure requirements of this state is acceptable  
21 in fulfillment of screening requirements.

22           d. A provisional license may be granted to an  
23 applicant when each individual required by this section to  
24 undergo background screening has met the standards for the  
25 Department of Law Enforcement background check, but the agency  
26 has not yet received background screening results from the  
27 Federal Bureau of Investigation, or a request for a  
28 disqualification exemption has been submitted to the agency as  
29 set forth in chapter 435, but a response has not yet been  
30 issued. A license may be granted to the applicant upon the  
31 agency's receipt of a report of the results of the Federal



1 Bureau of Investigation background screening for each  
2 individual required by this section to undergo background  
3 screening which confirms that all standards have been met, or  
4 upon the granting of a disqualification exemption by the  
5 agency as set forth in chapter 435. Any other person who is  
6 required to undergo level 2 background screening may serve in  
7 his or her capacity pending the agency's receipt of the report  
8 from the Federal Bureau of Investigation. However, the person  
9 may not continue to serve if the report indicates any  
10 violation of background screening standards and a  
11 disqualification exemption has not been requested of and  
12 granted by the agency as set forth in chapter 435.

13 e. Each applicant must submit to the agency, with its  
14 application, a description and explanation of any exclusions,  
15 permanent suspensions, or terminations of the applicant from  
16 the Medicare or Medicaid programs. Proof of compliance with  
17 the requirements for disclosure of ownership and control  
18 interests under the Medicaid or Medicare programs shall be  
19 accepted in lieu of this submission.

20 f. Each applicant must submit to the agency a  
21 description and explanation of any conviction of an offense  
22 prohibited under the level 2 standards of chapter 435 by a  
23 member of the board of directors of the applicant, its  
24 officers, or any individual owning 5 percent or more of the  
25 applicant. This requirement does not apply to a director of a  
26 not-for-profit corporation or organization if the director  
27 serves solely in a voluntary capacity for the corporation or  
28 organization, does not regularly take part in the day-to-day  
29 operational decisions of the corporation or organization,  
30 receives no remuneration for his or her services on the  
31 corporation or organization's board of directors, and has no

1 financial interest and has no family members with a financial  
2 interest in the corporation or organization, provided that the  
3 director and the not-for-profit corporation or organization  
4 include in the application a statement affirming that the  
5 director's relationship to the corporation satisfies the  
6 requirements of this sub-subparagraph.

7 g. A license may not be granted to any applicant if  
8 the applicant or managing employee has been found guilty of,  
9 regardless of adjudication, or has entered a plea of nolo  
10 contendere or guilty to, any offense prohibited under the  
11 level 2 standards for screening set forth in chapter 435,  
12 unless an exemption from disqualification has been granted by  
13 the agency as set forth in chapter 435.

14 h. The agency may deny or revoke licensure if the  
15 applicant:

16 (I) Has falsely represented a material fact in the  
17 application required by sub-subparagraph e. or  
18 sub-subparagraph f., or has omitted any material fact from the  
19 application required by sub-subparagraph e. or  
20 sub-subparagraph f.; or

21 (II) Has had prior action taken against the applicant  
22 under the Medicaid or Medicare program as set forth in  
23 sub-subparagraph e.

24 i. An application for license renewal must contain the  
25 information required under sub-subparagraphs e. and f.

26 2. The laboratory has written procedures to ensure  
27 chain of custody.

28 3. The laboratory follows proper quality control  
29 procedures, including, but not limited to:

30 a. The use of internal quality controls including the  
31 use of samples of known concentrations which are used to check

1 the performance and calibration of testing equipment, and  
2 periodic use of blind samples for overall accuracy.

3 b. An internal review and certification process for  
4 drug test results, conducted by a person qualified to perform  
5 that function in the testing laboratory.

6 c. Security measures implemented by the testing  
7 laboratory to preclude adulteration of specimens and drug test  
8 results.

9 d. Other necessary and proper actions taken to ensure  
10 reliable and accurate drug test results.

11 Section 36. For the purpose of incorporating the  
12 amendment to section 435.04, Florida Statutes, in references  
13 thereto, subsections (1), (2), and (4) of section 381.0059,  
14 Florida Statutes, are reenacted to read:

15 381.0059 Background screening requirements for school  
16 health services personnel.--

17 (1) Pursuant to the provisions of chapter 435, any  
18 person who provides services under a school health services  
19 plan pursuant to s. 381.0056 must meet level 2 screening  
20 requirements as described in s. 435.04. A person may satisfy  
21 the requirements of this subsection by submitting proof of  
22 compliance with the requirements of level 2 screening  
23 conducted within 12 months before the date that person  
24 initially provides services under a school health services  
25 plan.

26 (2) A person may provide services under a school  
27 health services plan pursuant to s. 381.0056 prior to the  
28 completion of level 2 screening. However, pending the results  
29 of the screening, such person may not be alone with a minor.

30 (4) Under penalty of perjury, each person who provides  
31 services under a school health plan pursuant to s. 381.0056

1 must attest to meeting the level 2 screening requirements for  
2 participation under the plan and agree to inform his or her  
3 employer immediately if convicted of any disqualifying offense  
4 while providing services under a plan.

5 Section 37. For the purpose of incorporating the  
6 amendment to section 435.04, Florida Statutes, in references  
7 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
8 subsection (1) of section 381.60225, Florida Statutes, are  
9 reenacted to read:

10 381.60225 Background screening.--

11 (1) Each applicant for certification must comply with  
12 the following requirements:

13 (a) Upon receipt of a completed, signed, and dated  
14 application, the Agency for Health Care Administration shall  
15 require background screening, in accordance with the level 2  
16 standards for screening set forth in chapter 435, of the  
17 managing employee, or other similarly titled individual  
18 responsible for the daily operation of the organization,  
19 agency, or entity, and financial officer, or other similarly  
20 titled individual who is responsible for the financial  
21 operation of the organization, agency, or entity, including  
22 billings for services. The applicant must comply with the  
23 procedures for level 2 background screening as set forth in  
24 chapter 435, as well as the requirements of s. 435.03(3).

25 (b) The Agency for Health Care Administration may  
26 require background screening of any other individual who is an  
27 applicant if the Agency for Health Care Administration has  
28 probable cause to believe that he or she has been convicted of  
29 a crime or has committed any other offense prohibited under  
30 the level 2 standards for screening set forth in chapter 435.

31

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

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

29 (f) Each applicant must submit to the agency a  
30 description and explanation of any conviction of an offense  
31 prohibited under the level 2 standards of chapter 435 by a

1 member of the board of directors of the applicant, its  
2 officers, or any individual owning 5 percent or more of the  
3 applicant. This requirement does not apply to a director of a  
4 not-for-profit corporation or organization if the director  
5 serves solely in a voluntary capacity for the corporation or  
6 organization, does not regularly take part in the day-to-day  
7 operational decisions of the corporation or organization,  
8 receives no remuneration for his or her services on the  
9 corporation or organization's board of directors, and has no  
10 financial interest and has no family members with a financial  
11 interest in the corporation or organization, provided that the  
12 director and the not-for-profit corporation or organization  
13 include in the application a statement affirming that the  
14 director's relationship to the corporation satisfies the  
15 requirements of this paragraph.

16 (g) The agency may not certify any organization,  
17 agency, or entity if any applicant or managing employee has  
18 been found guilty of, regardless of adjudication, or has  
19 entered a plea of nolo contendere or guilty to, any offense  
20 prohibited under the level 2 standards for screening set forth  
21 in chapter 435, unless an exemption from disqualification has  
22 been granted by the agency as set forth in chapter 435.

23 Section 38. For the purpose of incorporating the  
24 amendment to section 435.04, Florida Statutes, in references  
25 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
26 subsection (7) of section 383.305, Florida Statutes, are  
27 reenacted to read:

28 383.305 Licensure; issuance, renewal, denial,  
29 suspension, revocation; fees; background screening.--

30 (7) Each applicant for licensure must comply with the  
31 following requirements:

1           (a) Upon receipt of a completed, signed, and dated  
2 application, the agency shall require background screening, in  
3 accordance with the level 2 standards for screening set forth  
4 in chapter 435, of the managing employee, or other similarly  
5 titled individual who is responsible for the daily operation  
6 of the center, and of the financial officer, or other  
7 similarly titled individual who is responsible for the  
8 financial operation of the center, including billings for  
9 patient care and services. The applicant must comply with the  
10 procedures for level 2 background screening as set forth in  
11 chapter 435 as well as the requirements of s. 435.03(3).

