

By the Committee on Children and Families; and Senator Lynn

300-2423-04

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

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

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

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

1 ss. 400.512, 400.619(4), 400.6194(1), 400.953,
2 409.912(32), 435.07(4), 464.018(1)(e),
3 744.309(3), 744.474(12), and 985.407(4), F.S.,
4 relating to background screening of home health
5 agency personnel, nurse registry personnel,
6 companions, and homemakers; application and
7 renewal of adult family-care home provider
8 licenses; denial, revocation, or suspension of
9 adult family-care home provider license;
10 background screening of home medical equipment
11 provider personnel and background screening
12 requirements for certain persons responsible
13 for managed care plans; exemptions from
14 disqualification from employment; denial of
15 nursing license and disciplinary actions
16 against such licensees; disqualification of
17 guardians; removal of guardians; and background
18 screening requirements for certain Department
19 of Juvenile Justice personnel, respectively,
20 for the purpose of incorporating the amendment
21 to s. 435.03, F.S., in references thereto;
22 reenacting ss. 39.001(2)(b), 39.821(1),
23 110.1127(3)(a) and (c), 112.0455(12)(a),
24 381.0059(1), (2), and (4), 381.60225(1)(a),
25 (b), (c), (d), (f), and (g), 383.305(7)(a),
26 (b), (c), (d), (f), and (g), 390.015(3)(a),
27 (b), (c), (d), (f), and (g), 393.0655(1),
28 393.067(6)(a), (b), (c), (d), (f), and (g),
29 394.875(13)(a), (b), (c), (d), (f), and (g),
30 395.0055(1), (2), (3), (4), (6), and (8),
31 395.0199(4)(a), (b), (c), (d), (f), and (g),

1 397.451(1)(a), 400.071(4)(a), (b), (c), (d),
2 and (f), 400.471(4)(a), (b), (c), (d), (f), and
3 (g), 400.506(2)(a), (b), (c), (d), (f), and
4 (g), 400.5572, 400.607(3)(a), 400.801(4)(a),
5 (b), (c), (d), (f), and (g), 400.805(3)(a),
6 (b), (c), (d), (f), and (g), 400.906(5)(a),
7 (b), (c), (d), (f), and (g), 400.931(5)(a),
8 (b), (c), (e), and (f), 400.962(10)(a), (b),
9 (c), (d), and (f), 400.991(7)(b) and (d),
10 402.302(2)(e), 402.305(2)(a), 402.3054(3),
11 483.30(2)(a), (b), (c), (d), (f), and (g),
12 483.101(2)(a), (b), (c), (d), (f), and (g),
13 744.1085(5), 984.01(2)(b), 985.01(2)(b),
14 1002.36(7)(a) and (b), F.S., relating to
15 background screening requirements for certain
16 Department of Children and Family Services
17 personnel; qualifications of guardians ad
18 litem; security checks of certain public
19 officers and employees; background screening
20 requirements of certain laboratory personnel in
21 connection with the Drug-Free Workplace Act;
22 background screening requirements for school
23 health services personnel; background screening
24 of certain personnel of the public health
25 system; background screening and licensure of
26 birth center personnel; background screening
27 and 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; amending s. 394.4572, F.S.; requiring
23 the department and the agency to check the
24 employment history of a person when screening
25 mental health personnel for employment;
26 reenacting s. 943.0582(2)(a) and (6), F.S.,
27 relating to prearrest, postarrest, or teen
28 court diversion program expunction for the
29 purpose of incorporating the amendments to ss.
30 943.0585 and 943.059, F.S., in references
31 thereto; reenacting s. 943.053(7), (8), and

1 (9), F.S., relating to dissemination of
2 criminal justice information, for the purpose
3 of incorporating the amendment to s. 943.059,
4 F.S., in references thereto; providing
5 applicability; providing an effective date.
6

7 Be It Enacted by the Legislature of the State of Florida:
8

9 Section 1. Section 393.135, Florida Statutes, is
10 created to read:

11 393.135 Sexual misconduct prohibited; reporting
12 required; penalties.--

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

14 (a) "Employee" includes any person under contract with
15 the agency or the department and any paid staff member,
16 volunteer, or intern of the agency or the department or any
17 person under contract with the agency or the department or any
18 person providing care or support to a client on behalf of the
19 department or its providers.

20 (b) "Sexual activity" means:

21 1. The oral, anal, or vaginal penetration by, or union
22 with, the sexual organ of another or the anal or vaginal
23 penetration of another by any other object;

24 2. Intentionally touching in a lewd or lascivious
25 manner the breasts, genitals, the genital area, or buttocks,
26 or the clothing covering them, of a person, or forcing or
27 enticing a person to touch the perpetrator;

28 3. Intentionally masturbating in the presence of
29 another person;

30 4. Intentionally exposing the genitals in a lewd or
31 lascivious manner in the presence of another person; or

1 5. Intentionally committing any other sexual act that
2 does not involve actual physical or sexual contact with the
3 victim, including, but not limited to, sadomasochistic abuse,
4 sexual bestiality, or the simulation of any act involving
5 sexual activity in the presence of a victim.

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

11 (2) An employee who engages in sexual misconduct with
12 an individual with a developmental disability who:

13 (a) Is in the custody of the department;

14 (b) Resides in a residential facility, including any
15 comprehensive transitional education program, developmental
16 services institution, foster care facility, group home
17 facility, intermediate care facility for the developmentally
18 disabled, or residential habilitation center; or

19 (c) Receives services from a family care program

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

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

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

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

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

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

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

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

28 (b) Any person who knowingly or willfully submits
29 inaccurate, incomplete, or untruthful information with respect
30 to a report required under this section commits a misdemeanor
31

1 of the first degree, punishable as provided in s. 775.082 or
2 s. 775.083.

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

8 Section 2. Section 394.4593, Florida Statutes, is
9 created to read:

10 394.4593 Sexual misconduct prohibited; reporting
11 required; penalties.--

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

13 (a) "Employee" includes any person under contract with
14 the department and any paid staff member, volunteer, or intern
15 of the department or any person under contract with the
16 department or any person providing care or support to a
17 patient on behalf of the department or its providers.

18 (b) "Sexual activity" means:

19 1. The oral, anal, or vaginal penetration by, or union
20 with, the sexual organ of another or the anal or vaginal
21 penetration of another by any other object;

22 2. Intentionally touching in a lewd or lascivious
23 manner the breasts, genitals, the genital area, or buttocks,
24 or the clothing covering them, of a person, or forcing or
25 enticing a person to touch the perpetrator;

26 3. Intentionally masturbating in the presence of
27 another person;

28 4. Intentionally exposing the genitals in a lewd or
29 lascivious manner in the presence of another person; or

30 5. Intentionally committing any other sexual act that
31 does not involve actual physical or sexual contact with the

1 victim, including, but not limited to, sadomasochistic abuse,
2 sexual bestiality, or the simulation of any act involving
3 sexual activity in the presence of a victim.