12           (b) The agency may require background screening of any  
13 other individual who is an applicant if the agency has  
14 probable cause to believe that he or she has been convicted of  
15 a crime or has committed any other offense prohibited under  
16 the level 2 standards for screening set forth in chapter 435.

17           (c) Proof of compliance with the level 2 background  
18 screening requirements of chapter 435 which has been submitted  
19 within the previous 5 years in compliance with any other  
20 health care licensure requirements of this state is acceptable  
21 in fulfillment of the requirements of paragraph (a).

22           (d) A provisional license may be granted to an  
23 applicant when each individual required by this section to  
24 undergo background screening has met the standards for the  
25 Department of Law Enforcement background check, but the agency  
26 has not yet received background screening results from the  
27 Federal Bureau of Investigation, or a request for a  
28 disqualification exemption has been submitted to the agency as  
29 set forth in chapter 435 but a response has not yet been  
30 issued. A standard license may be granted to the applicant  
31 upon the agency's receipt of a report of the results of the

1 Federal Bureau of Investigation background screening for each  
2 individual required by this section to undergo background  
3 screening which confirms that all standards have been met, or  
4 upon the granting of a disqualification exemption by the  
5 agency as set forth in chapter 435. Any other person who is  
6 required to undergo level 2 background screening may serve in  
7 his or her capacity pending the agency's receipt of the report  
8 from the Federal Bureau of Investigation. However, the person  
9 may not continue to serve if the report indicates any  
10 violation of background screening standards and a  
11 disqualification exemption has not been requested of and  
12 granted by the agency as set forth in chapter 435.

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

31



1 (g) A license may not be granted to an applicant if  
2 the applicant or managing employee has been found guilty of,  
3 regardless of adjudication, or has entered a plea of nolo  
4 contendere or guilty to, any offense prohibited under the  
5 level 2 standards for screening set forth in chapter 435,  
6 unless an exemption from disqualification has been granted by  
7 the agency as set forth in chapter 435.

8 Section 39. For the purpose of incorporating the  
9 amendment to section 435.04, Florida Statutes, in references  
10 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
11 subsection (3) of section 390.015, Florida Statutes, are  
12 reenacted to read:

13 390.015 Application for license.--

14 (3) Each applicant for licensure must comply with the  
15 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 2 standards for screening set forth  
19 in chapter 435, of the managing employee, or other similarly  
20 titled individual who is responsible for the daily operation  
21 of the clinic, and financial officer, or other similarly  
22 titled individual who is responsible for the financial  
23 operation of the clinic, including billings for patient care  
24 and services. The applicant must comply with the procedures  
25 for level 2 background screening as set forth in chapter 435,  
26 as well as the requirements of s. 435.03(3).

27 (b) The agency may require background screening of any  
28 other individual who is an applicant if the agency has  
29 probable cause to believe that he or she has been convicted of  
30 a crime or has committed any other offense prohibited under  
31 the level 2 standards for screening set forth in chapter 435.

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

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

28 (f) Each applicant must submit to the agency a  
29 description and explanation of any conviction of an offense  
30 prohibited under the level 2 standards of chapter 435 by a  
31 member of the board of directors of the applicant, its

1 officers, or any individual owning 5 percent or more of the  
2 applicant. This requirement does not apply to a director of a  
3 not-for-profit corporation or organization if the director  
4 serves solely in a voluntary capacity for the corporation or  
5 organization, does not regularly take part in the day-to-day  
6 operational decisions of the corporation or organization,  
7 receives no remuneration for his or her services on the  
8 corporation or organization's board of directors, and has no  
9 financial interest and has no family members with a financial  
10 interest in the corporation or organization, provided that the  
11 director and the not-for-profit corporation or organization  
12 include in the application a statement affirming that the  
13 director's relationship to the corporation satisfies the  
14 requirements of this paragraph.

15 (g) A license may not be granted to an applicant if  
16 the applicant or managing employee has been found guilty of,  
17 regardless of adjudication, or has entered a plea of nolo  
18 contendere or guilty to, any offense prohibited under the  
19 level 2 standards for screening set forth in chapter 435,  
20 unless an exemption from disqualification has been granted by  
21 the agency as set forth in chapter 435.

22 Section 40. For the purpose of incorporating the  
23 amendment to section 435.04, Florida Statutes, in references  
24 thereto, subsection (1) of section 393.0655, Florida Statutes,  
25 is reenacted to read:

26 393.0655 Screening of direct service providers.--

27 (1) MINIMUM STANDARDS.--The department shall require  
28 employment screening pursuant to chapter 435, using the level  
29 2 standards for screening set forth in that chapter, for  
30 direct service providers who are unrelated to their clients.

31

1           Section 41. For the purpose of incorporating the  
2 amendment to section 435.04, Florida Statutes, in references  
3 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
4 subsection (6) of section 393.067, Florida Statutes, are  
5 reenacted to read:

6           393.067 Licensure of residential facilities and  
7 comprehensive transitional education programs.--

8           (6) Each applicant for licensure as an intermediate  
9 care facility for the developmentally disabled must comply  
10 with the following requirements:

11           (a) Upon receipt of a completed, signed, and dated  
12 application, the agency shall require background screening, in  
13 accordance with the level 2 standards for screening set forth  
14 in chapter 435, of the managing employee, or other similarly  
15 titled individual who is responsible for the daily operation  
16 of the facility, and of the financial officer, or other  
17 similarly titled individual who is responsible for the  
18 financial operation of the center, including billings for  
19 resident care and services. The applicant must comply with the  
20 procedures for level 2 background screening as set forth in  
21 chapter 435, as well as the requirements of s. 435.03(3).

22           (b) The agency may require background screening of any  
23 other individual who is an applicant if the agency has  
24 probable cause to believe that he or she has been convicted of  
25 a crime or has committed any other offense prohibited under  
26 the level 2 standards for screening set forth in chapter 435.

27           (c) Proof of compliance with the level 2 background  
28 screening requirements of chapter 435 which has been submitted  
29 within the previous 5 years in compliance with any other  
30 health care licensure requirements of this state is acceptable  
31 in fulfillment of the requirements of paragraph (a).

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

23           (f) Each applicant must submit to the agency a  
24 description and explanation of any conviction of an offense  
25 prohibited under the level 2 standards of chapter 435 by a  
26 member of the board of directors of the applicant, its  
27 officers, or any individual owning 5 percent or more of the  
28 applicant. This requirement does not apply to a director of a  
29 not-for-profit corporation or organization if the director  
30 serves solely in a voluntary capacity for the corporation or  
31 organization, does not regularly take part in the day-to-day

1 operational decisions of the corporation or organization,  
2 receives no remuneration for his or her services on the  
3 corporation or organization's board of directors, and has no  
4 financial interest and has no family members with a financial  
5 interest in the corporation or organization, provided that the  
6 director and the not-for-profit corporation or organization  
7 include in the application a statement affirming that the  
8 director's relationship to the corporation satisfies the  
9 requirements of this paragraph.

10 (g) A license may not be granted to an applicant if  
11 the applicant or managing employee has been found guilty of,  
12 regardless of adjudication, or has entered a plea of nolo  
13 contendere or guilty to, any offense prohibited under the  
14 level 2 standards for screening set forth in chapter 435,  
15 unless an exemption from disqualification has been granted by  
16 the agency as set forth in chapter 435.

17 Section 42. For the purpose of incorporating the  
18 amendment to section 435.04, Florida Statutes, in references  
19 thereto, paragraph (a) of subsection (1) of section 394.4572,  
20 Florida Statutes, is reenacted to read:

21 394.4572 Screening of mental health personnel.--

22 (1)(a) The department and the Agency for Health Care  
23 Administration shall require employment screening for mental  
24 health personnel using the standards for level 2 screening set  
25 forth in chapter 435. "Mental health personnel" includes all  
26 program directors, professional clinicians, staff members, and  
27 volunteers working in public or private mental health programs  
28 and facilities who have direct contact with unmarried patients  
29 under the age of 18 years.

30 Section 43. For the purpose of incorporating the  
31 amendment to section 435.04, Florida Statutes, in references

1 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
2 subsection (13) of section 394.875, Florida Statutes, are  
3 reenacted to read:

4           394.875 Crisis stabilization units, residential  
5 treatment facilities, and residential treatment centers for  
6 children and adolescents; authorized services; license  
7 required; penalties.--

8           (13) Each applicant for licensure must comply with the  
9 following requirements:

10           (a) Upon receipt of a completed, signed, and dated  
11 application, the agency shall require background screening, in  
12 accordance with the level 2 standards for screening set forth  
13 in chapter 435, of the managing employee and financial  
14 officer, or other similarly titled individual who is  
15 responsible for the financial operation of the facility,  
16 including billings for client care and services. The applicant  
17 must comply with the procedures for level 2 background  
18 screening as set forth in chapter 435, as well as the  
19 requirements of s. 435.03(3).