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 in the custody of the department; or

12 (b) Resides in a receiving facility as defined in s.
13 394.455(26) or a treatment facility as defined in s.
14 394.455(30),

15
16 commits a felony of the second degree, punishable as provided
17 in s. 775.082, s. 775.083, or s. 775.084. An employee may be
18 found guilty of violating this subsection without having
19 committed the crime of sexual battery.

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

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

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

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

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

31

1 employed in any capacity in connection with the developmental
2 services or mental health 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 and to law enforcement. Such employee shall also prepare,
8 date, and sign an independent report that specifically
9 describes the nature of the sexual misconduct, the location
10 and time of the incident, and the persons involved. The
11 employee shall deliver the report to the supervisor or program
12 director, who is responsible for providing copies to the
13 department's inspector general. The inspector general shall
14 immediately conduct an appropriate administrative
15 investigation, and, if there is probable cause to believe that
16 sexual misconduct has occurred, the inspector general shall
17 notify the state attorney in the circuit in which the incident
18 occurred.

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

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

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

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 or any person providing care or support to a client
12 on behalf of the department or its providers.

13 (b) "Sexual activity" means:

14 1. The oral, anal, or vaginal penetration by, or union
15 with, the sexual organ of another or the anal or vaginal
16 penetration of another by any other object;

17 2. Intentionally touching in a lewd or lascivious
18 manner the breasts, genitals, the genital area, or buttocks,
19 or the clothing covering them, of a person, or forcing or
20 enticing a person to touch the perpetrator;

21 3. Intentionally masturbating in the presence of
22 another person;

23 4. Intentionally exposing the genitals in a lewd or
24 lascivious manner in the presence of another person; or

25 5. Intentionally committing any other sexual act that
26 does not involve actual physical or sexual contact with the
27 victim, including, but not limited to, sadomasochistic abuse,
28 sexual bestiality, or the simulation of any act involving
29 sexual activity in the presence of a victim.

30 (c) "Sexual misconduct" means any sexual activity
31 between an employee and a client, regardless of the consent of

1 the client. The term does not include an act done for a bona
2 fide medical purpose or an internal search conducted in the
3 lawful performance of duty by an employee.

4 (2) An employee who engages in sexual misconduct with
5 a client who resides in a civil or forensic state mental
6 health treatment facility commits a felony of the second
7 degree, punishable as provided in s. 775.082, s. 775.083, or
8 s. 775.084. An employee may be found guilty of violating this
9 subsection without having committed the crime of sexual
10 battery.

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

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

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

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

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

24 (6) An employee who witnesses sexual misconduct, or
25 who otherwise knows or has reasonable cause to suspect that a
26 person has engaged in sexual misconduct, shall immediately
27 report the incident to the department's central abuse hotline
28 or law enforcement. Such employee shall also prepare, date,
29 and sign an independent report that specifically describes the
30 nature of the sexual misconduct, the location and time of the
31 incident, and the persons involved. The employee shall deliver

1 the report to the supervisor or program director, who is
2 responsible for providing copies to the department's inspector
3 general. The inspector general shall immediately conduct an
4 appropriate administrative investigation, and, if there is
5 probable cause to believe that sexual misconduct has occurred,
6 the inspector general shall notify the state attorney in the
7 circuit in which the incident occurred.

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

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

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

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

25 435.03 Level 1 screening standards.--

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

- 1 (a) Section 393.135, relating to sexual misconduct
2 with certain developmentally disabled clients and reporting of
3 such sexual misconduct.
- 4 (b) Section 394.4593, relating to sexual misconduct
5 with certain mental health patients and reporting of such
6 sexual misconduct.
- 7 (c)~~(a)~~ Section 415.111, relating to abuse, neglect, or
8 exploitation of a vulnerable adult.
- 9 (d)~~(b)~~ Section 782.04, relating to murder.
- 10 (e)~~(c)~~ Section 782.07, relating to manslaughter,
11 aggravated manslaughter of an elderly person or disabled
12 adult, or aggravated manslaughter of a child.
- 13 (f)~~(d)~~ Section 782.071, relating to vehicular
14 homicide.
- 15 (g)~~(e)~~ Section 782.09, relating to killing of an
16 unborn child by injury to the mother.
- 17 (h)~~(f)~~ Section 784.011, relating to assault, if the
18 victim of the offense was a minor.
- 19 (i)~~(g)~~ Section 784.021, relating to aggravated
20 assault.
- 21 (j)~~(h)~~ Section 784.03, relating to battery, if the
22 victim of the offense was a minor.
- 23 (k)~~(i)~~ Section 784.045, relating to aggravated
24 battery.
- 25 (l)~~(j)~~ Section 787.01, relating to kidnapping.
- 26 (m)~~(k)~~ Section 787.02, relating to false imprisonment.
- 27 (n)~~(l)~~ Section 794.011, relating to sexual battery.
- 28 (o)~~(m)~~ Former s. 794.041, relating to prohibited acts
29 of persons in familial or custodial authority.
- 30 (p)~~(n)~~ Chapter 796, relating to prostitution.
- 31

1 (q)~~(o)~~ Section 798.02, relating to lewd and lascivious
2 behavior.
3 (r)~~(p)~~ Chapter 800, relating to lewdness and indecent
4 exposure.
5 (s)~~(q)~~ Section 806.01, relating to arson.
6 (t)~~(r)~~ Chapter 812, relating to theft, robbery, and
7 related crimes, if the offense was a felony.
8 (u)~~(s)~~ Section 817.563, relating to fraudulent sale of
9 controlled substances, only if the offense was a felony.
10 (v)~~(t)~~ Section 825.102, relating to abuse, aggravated
11 abuse, or neglect of an elderly person or disabled adult.
12 (w)~~(u)~~ Section 825.1025, relating to lewd or
13 lascivious offenses committed upon or in the presence of an
14 elderly person or disabled adult.
15 (x)~~(v)~~ Section 825.103, relating to exploitation of an
16 elderly person or disabled adult, if the offense was a felony.
17 (y)~~(w)~~ Section 826.04, relating to incest.
18 (z)~~(x)~~ Section 827.03, relating to child abuse,
19 aggravated child abuse, or neglect of a child.
20 (aa)~~(y)~~ Section 827.04, relating to contributing to
21 the delinquency or dependency of a child.
22 (bb)~~(z)~~ Former s. 827.05, relating to negligent
23 treatment of children.
24 (cc)~~(aa)~~ Section 827.071, relating to sexual
25 performance by a child.
26 (dd)~~(bb)~~ Chapter 847, relating to obscene literature.
27 (ee)~~(cc)~~ Chapter 893, relating to drug abuse
28 prevention and control, only if the offense was a felony or if
29 any other person involved in the offense was a minor.
30
31

1 (ff) Section 916.0175, relating to sexual misconduct
2 with certain forensic clients and reporting of such sexual
3 misconduct.

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

6 435.04 Level 2 screening standards.--

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

14 (a) Section 393.135, relating to sexual misconduct
15 with certain developmentally disabled clients and reporting of
16 such sexual misconduct.

17 (b) Section 394.4593, relating to sexual misconduct
18 with certain mental health patients and reporting of such
19 sexual misconduct.