20           (b) The agency may require background screening of any  
21 other individual who is an applicant if the agency has  
22 probable cause to believe that he or she has been convicted of  
23 a crime or has committed any other offense prohibited under  
24 the level 2 standards for screening set forth in chapter 435.

25           (c) Proof of compliance with the level 2 background  
26 screening requirements of chapter 435 which has been submitted  
27 within the previous 5 years in compliance with any other  
28 health care licensure requirements of this state is acceptable  
29 in fulfillment of the requirements of paragraph (a).

30           (d) A provisional license may be granted to an  
31 applicant when each individual required by this section to

1 undergo background screening has met the standards for the  
2 Department of Law Enforcement background check, but the agency  
3 has not yet received background screening results from the  
4 Federal Bureau of Investigation, or a request for a  
5 disqualification exemption has been submitted to the agency as  
6 set forth in chapter 435, but a response has not yet been  
7 issued. A standard license may be granted to the applicant  
8 upon the agency's receipt of a report of the results of the  
9 Federal Bureau of Investigation background screening for each  
10 individual required by this section to undergo background  
11 screening which confirms that all standards have been met, or  
12 upon the granting of a disqualification exemption by the  
13 agency as set forth in chapter 435. Any other person who is  
14 required to undergo level 2 background screening may serve in  
15 his or her capacity pending the agency's receipt of the report  
16 from the Federal Bureau of Investigation. However, the person  
17 may not continue to serve if the report indicates any  
18 violation of background screening standards and a  
19 disqualification exemption has not been requested of and  
20 granted by the agency as set forth in chapter 435.

21 (f) Each applicant must submit to the agency a  
22 description and explanation of any conviction of an offense  
23 prohibited under the level 2 standards of chapter 435 by a  
24 member of the board of directors of the applicant, its  
25 officers, or any individual owning 5 percent or more of the  
26 applicant. This requirement does not apply to a director of a  
27 not-for-profit corporation or organization if the director  
28 serves solely in a voluntary capacity for the corporation or  
29 organization, does not regularly take part in the day-to-day  
30 operational decisions of the corporation or organization,  
31 receives no remuneration for his or her services on the



1 corporation or organization's board of directors, and has no  
2 financial interest and has no family members with a financial  
3 interest in the corporation or organization, provided that the  
4 director and the not-for-profit corporation or organization  
5 include in the application a statement affirming that the  
6 director's relationship to the corporation satisfies the  
7 requirements of this paragraph.

8 (g) A license may not be granted to an applicant if  
9 the applicant or managing employee has been found guilty of,  
10 regardless of adjudication, or has entered a plea of nolo  
11 contendere or guilty to, any offense prohibited under the  
12 level 2 standards for screening set forth in chapter 435,  
13 unless an exemption from disqualification has been granted by  
14 the agency as set forth in chapter 435.

15 Section 44. For the purpose of incorporating the  
16 amendment to section 435.04, Florida Statutes, in references  
17 thereto, subsections (1), (2), (3), (4), (6), and (8) of  
18 section 395.0055, Florida Statutes, are reenacted to read:

19 395.0055 Background screening.--Each applicant for  
20 licensure must comply with the following requirements:

21 (1) Upon receipt of a completed, signed, and dated  
22 application, the agency shall require background screening of  
23 the managing employee in accordance with the level 2 standards  
24 for screening set forth in chapter 435, as well as the  
25 requirements of s. 435.03(3).

26 (2) The agency may require background screening for a  
27 member of the board of directors of the licensee, or an  
28 officer or an individual owning 5 percent or more of the  
29 licensee, if the agency has probable cause to believe that  
30 such individual has been convicted of an offense prohibited  
31

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

3 (3) 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 licensure requirements of this state is acceptable  
7 in fulfillment of subsection (1).

8 (4) A provisional license 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, or a request for a  
14 disqualification exemption has been submitted to the agency as  
15 set forth in chapter 435 but a response has not yet been  
16 issued. A standard license may be granted to the applicant  
17 upon the agency's receipt of a report of the results of the  
18 Federal Bureau of Investigation background screening for each  
19 individual required by this section to undergo background  
20 screening which confirms that all standards have been met, or  
21 upon the granting of a disqualification exemption by the  
22 agency as set forth in chapter 435. Any other person who is  
23 required to undergo level 2 background screening may serve in  
24 his or her capacity pending the agency's receipt of the report  
25 from the Federal Bureau of Investigation; however, the person  
26 may not continue to serve if the report indicates any  
27 violation of background screening standards and a  
28 disqualification exemption has not been requested of and  
29 granted by the agency as set forth in chapter 435.

30 (6) Each applicant must submit to the agency a  
31 description and explanation of any conviction of an offense

1 prohibited under the level 2 standards of chapter 435 by a  
2 member of the board of directors of the applicant, its  
3 officers, or any individual owning 5 percent or more of the  
4 applicant.

5 (8) A license may not be granted to an applicant if  
6 the applicant or managing employee has been found guilty of,  
7 regardless of adjudication, or has entered a plea of nolo  
8 contendere or guilty to, any offense prohibited under the  
9 level 2 standards for screening set forth in chapter 435,  
10 unless an exemption from disqualification has been granted by  
11 the agency as set forth in chapter 435.

12 Section 45. For the purpose of incorporating the  
13 amendment to section 435.04, Florida Statutes, in references  
14 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
15 subsection (4) of section 395.0199, Florida Statutes, are  
16 reenacted to read:

17 395.0199 Private utilization review.--

18 (4) Each applicant for registration must comply with  
19 the following requirements:

20 (a) Upon receipt of a completed, signed, and dated  
21 application, the agency shall require background screening, in  
22 accordance with the level 2 standards for screening set forth  
23 in chapter 435, of the managing employee or other similarly  
24 titled individual who is responsible for the operation of the  
25 entity. The applicant must comply with the procedures for  
26 level 2 background screening as set forth in chapter 435, as  
27 well as the requirements of s. 435.03(3).

28 (b) The agency may require background screening of any  
29 other individual who is an applicant, if the agency has  
30 probable cause to believe that he or she has been convicted of  
31

1 a crime or has committed any other offense prohibited under  
2 the level 2 standards for screening set forth 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 licensure requirements of this state is acceptable  
7 in fulfillment of the requirements 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, or a request for a  
14 disqualification exemption has been submitted to the agency as  
15 set forth in chapter 435 but a response has not yet been  
16 issued. A standard registration may be granted to the  
17 applicant upon the agency's receipt of a report of the results  
18 of the Federal Bureau of Investigation background screening  
19 for each individual required by this section to undergo  
20 background screening which confirms that all standards have  
21 been met, or upon the granting of a disqualification exemption  
22 by the agency as set forth in chapter 435. Any other person  
23 who is required to undergo level 2 background screening may  
24 serve in his or her capacity pending the agency's receipt of  
25 the report from the Federal Bureau of Investigation. However,  
26 the person may not continue to serve if the report indicates  
27 any violation of background screening standards and a  
28 disqualification exemption has not been requested of and  
29 granted by the agency as set forth in chapter 435.

30 (f) Each applicant must submit to the agency a  
31 description and explanation of any conviction of an offense

1 prohibited under the level 2 standards of chapter 435 by a  
2 member of the board of directors of the applicant, its  
3 officers, or any individual owning 5 percent or more of the  
4 applicant. This requirement does not apply to a director of a  
5 not-for-profit corporation or organization if the director  
6 serves solely in a voluntary capacity for the corporation or  
7 organization, does not regularly take part in the day-to-day  
8 operational decisions of the corporation or organization,  
9 receives no remuneration for his or her services on the  
10 corporation or organization's board of directors, and has no  
11 financial interest and has no family members with a financial  
12 interest in the corporation or organization, provided that the  
13 director and the not-for-profit corporation or organization  
14 include in the application a statement affirming that the  
15 director's relationship to the corporation satisfies the  
16 requirements of this paragraph.

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

24 Section 46. For the purpose of incorporating the  
25 amendment to section 435.04, Florida Statutes, in references  
26 thereto, paragraph (a) of subsection (1) of section 397.451,  
27 Florida Statutes, is reenacted to read:

28 397.451 Background checks of service provider  
29 personnel.--

30 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND  
31 EXCEPTIONS.--

1 (a) Background checks shall apply as follows:  
2 1. All owners, directors, and chief financial officers  
3 of service providers are subject to level 2 background  
4 screening as provided under chapter 435.