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

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

23 ~~(e)(c)~~ Section 782.07, relating to manslaughter,
24 aggravated manslaughter of an elderly person or disabled
25 adult, or aggravated manslaughter of a child.

26 ~~(f)(d)~~ Section 782.071, relating to vehicular
27 homicide.

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

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

- 1 (i)~~(g)~~ Section 784.021, relating to aggravated
2 assault.
- 3 (j)~~(h)~~ Section 784.03, relating to battery, if the
4 victim of the offense was a minor.
- 5 (k)~~(i)~~ Section 784.045, relating to aggravated
6 battery.
- 7 (l)~~(j)~~ Section 784.075, relating to battery on a
8 detention or commitment facility staff.
- 9 (m)~~(k)~~ Section 787.01, relating to kidnapping.
- 10 (n)~~(l)~~ Section 787.02, relating to false imprisonment.
- 11 (o)~~(m)~~ Section 787.04(2), relating to taking,
12 enticing, or removing a child beyond the state limits with
13 criminal intent pending custody proceedings.
- 14 (p)~~(n)~~ Section 787.04(3), relating to carrying a child
15 beyond the state lines with criminal intent to avoid producing
16 a child at a custody hearing or delivering the child to the
17 designated person.
- 18 (q)~~(o)~~ Section 790.115(1), relating to exhibiting
19 firearms or weapons within 1,000 feet of a school.
- 20 (r)~~(p)~~ Section 790.115(2)(b), relating to possessing
21 an electric weapon or device, destructive device, or other
22 weapon on school property.
- 23 (s)~~(q)~~ Section 794.011, relating to sexual battery.
- 24 (t)~~(r)~~ Former s. 794.041, relating to prohibited acts
25 of persons in familial or custodial authority.
- 26 (u)~~(s)~~ Chapter 796, relating to prostitution.
- 27 (v)~~(t)~~ Section 798.02, relating to lewd and lascivious
28 behavior.
- 29 (w)~~(u)~~ Chapter 800, relating to lewdness and indecent
30 exposure.
- 31 (x)~~(v)~~ Section 806.01, relating to arson.

1 (y)~~(w)~~ Chapter 812, relating to theft, robbery, and
2 related crimes, if the offense is a felony.
3 (z)~~(x)~~ Section 817.563, relating to fraudulent sale of
4 controlled substances, only if the offense was a felony.
5 (aa)~~(y)~~ Section 825.102, relating to abuse, aggravated
6 abuse, or neglect of an elderly person or disabled adult.
7 (bb)~~(z)~~ Section 825.1025, relating to lewd or
8 lascivious offenses committed upon or in the presence of an
9 elderly person or disabled adult.
10 (cc)~~(aa)~~ Section 825.103, relating to exploitation of
11 an elderly person or disabled adult, if the offense was a
12 felony.
13 (dd)~~(bb)~~ Section 826.04, relating to incest.
14 (ee)~~(cc)~~ Section 827.03, relating to child abuse,
15 aggravated child abuse, or neglect of a child.
16 (ff)~~(dd)~~ Section 827.04, relating to contributing to
17 the delinquency or dependency of a child.
18 (gg)~~(ee)~~ Former s. 827.05, relating to negligent
19 treatment of children.
20 (hh)~~(ff)~~ Section 827.071, relating to sexual
21 performance by a child.
22 (ii)~~(gg)~~ Section 843.01, relating to resisting arrest
23 with violence.
24 (jj)~~(hh)~~ Section 843.025, relating to depriving a law
25 enforcement, correctional, or correctional probation officer
26 means of protection or communication.
27 (kk)~~(ii)~~ Section 843.12, relating to aiding in an
28 escape.
29 (ll)~~(jj)~~ Section 843.13, relating to aiding in the
30 escape of juvenile inmates in correctional institutions.
31 (mm)~~(kk)~~ Chapter 847, relating to obscene literature.

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

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

6 ~~(pp)~~ (pp) Section 916.0175, relating to sexual misconduct
7 with certain forensic clients and reporting of such sexual
8 misconduct.

9 ~~(mm)~~ (qq) Section 944.35(3), relating to inflicting
10 cruel or inhuman treatment on an inmate resulting in great
11 bodily harm.

12 ~~(oo)~~ (rr) Section 944.46, relating to harboring,
13 concealing, or aiding an escaped prisoner.

14 ~~(pp)~~ (ss) Section 944.47, relating to introduction of
15 contraband into a correctional facility.

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

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

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

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

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

1 jurisdictions relating to expunction, correction, or
2 confidential handling of criminal history records or
3 information derived therefrom. This section does not confer
4 any right to the expunction of any criminal history record,
5 and any request for expunction of a criminal history record
6 may be denied at the sole discretion of the court.

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

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

12 (b) The petitioner's sworn statement attesting that
13 the petitioner:

14 1. Has never, prior to the date on which the petition
15 is filed, been adjudicated guilty of a criminal offense or
16 comparable ordinance violation or adjudicated delinquent for
17 committing a felony or a misdemeanor specified in s.
18 943.051(3)(b).

19 2. Has not been adjudicated guilty of, or adjudicated
20 delinquent for committing, any of the acts stemming from the
21 arrest or alleged criminal activity to which the petition
22 pertains.

23 3. Has never secured a prior sealing or expunction of
24 a criminal history record under this section, former s.
25 893.14, former s. 901.33, or former s. 943.058, or from any
26 jurisdiction outside the state.

27 4. Is eligible for such an expunction to the best of
28 his or her knowledge or belief and does not have any other
29 petition to expunge or any petition to seal pending before any
30 court.

31

1 Any person who knowingly provides false information on such
2 sworn statement to the court commits a felony of the third
3 degree, punishable as provided in s. 775.082, s. 775.083, or
4 s. 775.084.

5 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.--Prior
6 to petitioning the court to expunge a criminal history record,
7 a person seeking to expunge a criminal history record shall
8 apply to the department for a certificate of eligibility for
9 expunction. The department shall, by rule adopted pursuant to
10 chapter 120, establish procedures pertaining to the
11 application for and issuance of certificates of eligibility
12 for expunction. The department shall issue a certificate of
13 eligibility for expunction to a person who is the subject of a
14 criminal history record if that person:

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

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

20 2. That an indictment, information, or other charging
21 document, if filed or issued in the case, was dismissed or
22 nolle prosequi by the state attorney or statewide prosecutor,
23 or was dismissed by a court of competent jurisdiction.

24 3. That the criminal history record does not relate to
25 a violation of s. 393.135, s. 394.4593,s. 787.025, chapter
26 794, s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s.
27 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145,
28 s. 893.135, s. 916.1075,or a violation enumerated in s.
29 907.041, where the defendant was found guilty of, or pled
30 guilty or nolo contendere to any such offense, or that the
31 defendant, as a minor, was found to have committed, or pled

1 guilty or nolo contendere to committing, such an offense as a
2 delinquent act, without regard to whether adjudication was
3 withheld.

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

7 (c) Has submitted to the department a certified copy
8 of the disposition of the charge to which the petition to
9 expunge pertains.

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

15 (e) 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 expunge pertains.

19 (f) 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, or former s. 943.058.

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

25 (h) Is not required to wait a minimum of 10 years
26 prior to being eligible for an expunction of such records
27 because all charges related to the arrest or criminal activity
28 to which the petition to expunge pertains were dismissed prior
29 to trial, adjudication, or the withholding of adjudication.
30 Otherwise, such criminal history record must be sealed under
31 this section, former s. 893.14, former s. 901.33, or former s.

1 943.058 for at least 10 years before such record is eligible
2 for expunction.

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

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

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

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

1 petition the court to void the order to expunge. The
2 department shall seal the record until such time as the order
3 is voided by the court.

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

20 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
21 criminal history record of a minor or an adult which is
22 ordered expunged by a court of competent jurisdiction pursuant
23 to this section must be physically destroyed or obliterated by
24 any criminal justice agency having custody of such record;
25 except that any criminal history record in the custody of the
26 department must be retained in all cases. A criminal history
27 record ordered expunged that is retained by the department is
28 confidential and exempt from the provisions of s. 119.07(1)
29 and s. 24(a), Art. I of the State Constitution and not
30 available to any person or entity except upon order of a court
31 of competent jurisdiction. A criminal justice agency may

1 retain a notation indicating compliance with an order to
2 expunge.

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

- 9 1. Is a candidate for employment with a criminal
10 justice agency;
- 11 2. Is a defendant in a criminal prosecution;
- 12 3. Concurrently or subsequently petitions for relief
13 under this section or s. 943.059;
- 14 4. Is a candidate for admission to The Florida Bar;
- 15 5. Is seeking to be employed or licensed by or to
16 contract with the Department of Children and Family Services
17 or the Department of Juvenile Justice or to be employed or
18 used by such contractor or licensee in a sensitive position
19 having direct contact with children, the developmentally
20 disabled, the aged, or the elderly as provided in s.
21 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.
22 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
23 916.106(10) and (13), s. 985.407, or chapter 400; 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 that
28 licenses child care facilities.

29 (b) Subject to the exceptions in paragraph (a), a
30 person who has been granted an expunction 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 an
4 expunged criminal history record.

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

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

29 Section 7. Section 943.059, Florida Statutes, is
30 amended to read:

31

1 943.059 Court-ordered sealing of criminal history
2 records.--The courts of this state shall continue to have
3 jurisdiction over their own procedures, including the
4 maintenance, sealing, and correction of judicial records
5 containing criminal history information to the extent such
6 procedures are not inconsistent with the conditions,
7 responsibilities, and duties established by this section. Any
8 court of competent jurisdiction may order a criminal justice
9 agency to seal the criminal history record of a minor or an
10 adult who complies with the requirements of this section. The
11 court shall not order a criminal justice agency to seal a
12 criminal history record until the person seeking to seal a
13 criminal history record has applied for and received a
14 certificate of eligibility for sealing pursuant to subsection
15 (2). A criminal history record that relates to a violation of
16 s. 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03,
17 s. 800.04, s. 817.034, s. 825.1025, s. 827.071, chapter 839,
18 s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
19 916.1075, or a violation enumerated in s. 907.041 may not be
20 sealed, without regard to whether adjudication was withheld,
21 if the defendant was found guilty of or pled guilty or nolo
22 contendere to the offense, or if the defendant, as a minor,
23 was found to have committed or pled guilty or nolo contendere
24 to committing the offense as a delinquent act. The court may
25 only order sealing of a criminal history record pertaining to
26 one arrest or one incident of alleged criminal activity,
27 except as provided in this section. The court may, at its sole
28 discretion, order the sealing of a criminal history record
29 pertaining to more than one arrest if the additional arrests
30 directly relate to the original arrest. If the court intends
31 to order the sealing of records pertaining to such additional

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

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

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

22 (b) The petitioner's sworn statement attesting that
23 the petitioner:

24 1. Has never, prior to the date on which the petition
25 is filed, been adjudicated guilty of a criminal offense or
26 comparable ordinance violation or adjudicated delinquent for
27 committing a felony or a misdemeanor specified in s.
28 943.051(3)(b).

29 2. Has not been adjudicated guilty of or adjudicated
30 delinquent for committing any of the acts stemming from the
31

1 arrest or alleged criminal activity to which the petition to
2 seal pertains.

3 3. Has never secured a prior sealing or expunction of
4 a criminal history record under this section, former s.
5 893.14, former s. 901.33, former s. 943.058, or from any
6 jurisdiction outside the state.

7 4. Is eligible for such a sealing to the best of his
8 or her knowledge or belief and does not have any other
9 petition to seal or any petition to expunge pending before any
10 court.

11

12 Any person who knowingly provides false information on such
13 sworn statement to the court commits a felony of the third
14 degree, punishable as provided in s. 775.082, s. 775.083, or
15 s. 775.084.

16 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.--Prior to
17 petitioning the court to seal a criminal history record, a
18 person seeking to seal a criminal history record shall apply
19 to the department for a certificate of eligibility for
20 sealing. The department shall, by rule adopted pursuant to
21 chapter 120, establish procedures pertaining to the
22 application for and issuance of certificates of eligibility
23 for sealing. The department shall issue a certificate of
24 eligibility for sealing to a person who is the subject of a
25 criminal history record provided that such person:

26 (a) Has submitted to the department a certified copy
27 of the disposition of the charge to which the petition to seal
28 pertains.

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

1 (c) Has never, prior to the date on which the
2 application for a certificate of eligibility is filed, been
3 adjudicated guilty of a criminal offense or comparable
4 ordinance violation or adjudicated delinquent for committing a
5 felony or a misdemeanor specified in s. 943.051(3)(b).

6 (d) Has not been adjudicated guilty of or adjudicated
7 delinquent for committing any of the acts stemming from the
8 arrest or alleged criminal activity to which the petition to
9 seal pertains.

10 (e) Has never secured a prior sealing or expunction of
11 a criminal history record under this section, former s.
12 893.14, former s. 901.33, or former s. 943.058.

13 (f) Is no longer under court supervision applicable to
14 the disposition of the arrest or alleged criminal activity to
15 which the petition to seal pertains.

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

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

25 (b) If relief is granted by the court, the clerk of
26 the court shall certify copies of the order to the appropriate
27 state attorney or the statewide prosecutor and to the
28 arresting agency. The arresting agency is responsible for
29 forwarding the order to any other agency to which the
30 arresting agency disseminated the criminal history record
31 information to which the order pertains. The department shall

1 forward the order to seal to the Federal Bureau of
2 Investigation. The clerk of the court shall certify a copy of
3 the order to any other agency which the records of the court
4 reflect has received the criminal history record from the
5 court.

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

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

1 required by this section or when such order does not comply
2 with the requirements of this section.

3 (e) An order sealing a criminal history record
4 pursuant to this section does not require that such record be
5 surrendered to the court, and such record shall continue to be
6 maintained by the department and other criminal justice
7 agencies.