5 2. All service provider personnel who have direct  
6 contact with children receiving services or with adults who  
7 are developmentally disabled receiving services are subject to  
8 level 2 background screening as provided under chapter 435.

9 Section 47. For the purpose of incorporating the  
10 amendment to section 435.04, Florida Statutes, in references  
11 thereto, paragraphs (a), (b), (c), (d), and (f) of subsection  
12 (4) of section 400.071, Florida Statutes, are reenacted to  
13 read:

14 400.071 Application for license.--

15 (4) Each applicant for licensure must comply with the  
16 following requirements:

17 (a) Upon receipt of a completed, signed, and dated  
18 application, the agency shall require background screening of  
19 the applicant, in accordance with the level 2 standards for  
20 screening set forth in chapter 435. As used in this  
21 subsection, the term "applicant" means the facility  
22 administrator, or similarly titled individual who is  
23 responsible for the day-to-day operation of the licensed  
24 facility, and the facility financial officer, or similarly  
25 titled individual who is responsible for the financial  
26 operation of the licensed facility.

27 (b) The agency may require background screening for a  
28 member of the board of directors of the licensee or an officer  
29 or an individual owning 5 percent or more of the licensee if  
30 the agency has probable cause to believe that such individual  
31

1 has been convicted of an offense prohibited under the level 2  
2 standards for screening set forth 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). Proof of  
8 compliance with background screening which has been submitted  
9 within the previous 5 years to fulfill the requirements of the  
10 Financial Services Commission and the Office of Insurance  
11 Regulation pursuant to chapter 651 as part of an application  
12 for a certificate of authority to operate a continuing care  
13 retirement community is acceptable in fulfillment of the  
14 Department of Law Enforcement and Federal Bureau of  
15 Investigation background check.

16 (d) A provisional license may be granted to an  
17 applicant when each individual required by this section to  
18 undergo background screening has met the standards for the  
19 Department of Law Enforcement background check, but the agency  
20 has not yet received background screening results from the  
21 Federal Bureau of Investigation, or a request for a  
22 disqualification exemption has been submitted to the agency as  
23 set forth in chapter 435, but a response has not yet been  
24 issued. A license may be granted to the applicant upon the  
25 agency's receipt of a report of the results of the Federal  
26 Bureau of Investigation background screening for each  
27 individual required by this section to undergo background  
28 screening which confirms that all standards have been met, or  
29 upon the granting of a disqualification exemption by the  
30 agency as set forth in chapter 435. Any other person who is  
31 required to undergo level 2 background screening may serve in

1 his or her capacity pending the agency's receipt of the report  
2 from the Federal Bureau of Investigation; however, the person  
3 may not continue to serve if the report indicates any  
4 violation of background screening standards and a  
5 disqualification exemption has not been requested of and  
6 granted by the agency as set forth in chapter 435.

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

25 Section 48. For the purpose of incorporating the  
26 amendment to section 435.04, Florida Statutes, in references  
27 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
28 subsection (4) of section 400.471, Florida Statutes, are  
29 reenacted to read:

30 400.471 Application for license; fee; provisional  
31 license; temporary permit.--



1           (4) Each applicant for licensure must comply with the  
2 following requirements:

3           (a) Upon receipt of a completed, signed, and dated  
4 application, the agency shall require background screening of  
5 the applicant, in accordance with the level 2 standards for  
6 screening set forth in chapter 435. As used in this  
7 subsection, the term "applicant" means the administrator, or a  
8 similarly titled person who is responsible for the day-to-day  
9 operation of the licensed home health agency, and the  
10 financial officer, or similarly titled individual who is  
11 responsible for the financial operation of the licensed home  
12 health agency.

13           (b) The agency may require background screening for a  
14 member of the board of directors of the licensee or an officer  
15 or an individual owning 5 percent or more of the licensee if  
16 the agency reasonably suspects that such individual has been  
17 convicted of an offense prohibited under the level 2 standards  
18 for screening set forth in chapter 435.

19           (c) Proof of compliance with the level 2 background  
20 screening requirements of chapter 435 which has been submitted  
21 within the previous 5 years in compliance with any other  
22 health care or assisted living licensure requirements of this  
23 state is acceptable in fulfillment of paragraph (a). Proof of  
24 compliance with background screening which has been submitted  
25 within the previous 5 years to fulfill the requirements of the  
26 Financial Services Commission and the Office of Insurance  
27 Regulation pursuant to chapter 651 as part of an application  
28 for a certificate of authority to operate a continuing care  
29 retirement community is acceptable in fulfillment of the  
30 Department of Law Enforcement and Federal Bureau of  
31 Investigation background check.

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

21           (f) Each applicant must submit to the agency a  
22 description and explanation of any conviction of an offense  
23 prohibited under the level 2 standards of chapter 435 by a  
24 member of the board of directors of the applicant, its  
25 officers, or any individual owning 5 percent or more of the  
26 applicant. This requirement does not apply to a director of a  
27 not-for-profit corporation or organization if the director  
28 serves solely in a voluntary capacity for the corporation or  
29 organization, does not regularly take part in the day-to-day  
30 operational decisions of the corporation or organization,  
31 receives no remuneration for his or her services on the

1 corporation or organization's board of directors, and has no  
2 financial interest and has no family members with a financial  
3 interest in the corporation or organization, provided that the  
4 director and the not-for-profit corporation or organization  
5 include in the application a statement affirming that the  
6 director's relationship to the corporation satisfies the  
7 requirements of this paragraph.

8 (g) A license may not be granted to an applicant if  
9 the applicant, administrator, or financial officer has been  
10 found guilty of, regardless of adjudication, or has entered a  
11 plea of nolo contendere or guilty to, any offense prohibited  
12 under the level 2 standards for screening set forth in chapter  
13 435, unless an exemption from disqualification has been  
14 granted by the agency as set forth in chapter 435.

15 Section 49. For the purpose of incorporating the  
16 amendment to section 435.04, Florida Statutes, in references  
17 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
18 subsection (2) of section 400.506, Florida Statutes, are  
19 reenacted to read:

20 400.506 Licensure of nurse registries; requirements;  
21 penalties.--

22 (2) Each applicant for licensure must comply with the  
23 following requirements:

24 (a) Upon receipt of a completed, signed, and dated  
25 application, the agency shall require background screening, in  
26 accordance with the level 2 standards for screening set forth  
27 in chapter 435, of the managing employee, or other similarly  
28 titled individual who is responsible for the daily operation  
29 of the nurse registry, and of the financial officer, or other  
30 similarly titled individual who is responsible for the  
31 financial operation of the registry, including billings for

1 patient care and services. The applicant shall comply with the  
2 procedures for level 2 background screening as set forth in  
3 chapter 435.

4 (b) The agency may require background screening of any  
5 other individual who is an applicant if the agency has  
6 probable cause to believe that he or she has been convicted of  
7 a crime or has committed any other offense prohibited under  
8 the level 2 standards for screening set forth in chapter 435.

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

15 (d) A provisional license may be granted to an  
16 applicant when each individual required by this section to  
17 undergo background screening has met the standards for the  
18 Department of Law Enforcement background check but the agency  
19 has not yet received background screening results from the  
20 Federal Bureau of Investigation. A standard license may be  
21 granted to the applicant upon the agency's receipt of a report  
22 of the results of the Federal Bureau of Investigation  
23 background screening for each individual required by this  
24 section to undergo background screening which confirms that  
25 all standards have been met, or upon the granting of a  
26 disqualification exemption by the agency as set forth in  
27 chapter 435. Any other person who is required to undergo level  
28 2 background screening may serve in his or her capacity  
29 pending the agency's receipt of the report from the Federal  
30 Bureau of Investigation. However, the person may not continue  
31 to serve if the report indicates any violation of background

1 screening standards and a disqualification exemption has not  
2 been requested of and granted by the agency as set forth in  
3 chapter 435.

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 by a  
7 member of the board of directors of the applicant, its  
8 officers, or any individual owning 5 percent or more of the  
9 applicant. This requirement does not apply to a director of a  
10 not-for-profit corporation or organization if the director  
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 or organization's board of directors, and has no  
16 financial interest and has no family members with a financial  
17 interest in the corporation or organization, provided that the  
18 director and the not-for-profit corporation or organization  
19 include in the application a statement affirming that the  
20 director's relationship to the corporation satisfies the  
21 requirements of this paragraph.