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

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

- 23 1. Is a candidate for employment with a criminal
24 justice agency;
- 25 2. Is a defendant in a criminal prosecution;
- 26 3. Concurrently or subsequently petitions for relief
27 under this section or s. 943.0585;
- 28 4. Is a candidate for admission to The Florida Bar;
- 29 5. Is seeking to be employed or licensed by or to
30 contract with the Department of Children and Family Services
31 or the Department of Juvenile Justice or to be employed or

1 used by such contractor or licensee in a sensitive position
2 having direct contact with children, the developmentally
3 disabled, the aged, or the elderly as provided in s.
4 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.
5 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
6 415.103, s. 916.106(10) and (13), s. 985.407, or chapter 400;
7 or

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

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

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

1 licensure with such entity or contractor, except to the person
2 to whom the criminal history record relates or to persons
3 having direct responsibility for employment or licensure
4 decisions. Any person who violates the provisions of this
5 paragraph commits a misdemeanor of the first degree,
6 punishable as provided in s. 775.082 or s. 775.083.

7 (5) STATUTORY REFERENCES.--Any reference to any other
8 chapter, section, or subdivision of the Florida Statutes in
9 this section constitutes a general reference under the
10 doctrine of incorporation by reference.

11 Section 8. Paragraph (a) of subsection (2) of section
12 400.215, Florida Statutes, is amended, and paragraphs (b) and
13 (c) of subsection (2) and subsection (3) of that section are
14 reenacted for the purpose of incorporating the amendments to
15 sections 435.03 and 435.04, Florida Statutes, in references
16 thereto, to read:

17 400.215 Personnel screening requirement.--

18 (2) Employers and employees shall comply with the
19 requirements of s. 435.05.

20 (a) Notwithstanding the provisions of s. 435.05(1),
21 facilities must have in their possession evidence that level 1
22 screening has been completed before allowing an employee to
23 begin working with patients as provided in subsection (1). All
24 information necessary for conducting background screening
25 using level 1 standards as specified in s. 435.03~~(1)~~ shall be
26 submitted by the nursing facility to the agency. Results of
27 the background screening shall be provided by the agency to
28 the requesting nursing facility.

29 (b) Employees qualified under the provisions of
30 paragraph (a) who have not maintained continuous residency
31 within the state for the 5 years immediately preceding the

1 date of request for background screening must complete level 2
2 screening, as provided in chapter 435. Such employees may work
3 in a conditional status up to 180 days pending the receipt of
4 written findings evidencing the completion of level 2
5 screening. Level 2 screening shall not be required of
6 employees or prospective employees who attest in writing under
7 penalty of perjury that they meet the residency requirement.
8 Completion of level 2 screening shall require the employee or
9 prospective employee to furnish to the nursing facility a full
10 set of fingerprints to enable a criminal background
11 investigation to be conducted. The nursing facility shall
12 submit the completed fingerprint card to the agency. The
13 agency shall establish a record of the request in the database
14 provided for in paragraph (c) and forward the request to the
15 Department of Law Enforcement, which is authorized to submit
16 the fingerprints to the Federal Bureau of Investigation for a
17 national criminal history records check. The results of the
18 national criminal history records check shall be returned to
19 the agency, which shall maintain the results in the database
20 provided for in paragraph (c). The agency shall notify the
21 administrator of the requesting nursing facility or the
22 administrator of any other facility licensed under chapter
23 393, chapter 394, chapter 395, chapter 397, or this chapter,
24 as requested by such facility, as to whether or not the
25 employee has qualified under level 1 or level 2 screening. An
26 employee or prospective employee who has qualified under level
27 2 screening and has maintained such continuous residency
28 within the state shall not be required to complete a
29 subsequent level 2 screening as a condition of employment at
30 another facility.
31

1 (c) The agency shall establish and maintain a database
2 of background screening information which shall include the
3 results of both level 1 and level 2 screening. The Department
4 of Law Enforcement shall timely provide to the agency,
5 electronically, the results of each statewide screening for
6 incorporation into the database. The agency shall, upon
7 request from any facility, agency, or program required by or
8 authorized by law to screen its employees or applicants,
9 notify the administrator of the facility, agency, or program
10 of the qualifying or disqualifying status of the employee or
11 applicant named in the request.

12 (3) The applicant is responsible for paying the fees
13 associated with obtaining the required screening. Payment for
14 the screening shall be submitted to the agency. The agency
15 shall establish a schedule of fees to cover the costs of level
16 1 and level 2 screening. Facilities may reimburse employees
17 for these costs. The Department of Law Enforcement shall
18 charge the agency for a level 1 or level 2 screening a rate
19 sufficient to cover the costs of such screening pursuant to s.
20 943.053(3). The agency shall, as allowable, reimburse nursing
21 facilities for the cost of conducting background screening as
22 required by this section. This reimbursement will not be
23 subject to any rate ceilings or payment targets in the
24 Medicaid Reimbursement plan.

25 Section 9. For the purpose of incorporating the
26 amendments to sections 435.03 and 435.04, Florida Statutes, in
27 references thereto, subsections (1) and (2) of section
28 400.964, Florida Statutes, are reenacted, and subsection (7)
29 of that section is amended and reenacted, to read:

30 400.964 Personnel screening requirement.--

31

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

7 (2) Employers and employees shall comply with the
8 requirements of chapter 435.

9 (7) All employees must comply with the requirements of
10 this section by October 1, 2000. A person employed by a
11 facility licensed pursuant to this part as of the effective
12 date of this act is not required to submit to rescreening if
13 the facility has in its possession written evidence that the
14 person has been screened and qualified according to level 1
15 standards as specified in s. 435.03~~(1)~~. Any current employee
16 who meets the level 1 requirement but does not meet the 5-year
17 residency requirement must provide to the employing facility
18 written attestation under penalty of perjury that the employee
19 has not been convicted of a disqualifying offense in another
20 state or jurisdiction. All applicants hired on or after
21 October 1, 1999, must comply with the requirements of this
22 section.

23 Section 10. For the purposes of incorporating the
24 amendment to section 435.04, Florida Statutes, in references
25 thereto, paragraph (a) of subsection (1) of section 435.045,
26 Florida Statutes, is amended and reenacted to read:

27 435.045 Requirements for placement of dependent
28 children.--

29 (1)(a) Unless an election provided for in subsection
30 (2) is made with respect to the state, the department is
31 authorized to conduct criminal records checks equivalent to

1 the level 2 screening required in s. 435.04~~(1)~~for any person
2 being considered by the department for placement of a child
3 subject to a placement decision pursuant to chapter 39.

4 Approval shall not be granted:

5 1. In any case in which a record check reveals a
6 felony conviction for child abuse, abandonment, or neglect;
7 for spousal abuse; for a crime against children, including
8 child pornography, or for a crime involving violence,
9 including rape, sexual assault, or homicide but not including
10 other physical assault or battery, if the department finds
11 that a court of competent jurisdiction has determined that the
12 felony was committed at any time; and

13 2. In any case in which a record check reveals a
14 felony conviction for physical assault, battery, or a
15 drug-related offense, if the department finds that a court of
16 competent jurisdiction has determined that the felony was
17 committed within the past 5 years.