22 (g) A license may not be granted to an applicant if  
23 the applicant or managing employee has been found guilty of,  
24 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 Section 50. For the purpose of incorporating the  
30 amendment to section 435.04, Florida Statutes, in references  
31

1 thereto, section 400.5572, Florida Statutes, is reenacted to  
2 read:

3 400.5572 Background screening.--

4 (1)(a) Level 2 background screening must be conducted  
5 on each of the following persons, who shall be considered  
6 employees for the purposes of conducting screening under  
7 chapter 435:

8 1. The adult day care center owner if an individual,  
9 the operator, and the financial officer.

10 2. An officer or board member if the owner of the  
11 adult day care center is a firm, corporation, partnership, or  
12 association, or any person owning 5 percent or more of the  
13 facility, if the agency has probable cause to believe that  
14 such person has been convicted of any offense prohibited by s.  
15 435.04. For each officer, board member, or person owning 5  
16 percent or more who has been convicted of any such offense,  
17 the facility shall submit to the agency a description and  
18 explanation of the conviction at the time of license  
19 application. This subparagraph does not apply to a board  
20 member of a not-for-profit corporation or organization if the  
21 board member serves solely in a voluntary capacity, does not  
22 regularly take part in the day-to-day operational decisions of  
23 the corporation or organization, receives no remuneration for  
24 his or her services, and has no financial interest and has no  
25 family members with a financial interest in the corporation or  
26 organization, provided that the board member and facility  
27 submit a statement affirming that the board member's  
28 relationship to the facility satisfies the requirements of  
29 this subparagraph.

30 (b) Proof of compliance with level 2 screening  
31 standards which has been submitted within the previous 5 years

1 to meet any facility or professional licensure requirements of  
2 the agency or the Department of Health satisfies the  
3 requirements of this subsection.

4 (c) The agency may grant a provisional license to an  
5 adult day care center applying for an initial license when  
6 each individual required by this subsection to undergo  
7 screening has completed the Department of Law Enforcement  
8 background check, but has not yet received results from the  
9 Federal Bureau of Investigation, or when a request for an  
10 exemption from disqualification has been submitted to the  
11 agency pursuant to s. 435.07, but a response has not been  
12 issued.

13 (2) The owner or administrator of an adult day care  
14 center must conduct level 1 background screening as set forth  
15 in chapter 435 on all employees hired on or after October 1,  
16 1998, who provide basic services or supportive and optional  
17 services to the participants. Such persons satisfy this  
18 requirement if:

19 (a) Proof of compliance with level 1 screening  
20 requirements obtained to meet any professional license  
21 requirements in this state is provided and accompanied, under  
22 penalty of perjury, by a copy of the person's current  
23 professional license and an affidavit of current compliance  
24 with the background screening requirements.

25 (b) The person required to be screened has been  
26 continuously employed, without a breach in service that  
27 exceeds 180 days, in the same type of occupation for which the  
28 person is seeking employment and provides proof of compliance  
29 with the level 1 screening requirement which is no more than 2  
30 years old. Proof of compliance must be provided directly from  
31 one employer or contractor to another, and not from the person

1 screened. Upon request, a copy of screening results shall be  
2 provided to the person screened by the employer retaining  
3 documentation of the screening.

4 (c) The person required to be screened is employed by  
5 a corporation or business entity or related corporation or  
6 business entity that owns, operates, or manages more than one  
7 facility or agency licensed under this chapter, and for whom a  
8 level 1 screening was conducted by the corporation or business  
9 entity as a condition of initial or continued employment.

10 Section 51. For the purpose of incorporating the  
11 amendment to section 435.04, Florida Statutes, in references  
12 thereto, paragraph (a) of subsection (3) of section 400.607,  
13 Florida Statutes, is reenacted to read:

14 400.607 Denial, suspension, or revocation of license;  
15 imposition of administrative fine; grounds; injunctions.--

16 (3) The agency may deny or revoke a license upon a  
17 determination that:

18 (a) Persons subject to level 2 background screening  
19 under s. 400.6065 do not meet the screening standards of s.  
20 435.04, and exemptions from disqualification have not been  
21 provided by the agency.

22 Section 52. For the purpose of incorporating the  
23 amendment to section 435.04, Florida Statutes, in references  
24 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
25 subsection (4) of section 400.801, Florida Statutes, are  
26 reenacted to read:

27 400.801 Homes for special services.--

28 (4) Each applicant for licensure must comply with the  
29 following requirements:

30 (a) Upon receipt of a completed, signed, and dated  
31 application, the agency shall require background screening, in



1 accordance with the level 2 standards for screening set forth  
2 in chapter 435, of the managing employee, or other similarly  
3 titled individual who is responsible for the daily operation  
4 of the facility, and of the financial officer, or other  
5 similarly titled individual who is responsible for the  
6 financial operation of the facility, including billings for  
7 client care and services, in accordance with the level 2  
8 standards for screening set forth in chapter 435. The  
9 applicant must comply with the procedures for level 2  
10 background screening as set forth in chapter 435.

11 (b) The agency may require background screening of any  
12 other individual who is an applicant if the agency has  
13 probable cause to believe that he or she has been convicted of  
14 a crime or has committed any other offense prohibited under  
15 the level 2 standards for screening set forth in chapter 435.

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

22 (d) A provisional license may be granted to an  
23 applicant when each individual required by this section to  
24 undergo background screening has met the standards for the  
25 Department of Law Enforcement background check, but the agency  
26 has not yet received background screening results from the  
27 Federal Bureau of Investigation, or a request for a  
28 disqualification exemption has been submitted to the agency as  
29 set forth in chapter 435, but a response has not yet been  
30 issued. A standard license may be granted to the applicant  
31 upon the agency's receipt of a report of the results of the

1 Federal Bureau of Investigation background screening for each  
2 individual required by this section to undergo background  
3 screening which confirms that all standards have been met, or  
4 upon the granting of a disqualification exemption by the  
5 agency as set forth in chapter 435. Any other person who is  
6 required to undergo level 2 background screening may serve in  
7 his or her capacity pending the agency's receipt of the report  
8 from the Federal Bureau of Investigation. However, the person  
9 may not continue to serve if the report indicates any  
10 violation of background screening standards and a  
11 disqualification exemption has not been requested of and  
12 granted by the agency as set forth in chapter 435.

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

31

1           (g) A license may not be granted to an applicant if  
2 the applicant or managing employee has been found guilty of,  
3 regardless of adjudication, or has entered a plea of nolo  
4 contendere or guilty to, any offense prohibited under the  
5 level 2 standards for screening set forth in chapter 435,  
6 unless an exemption from disqualification has been granted by  
7 the agency as set forth in chapter 435.

8           Section 53. For the purpose of incorporating the  
9 amendment to section 435.04, Florida Statutes, in references  
10 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
11 subsection (3) of section 400.805, Florida Statutes, are  
12 reenacted to read:

13           400.805 Transitional living facilities.--

14           (3) Each applicant for licensure must comply with the  
15 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 2 standards for screening set forth  
19 in chapter 435, of the managing employee, or other similarly  
20 titled individual who is responsible for the daily operation  
21 of the facility, and of the financial officer, or other  
22 similarly titled individual who is responsible for the  
23 financial operation of the facility, including billings for  
24 client care and services. The applicant must comply with the  
25 procedures for level 2 background screening as set forth in  
26 chapter 435.

27           (b) The agency may require background screening of any  
28 other individual who is an applicant if the agency has  
29 probable cause to believe that he or she has been convicted of  
30 a crime or has committed any other offense prohibited under  
31 the level 2 standards for screening set forth in chapter 435.

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

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

29 (f) Each applicant must submit to the agency a  
30 description and explanation of any conviction of an offense  
31 prohibited under the level 2 standards of chapter 435 by a

1 member of the board of directors of the applicant, its  
2 officers, or any individual owning 5 percent or more of the  
3 applicant. This requirement does not apply to a director of a  
4 not-for-profit corporation or organization if the director  
5 serves solely in a voluntary capacity for the corporation or  
6 organization, does not regularly take part in the day-to-day  
7 operational decisions of the corporation or organization,  
8 receives no remuneration for his or her services on the  
9 corporation or organization's board of directors, and has no  
10 financial interest and has no family members with a financial  
11 interest in the corporation or organization, provided that the  
12 director and the not-for-profit corporation or organization  
13 include in the application a statement affirming that the  
14 director's relationship to the corporation satisfies the  
15 requirements of this paragraph.

16 (g) A license may not be granted to an applicant if  
17 the applicant or managing employee has been found guilty of,  
18 regardless of adjudication, or has entered a plea of nolo  
19 contendere or guilty to, any offense prohibited under the  
20 level 2 standards for screening set forth in chapter 435,  
21 unless an exemption from disqualification has been granted by  
22 the agency as set forth in chapter 435.