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

22 400.414 Denial, revocation, or suspension of license;
23 imposition of administrative fine; grounds.--

24 (1) The agency may deny, revoke, or suspend any
25 license issued under this part, or impose an administrative
26 fine in the manner provided in chapter 120, for any of the
27 following actions by an assisted living facility, for the
28 actions of any person subject to level 2 background screening
29 under s. 400.4174, or for the actions of any facility
30 employee:

31

1 (f) A determination that a person subject to level 2
2 background screening under s. 400.4174(1) does not meet the
3 screening standards of s. 435.04 or that the facility is
4 retaining an employee subject to level 1 background screening
5 standards under s. 400.4174(2) who does not meet the screening
6 standards of s. 435.03 and for whom exemptions from
7 disqualification have not been provided by the agency.

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

16
17 Administrative proceedings challenging agency action under
18 this subsection shall be reviewed on the basis of the facts
19 and conditions that resulted in the agency action.

20 Section 12. For the purpose of incorporating the
21 amendment to sections 435.03 and 435.04, Florida Statutes, in
22 references thereto, section 400.4174, Florida Statutes, is
23 reenacted to read:

24 400.4174 Background screening; exemptions.--

25 (1)(a) Level 2 background screening must be conducted
26 on each of the following persons, who shall be considered
27 employees for the purposes of conducting screening under
28 chapter 435:

29 1. The facility owner if an individual, the
30 administrator, and the financial officer.

31

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

21 (b) Proof of compliance with level 2 screening
22 standards which has been submitted within the previous 5 years
23 to meet any facility or professional licensure requirements of
24 the agency or the Department of Health satisfies the
25 requirements of this subsection, provided that such proof is
26 accompanied, under penalty of perjury, by an affidavit of
27 compliance with the provisions of chapter 435. Proof of
28 compliance with the background screening requirements of the
29 Financial Services Commission and the Office of Insurance
30 Regulation for applicants for a certificate of authority to
31 operate a continuing care retirement community under chapter

1 651, submitted within the last 5 years, satisfies the
2 Department of Law Enforcement and Federal Bureau of
3 Investigation portions of a level 2 background check.

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

12 (2) The owner or administrator of an assisted living
13 facility must conduct level 1 background screening, as set
14 forth in chapter 435, on all employees hired on or after
15 October 1, 1998, who perform personal services as defined in
16 s. 400.402(17). The agency may exempt an individual from
17 employment disqualification as set forth in chapter 435. Such
18 persons shall be considered as having met this 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 in the same type of occupation for which
27 the person is seeking employment without a breach in service
28 which exceeds 180 days, and proof of compliance with the level
29 1 screening requirement which is no more than 2 years old is
30 provided. Proof of compliance shall 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 by the employer retaining documentation of the
3 screening to the person screened.

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

15 400.509 Registration of particular service providers
16 exempt from licensure; certificate of registration; regulation
17 of registrants.--

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 1 standards for screening set forth
23 in chapter 435, of every individual who will have contact with
24 the client. The agency shall require background screening of
25 the managing employee or other similarly titled individual who
26 is responsible for the operation of the entity, and of the
27 financial officer or other similarly titled individual who is
28 responsible for the financial operation of the entity,
29 including billings for client services in accordance with the
30 level 2 standards for background screening as set forth in
31 chapter 435.

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

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

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

1 not been requested of and granted by the agency as set forth
2 in chapter 435.

3 (f) 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 which
6 was committed by a member of the board of directors of the
7 applicant, its officers, or any individual owning 5 percent or
8 more of the applicant. This requirement does not apply to a
9 director of a not-for-profit corporation or organization who
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 no family members having a financial
16 interest in the corporation or organization, if the director
17 and the not-for-profit corporation or organization include in
18 the application a statement affirming that the director's
19 relationship to the corporation satisfies the requirements of
20 this paragraph.

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

28 Section 14. For the purpose of incorporating the
29 amendment to sections 435.03 and 435.04, Florida Statutes, in
30 references thereto, paragraph (c) of subsection (2) of section
31 400.556, Florida Statutes, is reenacted to read:

1 400.556 Denial, suspension, revocation of license;
2 administrative fines; investigations and inspections.--

3 (2) Each of the following actions by the owner of an
4 adult day care center or by its operator or employee is a
5 ground for action by the agency against the owner of the
6 center or its operator or employee:

7 (c) A failure of persons subject to level 2 background
8 screening under s. 400.4174(1) to meet the screening standards
9 of s. 435.04, or the retention by the center of an employee
10 subject to level 1 background screening standards under s.
11 400.4174(2) who does not meet the screening standards of s.
12 435.03 and for whom exemptions from disqualification have not
13 been provided by the agency.

14 Section 15. For the purpose of incorporating the
15 amendment to sections 435.03 and 435.04, Florida Statutes, in
16 references thereto, subsections (1), (2), and (4) of section
17 400.6065, Florida Statutes, are reenacted to read:

18 400.6065 Background screening.--

19 (1) Upon receipt of a completed application under s.
20 400.606, the agency shall require level 2 background screening
21 on each of the following persons, who shall be considered
22 employees for the purposes of conducting screening under
23 chapter 435:

24 (a) The hospice administrator and financial officer.

25 (b) An officer or board member if the hospice is a
26 firm, corporation, partnership, or association, or any person
27 owning 5 percent or more of the hospice if the agency has
28 probable cause to believe that such officer, board member, or
29 owner has been convicted of any offense prohibited by s.
30 435.04. For each officer, board member, or person owning 5
31 percent or more who has been convicted of any such offense,

1 the hospice shall submit to the agency a description and
2 explanation of the conviction at the time of license
3 application. This paragraph does not apply to a board member
4 of a not-for-profit corporation or organization if the board
5 member serves solely in a voluntary capacity, does not
6 regularly take part in the day-to-day operational decisions of
7 the corporation or organization, receives no remuneration for
8 his or her services, and has no financial interest and has no
9 family members with a financial interest in the corporation or
10 organization, provided that the board member and the
11 corporation or organization submit a statement affirming that
12 the board member's relationship to the corporation or
13 organization satisfies the requirements of this paragraph.

14 (2) Proof of compliance with level 2 screening
15 standards which has been submitted within the previous 5 years
16 to meet any facility or professional licensure requirements of
17 the agency or the Department of Health satisfies the
18 requirements of this section.

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

23 Section 16. For the purpose of incorporating the
24 amendment to sections 435.03 and 435.04, Florida Statutes, in
25 references thereto, paragraphs (a), (b), (c), (d), (f), and
26 (g) of subsection (4) of section 400.980, Florida Statutes,
27 are reenacted to read:

28 400.980 Health care services pools.--

29 (4) Each applicant for registration must comply with
30 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 1 standards for screening set forth
4 in chapter 435, of every individual who will have contact with
5 patients. The agency shall require background screening of the
6 managing employee or other similarly titled individual who is
7 responsible for the operation of the entity, and of the
8 financial officer or other similarly titled individual who is
9 responsible for the financial operation of the entity,
10 including billings for services in accordance with the level 2
11 standards for background screening as set forth in chapter
12 435.

13 (b) The agency may require background screening of any
14 other individual who is affiliated with the applicant if the
15 agency has a reasonable basis for believing that he or she has
16 been convicted of a crime or has committed any other offense
17 prohibited under the level 2 standards for screening set forth
18 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).

24 (d) A provisional registration may be granted to an
25 applicant when each individual required by this section to
26 undergo background screening has met the standards for the
27 Department of Law Enforcement background check but the agency
28 has not yet received background screening results from the
29 Federal Bureau of Investigation. A standard registration may
30 be granted to the applicant upon the agency's receipt of a
31 report of the results of the Federal Bureau of Investigation

1 background screening for each individual required by this
2 section to undergo background screening which confirms that
3 all standards have been met, or upon the granting of a
4 disqualification exemption by the agency as set forth in
5 chapter 435. Any other person who is required to undergo level
6 2 background screening may serve in his or her capacity
7 pending the agency's receipt of the report from the Federal
8 Bureau of Investigation. However, the person may not continue
9 to serve if the report indicates any violation of background
10 screening standards and if a disqualification exemption has
11 not been requested of and granted by the agency as set forth
12 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 which
16 was committed by a member of the board of directors of the
17 applicant, its officers, or any individual owning 5 percent or
18 more of the applicant. This requirement does not apply to a
19 director of a not-for-profit corporation or organization who
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's or organization's board of directors, and has no
25 financial interest and no family members having a financial
26 interest in the corporation or organization, if the director
27 and the not-for-profit corporation or organization include in
28 the application a statement affirming that the director's
29 relationship to the corporation satisfies the requirements of
30 this paragraph.

31

1 (g) A registration may not be granted to an applicant
2 if the applicant or managing employee has been found guilty
3 of, 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 17. For the purpose of incorporating the
9 amendment to sections 435.03 and 435.04, Florida Statutes, in
10 references thereto, paragraph (k) of subsection (2) of section
11 409.175, Florida Statutes, is reenacted to read:

12 409.175 Licensure of family foster homes, residential
13 child-caring agencies, and child-placing agencies; public
14 records exemption.--

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

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

25 Section 18. For the purpose of incorporating the
26 amendment to sections 435.03 and 435.04, Florida Statutes, in
27 references thereto, paragraph (d) of subsection (8) of section
28 409.907, Florida Statutes, is reenacted to read:

29 409.907 Medicaid provider agreements.--The agency may
30 make payments for medical assistance and related services
31 rendered to Medicaid recipients only to an individual or

1 entity who has a provider agreement in effect with the agency,
2 who is performing services or supplying goods in accordance
3 with federal, state, and local law, and who agrees that no
4 person shall, on the grounds of handicap, race, color, or
5 national origin, or for any other reason, be subjected to
6 discrimination under any program or activity for which the
7 provider receives payment from the agency.

8 (8)

9 (d) Proof of compliance with the requirements of level
10 2 screening under s. 435.04 conducted within 12 months prior
11 to the date that the Medicaid provider application is
12 submitted to the agency shall fulfill the requirements of this
13 subsection. Proof of compliance with the requirements of level
14 1 screening under s. 435.03 conducted within 12 months prior
15 to the date that the Medicaid provider application is
16 submitted to the agency shall meet the requirement that the
17 Department of Law Enforcement conduct a state criminal history
18 record check.

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

23 435.05 Requirements for covered employees.--Except as
24 otherwise provided by law, the following requirements shall
25 apply to covered employees:

26 (1)(a) Every person employed in a position for which
27 employment screening is required must, within 5 working days
28 after starting to work, submit to the employer a complete set
29 of information necessary to conduct a screening under this
30 section.

31

1 (b) For level 1 screening, the employer must submit
2 the information necessary for screening to the Florida
3 Department of Law Enforcement within 5 working days after
4 receiving it. The Florida Department of Law Enforcement will
5 conduct a search of its records and will respond to the
6 employer agency. The employer will inform the employee whether
7 screening has revealed any disqualifying information.

8 (c) For level 2 screening, the employer or licensing
9 agency must submit the information necessary for screening to
10 the Florida Department of Law Enforcement within 5 working
11 days after receiving it. The Florida Department of Law
12 Enforcement will conduct a search of its criminal and juvenile
13 records and will request that the Federal Bureau of
14 Investigation conduct a search of its records for each
15 employee for whom the request is made. The Florida Department
16 of Law Enforcement will respond to the employer or licensing
17 agency, and the employer or licensing agency will inform the
18 employee whether screening has revealed disqualifying
19 information.

20 (d) The person whose background is being checked must
21 supply any missing criminal or other necessary information to
22 the employer within 30 days after the employer makes a request
23 for the information or be subject to automatic
24 disqualification.

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

30 Section 20. For the purpose of incorporating the
31 amendment to sections 435.03 and 435.04, Florida Statutes, in

1 references thereto, section 744.3135, Florida Statutes, as
2 amended by chapter 2003-402, Laws of Florida, is reenacted to
3 read:

4 744.3135 Credit and criminal investigation.--The court
5 may require a nonprofessional guardian and shall require a
6 professional or public guardian, and all employees of a
7 professional guardian who have a fiduciary responsibility to a
8 ward, to submit, at their own expense, to an investigation of
9 the guardian's credit history and to undergo level 2
10 background screening as required under s. 435.04. The clerk of
11 the court shall obtain fingerprint cards from the Federal
12 Bureau of Investigation and make them available to guardians.
13 Any guardian who is so required shall have his or her
14 fingerprints taken and forward the proper fingerprint card
15 along with the necessary fee to the Florida Department of Law
16 Enforcement for processing. The professional guardian shall
17 pay to the clerk of the court a fee of up to \$7.50 for
18 handling and processing professional guardian files. The
19 results of the fingerprint checks shall be forwarded to the
20 clerk of court who shall maintain the results in a guardian
21 file and shall make the results available to the court. If
22 credit or criminal investigations are required, the court must
23 consider the results of the investigations in appointing a
24 guardian. Professional guardians and all employees of a
25 professional guardian who have a fiduciary responsibility to a
26 ward, so appointed, must resubmit, at their own expense, to an
27 investigation of credit history, and undergo level 1
28 background screening as required under s. 435.03, at least
29 every 2 years after the date of their appointment. At any
30 time, the court may require guardians or their employees to
31 submit to an investigation of credit history and undergo level

1 1 background screening as required under s. 435.03. The court
2 must consider the results of these investigations in
3 reappointing a guardian. This section shall not apply to a
4 professional guardian, or to the employees of a professional
5 guardian, that is a trust company, a state banking corporation
6 or state savings association authorized and qualified to
7 exercise fiduciary powers in this state, or a national banking
8 association or federal savings and loan association authorized
9 and qualified to exercise fiduciary powers in this state