23 Section 54. For the purpose of incorporating the  
24 amendment to section 435.04, Florida Statutes, in references  
25 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
26 subsection (5) of section 400.906, Florida Statutes, are  
27 reenacted to read:

28 400.906 Initial application for license.--

29 (5) Each applicant for licensure must comply with the  
30 following requirements:

31

1           (a) Upon receipt of a completed, signed, and dated  
2 application, the agency shall require background screening, in  
3 accordance with the level 2 standards for screening set forth  
4 in chapter 435, of the operator, and of the financial officer,  
5 or other similarly titled individual who is responsible for  
6 the financial operation of the center, including billings for  
7 patient care and services. The applicant must comply with the  
8 procedures for level 2 background screening as set forth in  
9 chapter 435, as well as the requirements of s. 435.03(3).

10           (b) The agency may require background screening of any  
11 other individual who is an applicant if the agency has a  
12 reasonable basis for believing that he or she has been  
13 convicted of a crime or has committed any other offense  
14 prohibited under the level 2 standards for screening set forth  
15 in chapter 435.

16           (c) Proof of compliance with the level 2 background  
17 screening requirements of chapter 435 which has been submitted  
18 within the previous 5 years in compliance with any other  
19 health care licensure requirements of this state is acceptable  
20 in fulfillment of the requirements of paragraph (a).

21           (d) A provisional license may be granted to an  
22 applicant when each individual required by this section to  
23 undergo background screening has met the standards for the  
24 Department of Law Enforcement background check, but the agency  
25 has not yet received background screening results from the  
26 Federal Bureau of Investigation, or a request for a  
27 disqualification exemption has been submitted to the agency as  
28 set forth in chapter 435, but a response has not yet been  
29 issued. A standard license may be granted to the applicant  
30 upon the agency's receipt of a report of the results of the  
31 Federal Bureau of Investigation background screening for each

1 individual required by this section to undergo background  
2 screening which confirms that all standards have been met, or  
3 upon the granting of a disqualification exemption by the  
4 agency as set forth in chapter 435. Any other person who is  
5 required to undergo level 2 background screening may serve in  
6 his or her capacity pending the agency's receipt of the report  
7 from the Federal Bureau of Investigation. However, the person  
8 may not continue to serve if the report indicates any  
9 violation of background screening standards and a  
10 disqualification exemption has not been requested of and  
11 granted by the agency as set forth in chapter 435.

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

30 (g) A license may not be granted to an applicant if  
31 the applicant or managing employee has been found guilty of,

1 regardless of adjudication, or has entered a plea of nolo  
2 contendere or guilty to, any offense prohibited under the  
3 level 2 standards for screening set forth in chapter 435,  
4 unless an exemption from disqualification has been granted by  
5 the agency as set forth in chapter 435.

6 Section 55. For the purpose of incorporating the  
7 amendment to section 435.04, Florida Statutes, in references  
8 thereto, paragraphs (a), (b), (c), (e), and (f) of subsection  
9 (5) of section 400.931, Florida Statutes, are reenacted to  
10 read:

11 400.931 Application for license; fee; provisional  
12 license; temporary permit.--

13 (5) Each applicant for licensure must comply with the  
14 following requirements:

15 (a) Upon receipt of a completed, signed, and dated  
16 application, the agency shall require background screening of  
17 the applicant, in accordance with the level 2 standards for  
18 screening set forth in chapter 435. As used in this  
19 subsection, the term "applicant" means the general manager and  
20 the financial officer or similarly titled individual who is  
21 responsible for the financial operation of the licensed  
22 facility.

23 (b) The agency may require background screening for a  
24 member of the board of directors of the licensee or an officer  
25 or an individual owning 5 percent or more of the licensee if  
26 the agency has probable cause to believe that such individual  
27 has been convicted of an offense prohibited under the level 2  
28 standards for screening set forth in chapter 435.

29 (c) Proof of compliance with the level 2 background  
30 screening requirements of chapter 435 which has been submitted  
31 within the previous 5 years in compliance with any other



1 health care licensure requirements of this state is acceptable  
2 in fulfillment of paragraph (a).

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

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

28 Section 56. For the purpose of incorporating the  
29 amendment to section 435.04, Florida Statutes, in references  
30 thereto, paragraphs (a), (b), (c), (d), and (f) of subsection  
31

1 (10) of section 400.962, Florida Statutes, are reenacted to  
2 read:

3           400.962 License required; license application.--  
4           (10)(a) Upon receipt of a completed, signed, and dated  
5 application, the agency shall require background screening of  
6 the applicant, in accordance with the level 2 standards for  
7 screening set forth in chapter 435. As used in this  
8 subsection, the term "applicant" means the facility  
9 administrator, or similarly titled individual who is  
10 responsible for the day-to-day operation of the licensed  
11 facility, and the facility financial officer, or similarly  
12 titled individual who is responsible for the financial  
13 operation of the licensed facility.

14           (b) The agency may require background screening for a  
15 member of the board of directors of the licensee or an officer  
16 or an individual owning 5 percent or more of the licensee if  
17 the agency has probable cause to believe that such individual  
18 has been convicted of an offense prohibited under the level 2  
19 standards for screening set forth in chapter 435.

20           (c) Proof of compliance with the level 2 background  
21 screening requirements of chapter 435 which has been submitted  
22 within the previous 5 years in compliance with any other  
23 licensure requirements under this chapter satisfies the  
24 requirements of paragraph (a). Proof of compliance with  
25 background screening which has been submitted within the  
26 previous 5 years to fulfill the requirements of the Financial  
27 Services Commission and the Office of Insurance Regulation  
28 under chapter 651 as part of an application for a certificate  
29 of authority to operate a continuing care retirement community  
30 satisfies the requirements for the Department of Law

31

1 Enforcement and Federal Bureau of Investigation background  
2 checks.

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

25 (f) Each applicant must submit to the agency a  
26 description and explanation of any conviction of an offense  
27 prohibited under the level 2 standards of chapter 435 by a  
28 member of the board of directors of the applicant, its  
29 officers, or any individual owning 5 percent or more of the  
30 applicant. This requirement does not apply to a director of a  
31 not-for-profit corporation or organization if the director

1 serves solely in a voluntary capacity for the corporation or  
2 organization, does not regularly take part in the day-to-day  
3 operational decisions of the corporation or organization,  
4 receives no remuneration for his or her services on the  
5 corporation's or organization's board of directors, and has no  
6 financial interest and has no family members with a financial  
7 interest in the corporation or organization, provided that the  
8 director and the not-for-profit corporation or organization  
9 include in the application a statement affirming that the  
10 director's relationship to the corporation satisfies the  
11 requirements of this paragraph.

12 Section 57. For the purpose of incorporating the  
13 amendment to section 435.04, Florida Statutes, in references  
14 thereto, paragraphs (b) and (d) of subsection (7) of section  
15 400.991, Florida Statutes, are reenacted to read:

16 400.991 License requirements; background screenings;  
17 prohibitions.--

18 (7) Each applicant for licensure shall comply with the  
19 following requirements:

20 (b) Upon receipt of a completed, signed, and dated  
21 application, the agency shall require background screening of  
22 the applicant, in accordance with the level 2 standards for  
23 screening set forth in chapter 435. Proof of compliance with  
24 the level 2 background screening requirements of chapter 435  
25 which has been submitted within the previous 5 years in  
26 compliance with any other health care licensure requirements  
27 of this state is acceptable in fulfillment of this paragraph.

28 (d) A license may not be granted to a clinic if the  
29 applicant has been found guilty of, regardless of  
30 adjudication, or has entered a plea of nolo contendere or  
31 guilty to, any offense prohibited under the level 2 standards

1 for screening set forth in chapter 435, or a violation of  
2 insurance fraud under s. 817.234, within the past 5 years. If  
3 the applicant has been convicted of an offense prohibited  
4 under the level 2 standards or insurance fraud in any  
5 jurisdiction, the applicant must show that his or her civil  
6 rights have been restored prior to submitting an application.

7 Section 58. For the purpose of incorporating the  
8 amendment to section 435.04, Florida Statutes, in references  
9 thereto, paragraph (e) of subsection (2) of section 402.302,  
10 Florida Statutes, is reenacted to read:

11 402.302 Definitions.--

12 (2) "Child care facility" includes any child care  
13 center or child care arrangement which provides child care for  
14 more than five children unrelated to the operator and which  
15 receives a payment, fee, or grant for any of the children  
16 receiving care, wherever operated, and whether or not operated  
17 for profit. The following are not included:

18 (e) Operators of transient establishments, as defined  
19 in chapter 509, which provide child care services solely for  
20 the guests of their establishment or resort, provided that all  
21 child care personnel of the establishment are screened  
22 according to the level 2 screening requirements of chapter  
23 435.

24 Section 59. For the purpose of incorporating the  
25 amendment to section 435.04, Florida Statutes, in references  
26 thereto, paragraph (a) of subsection (2) of section 402.305,  
27 Florida Statutes, is reenacted to read:

28 402.305 Licensing standards; child care facilities.--

29 (2) PERSONNEL.--Minimum standards for child care  
30 personnel shall include minimum requirements as to:

31

1 (a) Good moral character based upon screening. This  
2 screening shall be conducted as provided in chapter 435, using  
3 the level 2 standards for screening set forth in that chapter.

4 Section 60. For the purpose of incorporating the  
5 amendment to section 435.04, Florida Statutes, in references  
6 thereto, subsection (3) of section 402.3054, Florida Statutes,  
7 is reenacted to read:

8 402.3054 Child enrichment service providers.--

9 (3) A child enrichment service provider shall be of  
10 good moral character based upon screening. This screening  
11 shall be conducted as provided in chapter 435, using the level  
12 2 standards for screening set forth in that chapter. A child  
13 enrichment service provider must meet the screening  
14 requirements prior to providing services to a child in a child  
15 care facility. A child enrichment service provider who has met  
16 the screening standards shall not be required to be under the  
17 direct and constant supervision of child care personnel.

18 Section 61. For the purpose of incorporating the  
19 amendment to section 435.04, Florida Statutes, in references  
20 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
21 subsection (2) of section 483.30, Florida Statutes, are  
22 reenacted to read:

23 483.30 Licensing of centers.--

24 (2) Each applicant for licensure must comply with the  
25 following requirements:

26 (a) Upon receipt of a completed, signed, and dated  
27 application, the agency shall require background screening, in  
28 accordance with the level 2 standards for screening set forth  
29 in chapter 435, of the managing employee, or other similarly  
30 titled individual who is responsible for the daily operation  
31 of the center, and of the financial officer, or other

1 similarly titled individual who is responsible for the  
2 financial operation of the center, including billings for  
3 patient services. The applicant must comply with the  
4 procedures for level 2 background screening as set forth in  
5 chapter 435, as well as the requirements of s. 435.03(3).

6 (b) The agency may require background screening of any  
7 other individual who is an applicant if the agency has  
8 probable cause to believe that he or she has been convicted of  
9 a crime or has committed any other offense prohibited under  
10 the level 2 standards for screening set forth in chapter 435.

11 (c) Proof of compliance with the level 2 background  
12 screening requirements of chapter 435 which has been submitted  
13 within the previous 5 years in compliance with any other  
14 health care licensure requirements of this state is acceptable  
15 in fulfillment of the requirements of paragraph (a).

16 (d) A provisional license may be granted to an  
17 applicant when each individual required by this section to  
18 undergo background screening has met the standards for the  
19 Department of Law Enforcement background check, but the agency  
20 has not yet received background screening results from the  
21 Federal Bureau of Investigation, or a request for a  
22 disqualification exemption has been submitted to the agency as  
23 set forth in chapter 435 but a response has not yet been  
24 issued. A license may be granted to the applicant upon the  
25 agency's receipt of a report of the results of the Federal  
26 Bureau of Investigation background screening for each  
27 individual required by this section to undergo background  
28 screening which confirms that all standards have been met, or  
29 upon the granting of a disqualification exemption by the  
30 agency as set forth in chapter 435. Any other person who is  
31 required to undergo level 2 background screening may serve in

1 his or her capacity pending the agency's receipt of the report  
2 from the Federal Bureau of Investigation. However, the person  
3 may not continue to serve if the report indicates any  
4 violation of background screening standards and a  
5 disqualification exemption has not been requested of and  
6 granted by the agency as set forth in chapter 435.

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

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



1           Section 62. For the purpose of incorporating the  
2 amendment to section 435.04, Florida Statutes, in references  
3 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
4 subsection (2) of section 483.101, Florida Statutes, are  
5 reenacted to read:

6           483.101 Application for clinical laboratory license.--

7           (2) Each applicant for licensure must comply with the  
8 following requirements:

9           (a) Upon receipt of a completed, signed, and dated  
10 application, the agency shall require background screening, in  
11 accordance with the level 2 standards for screening set forth  
12 in chapter 435, of the managing director or other similarly  
13 titled individual who is responsible for the daily operation  
14 of the laboratory and of the financial officer, or other  
15 similarly titled individual who is responsible for the  
16 financial operation of the laboratory, including billings for  
17 patient services. The applicant must comply with the  
18 procedures for level 2 background screening as set forth in  
19 chapter 435, as well as the requirements of s. 435.03(3).

20           (b) The agency may require background screening of any  
21 other individual who is an applicant if the agency has  
22 probable cause to believe that he or she has been convicted of  
23 a crime or has committed any other offense prohibited under  
24 the level 2 standards for screening set forth in chapter 435.

25           (c) Proof of compliance with the level 2 background  
26 screening requirements of chapter 435 which has been submitted  
27 within the previous 5 years in compliance with any other  
28 health care licensure requirements of this state is acceptable  
29 in fulfillment of the requirements of paragraph (a).

30           (d) A provisional license may be granted to an  
31 applicant when each individual required by this section to

1 undergo background screening has met the standards for the  
2 Department of Law Enforcement background check but the agency  
3 has not yet received background screening results from the  
4 Federal Bureau of Investigation, or a request for a  
5 disqualification exemption has been submitted to the agency as  
6 set forth in chapter 435 but a response has not yet been  
7 issued. A license may be granted to the applicant upon the  
8 agency's receipt of a report of the results of the Federal  
9 Bureau of Investigation background screening for each  
10 individual required by this section to undergo background  
11 screening which confirms that all standards have been met, or  
12 upon the granting of a disqualification exemption by the  
13 agency as set forth in chapter 435. Any other person who is  
14 required to undergo level 2 background screening may serve in  
15 his or her capacity pending the agency's receipt of the report  
16 from the Federal Bureau of Investigation. However, the person  
17 may not continue to serve if the report indicates any  
18 violation of background screening standards and a  
19 disqualification exemption has not been requested of and  
20 granted by the agency as set forth in chapter 435.

21 (f) Each applicant must submit to the agency a  
22 description and explanation of any conviction of an offense  
23 prohibited under the level 2 standards of chapter 435 by a  
24 member of the board of directors of the applicant, its  
25 officers, or any individual owning 5 percent or more of the  
26 applicant. This requirement does not apply to a director of a  
27 not-for-profit corporation or organization if the director  
28 serves solely in a voluntary capacity for the corporation or  
29 organization, does not regularly take part in the day-to-day  
30 operational decisions of the corporation or organization,  
31 receives no remuneration for his or her services on the

1 corporation or organization's board of directors, and has no  
2 financial interest and has no family members with a financial  
3 interest in the corporation or organization, provided that the  
4 director and the not-for-profit corporation or organization  
5 include in the application a statement affirming that the  
6 director's relationship to the corporation satisfies the  
7 requirements of this paragraph.

8 (g) A license may not be granted to an applicant if  
9 the applicant or managing employee has been found guilty of,  
10 regardless of adjudication, or has entered a plea of nolo  
11 contendere or guilty to, any offense prohibited under the  
12 level 2 standards for screening set forth in chapter 435,  
13 unless an exemption from disqualification has been granted by  
14 the agency as set forth in chapter 435.

15 Section 63. For the purpose of incorporating the  
16 amendment to section 435.04, Florida Statutes, in references  
17 thereto, subsection (5) of section 744.1085, Florida Statutes,  
18 is reenacted to read:

19 744.1085 Regulation of professional guardians;  
20 application; bond required; educational requirements.--

21 (5) As required in s. 744.3135, each professional  
22 guardian shall allow a level 2 background screening of the  
23 guardian and employees of the guardian in accordance with the  
24 provisions of s. 435.04.

25 Section 64. For the purpose of incorporating the  
26 amendment to section 435.04, Florida Statutes, in references  
27 thereto, paragraph (b) of subsection (2) of section 984.01,  
28 Florida Statutes, is reenacted to read:

29 984.01 Purposes and intent; personnel standards and  
30 screening.--

31

1           (2) The Department of Juvenile Justice or the  
2 Department of Children and Family Services, as appropriate,  
3 may contract with the Federal Government, other state  
4 departments and agencies, county and municipal governments and  
5 agencies, public and private agencies, and private individuals  
6 and corporations in carrying out the purposes of, and the  
7 responsibilities established in, this chapter.

8           (b) The Department of Juvenile Justice and the  
9 Department of Children and Family Services shall require  
10 employment screening pursuant to chapter 435, using the level  
11 2 standards set forth in that chapter for personnel in  
12 programs for children or youths.

13           Section 65. For the purpose of incorporating the  
14 amendment to section 435.04, Florida Statutes, in references  
15 thereto, paragraph (b) of subsection (2) of section 985.01,  
16 Florida Statutes, is reenacted to read:

17           985.01 Purposes and intent; personnel standards and  
18 screening.--

19           (2) The Department of Juvenile Justice or the  
20 Department of Children and Family Services, as appropriate,  
21 may contract with the Federal Government, other state  
22 departments and agencies, county and municipal governments and  
23 agencies, public and private agencies, and private individuals  
24 and corporations in carrying out the purposes of, and the  
25 responsibilities established in, this chapter.

26           (b) The Department of Juvenile Justice and the  
27 Department of Children and Family Services shall require  
28 employment screening pursuant to chapter 435, using the level  
29 2 standards set forth in that chapter for personnel in  
30 programs for children or youths.

31

1           Section 66. For the purpose of incorporating the  
2 amendment to section 435.04, Florida Statutes, in references  
3 thereto, paragraphs (a) and (b) of subsection (7) of section  
4 1002.36, Florida Statutes, are reenacted to read:

5           1002.36 Florida School for the Deaf and the Blind.--

6           (7) PERSONNEL SCREENING.--

7           (a) The Board of Trustees of the Florida School for  
8 the Deaf and the Blind shall, because of the special trust or  
9 responsibility of employees of the school, require all  
10 employees and applicants for employment to undergo personnel  
11 screening and security background investigations as provided  
12 in chapter 435, using the level 2 standards for screening set  
13 forth in that chapter, as a condition of employment and  
14 continued employment. The cost of a personnel screening and  
15 security background investigation for an employee of the  
16 school shall be paid by the school. The cost of such a  
17 screening and investigation for an applicant for employment  
18 may be paid by the school.

19           (b) As a prerequisite for initial and continuing  
20 employment at the Florida School for the Deaf and the Blind:

21           1. The applicant or employee shall submit to the  
22 Florida School for the Deaf and the Blind a complete set of  
23 fingerprints taken by an authorized law enforcement agency or  
24 an employee of the Florida School for the Deaf and the Blind  
25 who is trained to take fingerprints. The Florida School for  
26 the Deaf and the Blind shall submit the fingerprints to the  
27 Department of Law Enforcement for state processing and the  
28 Federal Bureau of Investigation for federal processing.

29           2.a. The applicant or employee shall attest to the  
30 minimum standards for good moral character as contained in  
31

1 chapter 435, using the level 2 standards set forth in that  
2 chapter under penalty of perjury.

3           b. New personnel shall be on a probationary status  
4 pending a determination of compliance with such minimum  
5 standards for good moral character. This paragraph is in  
6 addition to any probationary status provided for by Florida  
7 law or Florida School for the Deaf and the Blind rules or  
8 collective bargaining contracts.

9           3. The Florida School for the Deaf and the Blind shall  
10 review the record of the applicant or employee with respect to  
11 the crimes contained in s. 435.04 and shall notify the  
12 applicant or employee of its findings. When disposition  
13 information is missing on a criminal record, it shall be the  
14 responsibility of the applicant or employee, upon request of  
15 the Florida School for the Deaf and the Blind, to obtain and  
16 supply within 30 days the missing disposition information to  
17 the Florida School for the Deaf and the Blind. Failure to  
18 supply missing information within 30 days or to show  
19 reasonable efforts to obtain such information shall result in  
20 automatic disqualification of an applicant and automatic  
21 termination of an employee.

22           4. After an initial personnel screening and security  
23 background investigation, written notification shall be given  
24 to the affected employee within a reasonable time prior to any  
25 subsequent screening and investigation.

26           Section 67. For the purpose of incorporating the  
27 amendments to sections 943.0585 and 943.059, Florida Statutes,  
28 in references thereto, paragraph (a) of subsection (2) and  
29 subsection (6) of section 943.0582, Florida Statutes, are  
30 reenacted to read:

31

1           943.0582 Prearrest, postarrest, or teen court  
2 diversion program expunction.--

3           (2)(a) As used in this section, the term "expunction"  
4 has the same meaning ascribed in and effect as s. 943.0585,  
5 except that:

6           1. The provisions of s. 943.0585(4)(a) do not apply,  
7 except that the criminal history record of a person whose  
8 record is expunged pursuant to this section shall be made  
9 available only to criminal justice agencies for the purpose of  
10 determining eligibility for prearrest, postarrest, or teen  
11 court diversion programs; when the record is sought as part of  
12 a criminal investigation; or when the subject of the record is  
13 a candidate for employment with a criminal justice agency. For  
14 all other purposes, a person whose record is expunged under  
15 this section may lawfully deny or fail to acknowledge the  
16 arrest and the charge covered by the expunged record.

17           2. Records maintained by local criminal justice  
18 agencies in the county in which the arrest occurred that are  
19 eligible for expunction pursuant to this section shall be  
20 sealed as the term is used in s. 943.059.

21           (6) Expunction or sealing granted under this section  
22 does not prevent the minor who receives such relief from  
23 petitioning for the expunction or sealing of a later criminal  
24 history record as provided for in ss. 943.0585 and 943.059, if  
25 the minor is otherwise eligible under those sections.

26           Section 68. For the purpose of incorporating the  
27 amendment to section 943.059, Florida Statutes, in references  
28 thereto, subsections (7), (8), and (9) of section 943.053,  
29 Florida Statutes, are reenacted to read:

30           943.053 Dissemination of criminal justice information;  
31 fees.--

1           (7) Notwithstanding the provisions of s. 943.0525, and  
2 any user agreements adopted pursuant thereto, and  
3 notwithstanding the confidentiality of sealed records as  
4 provided for in s. 943.059, the sheriff of any county that has  
5 contracted with a private entity to operate a county detention  
6 facility pursuant to the provisions of s. 951.062 shall  
7 provide that private entity, in a timely manner, copies of the  
8 Florida criminal history records for its inmates. The sheriff  
9 may assess a charge for the Florida criminal history records  
10 pursuant to the provisions of chapter 119. Sealed records  
11 received by the private entity under this section remain  
12 confidential and exempt from the provisions of s. 119.07(1).

13           (8) Notwithstanding the provisions of s. 943.0525, and  
14 any user agreements adopted pursuant thereto, and  
15 notwithstanding the confidentiality of sealed records as  
16 provided for in s. 943.059, the Department of Corrections  
17 shall provide, in a timely manner, copies of the Florida  
18 criminal history records for inmates housed in a private state  
19 correctional facility to the private entity under contract to  
20 operate the facility pursuant to the provisions of s. 944.105  
21 or s. 957.03. The department may assess a charge for the  
22 Florida criminal history records pursuant to the provisions of  
23 chapter 119. Sealed records received by the private entity  
24 under this section remain confidential and exempt from the  
25 provisions of s. 119.07(1).

26           (9) Notwithstanding the provisions of s. 943.0525 and  
27 any user agreements adopted pursuant thereto, and  
28 notwithstanding the confidentiality of sealed records as  
29 provided for in s. 943.059, the Department of Juvenile Justice  
30 or any other state or local criminal justice agency may  
31 provide copies of the Florida criminal history records for



1 juvenile offenders currently or formerly detained or housed in  
2 a contracted juvenile assessment center or detention facility  
3 or serviced in a contracted treatment program and for  
4 employees or other individuals who will have access to these  
5 facilities, only to the entity under direct contract with the  
6 Department of Juvenile Justice to operate these facilities or  
7 programs pursuant to the provisions of s. 985.411. The  
8 criminal justice agency providing such data may assess a  
9 charge for the Florida criminal history records pursuant to  
10 the provisions of chapter 119. Sealed records received by the  
11 private entity under this section remain confidential and  
12 exempt from the provisions of s. 119.07(1). Information  
13 provided under this section shall be used only for the  
14 criminal justice purpose for which it was requested and may  
15 not be further disseminated.

16 Section 69. The creation of sections 393.135,  
17 394.4593, and 916.1075, Florida Statutes, by this act shall  
18 apply to offenses committed on or after the effective date of  
19 this act.

20 Section 70. This act shall take effect July 1, 2004.  
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