10 Section 21. For the purpose of incorporating the
11 amendment to sections 435.03 and 435.04, Florida Statutes, in
12 references thereto, subsection (2) of section 985.04, Florida
13 Statutes, is reenacted to read:

14 985.04 Oaths; records; confidential information.--

15 (2) Records maintained by the Department of Juvenile
16 Justice, including copies of records maintained by the court,
17 which pertain to a child found to have committed a delinquent
18 act which, if committed by an adult, would be a crime
19 specified in ss. 435.03 and 435.04 may not be destroyed
20 pursuant to this section for a period of 25 years after the
21 youth's final referral to the department, except in cases of
22 the death of the child. Such records, however, shall be sealed
23 by the court for use only in meeting the screening
24 requirements for personnel in s. 402.3055 and the other
25 sections cited above, or pursuant to departmental rule;
26 however, current criminal history information must be obtained
27 from the Department of Law Enforcement in accordance with s.
28 943.053. The information shall be released to those persons
29 specified in the above cited sections for the purposes of
30 complying with those sections. The court may punish by

31

1 contempt any person who releases or uses the records for any
2 unauthorized purpose.

3 Section 22. For the purpose of incorporating the
4 amendment to section 435.03, Florida Statutes, in references
5 thereto, section 400.512, Florida Statutes, is reenacted to
6 read:

7 400.512 Screening of home health agency personnel;
8 nurse registry personnel; and companions and homemakers.--The
9 agency shall require employment or contractor screening as
10 provided in chapter 435, using the level 1 standards for
11 screening set forth in that chapter, for home health agency
12 personnel; persons referred for employment by nurse
13 registries; and persons employed by companion or homemaker
14 services registered under s. 400.509.

15 (1)(a) The Agency for Health Care Administration may,
16 upon request, grant exemptions from disqualification from
17 employment or contracting under this section as provided in s.
18 435.07, except for health care practitioners licensed by the
19 Department of Health or a regulatory board within that
20 department.

21 (b) The appropriate regulatory board within the
22 Department of Health, or that department itself when there is
23 no board, may, upon request of the licensed health care
24 practitioner, grant exemptions from disqualification from
25 employment or contracting under this section as provided in s.
26 435.07.

27 (2) The administrator of each home health agency, the
28 managing employee of each nurse registry, and the managing
29 employee of each companion or homemaker service registered
30 under s. 400.509 must sign an affidavit annually, under
31 penalty of perjury, stating that all personnel hired,

1 contracted with, or registered on or after October 1, 1994,
2 who enter the home of a patient or client in their service
3 capacity have been screened and that its remaining personnel
4 have worked for the home health agency or registrant
5 continuously since before October 1, 1994.

6 (3) As a prerequisite to operating as a home health
7 agency, nurse registry, or companion or homemaker service
8 under s. 400.509, the administrator or managing employee,
9 respectively, must submit to the agency his or her name and
10 any other information necessary to conduct a complete
11 screening according to this section. The agency shall submit
12 the information to the Department of Law Enforcement for state
13 processing. The agency shall review the record of the
14 administrator or manager with respect to the offenses
15 specified in this section and shall notify the owner of its
16 findings. If disposition information is missing on a criminal
17 record, the administrator or manager, upon request of the
18 agency, must obtain and supply within 30 days the missing
19 disposition information to the agency. Failure to supply
20 missing information within 30 days or to show reasonable
21 efforts to obtain such information will result in automatic
22 disqualification.

23 (4) Proof of compliance with the screening
24 requirements of chapter 435 shall be accepted in lieu of the
25 requirements of this section if the person has been
26 continuously employed or registered without a breach in
27 service that exceeds 180 days, the proof of compliance is not
28 more than 2 years old, and the person has been screened by the
29 Department of Law Enforcement. A home health agency, nurse
30 registry, or companion or homemaker service registered under
31 s. 400.509 shall directly provide proof of compliance to

1 another home health agency, nurse registry, or companion or
2 homemaker service registered under s. 400.509. The recipient
3 home health agency, nurse registry, or companion or homemaker
4 service registered under s. 400.509 may not accept any proof
5 of compliance directly from the person who requires screening.
6 Proof of compliance with the screening requirements of this
7 section shall be provided upon request to the person screened
8 by the home health agencies; nurse registries; or companion or
9 homemaker services registered under s. 400.509.

10 (5) There is no monetary liability on the part of, and
11 no cause of action for damages arises against, a licensed home
12 health agency, licensed nurse registry, or companion or
13 homemaker service registered under s. 400.509, that, upon
14 notice that the employee or contractor has been found guilty
15 of, regardless of adjudication, or entered a plea of nolo
16 contendere or guilty to, any offense prohibited under s.
17 435.03 or under any similar statute of another jurisdiction,
18 terminates the employee or contractor, whether or not the
19 employee or contractor has filed for an exemption with the
20 agency in accordance with chapter 435 and whether or not the
21 time for filing has expired.

22 (6) The costs of processing the statewide
23 correspondence criminal records checks must be borne by the
24 home health agency; the nurse registry; or the companion or
25 homemaker service registered under s. 400.509, or by the
26 person being screened, at the discretion of the home health
27 agency, nurse registry, or s. 400.509 registrant.

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

31

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

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

10 3. Use information from the criminal records obtained
11 under this section for any purpose other than screening that
12 person for employment as specified in this section or release
13 such information to any other person for any purpose other
14 than screening for employment under this section.

15 (b) It is a felony of the third degree, punishable
16 under s. 775.082, s. 775.083, or s. 775.084, for any person
17 willfully, knowingly, or intentionally to use information from
18 the juvenile records of a person obtained under this section
19 for any purpose other than screening for employment under this
20 section.

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

25 400.619 Licensure application and renewal.--

26 (4) Upon receipt of a completed license application or
27 license renewal, and the fee, the agency shall initiate a
28 level 1 background screening as provided under chapter 435 on
29 the adult family-care home provider, the designated relief
30 person, all adult household members, and all staff members.

31

1 The agency shall conduct an onsite visit to the home that is
2 to be licensed.

3 (a) Proof of compliance with level 1 screening
4 standards which has been submitted within the previous 5 years
5 to meet any facility or professional licensure requirements of
6 the agency or the Department of Health satisfies the
7 requirements of this subsection. Such proof must be
8 accompanied, under penalty of perjury, by a copy of the
9 person's current professional license and an affidavit of
10 current compliance with the background screening requirements.

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

21 Section 24. For the purpose of incorporating the
22 amendment to section 435.03, Florida Statutes, in references
23 thereto, subsection (1) of section 400.6194, Florida Statutes,
24 is reenacted to read:

25 400.6194 Denial, revocation, or suspension of a
26 license.--The agency may deny, suspend, or revoke a license
27 for any of the following reasons:

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

1 Section 25. For the purpose of incorporating the
2 amendment to section 435.03, Florida Statutes, in references
3 thereto, section 400.953, Florida Statutes, is reenacted to
4 read:

5 400.953 Background screening of home medical equipment
6 provider personnel.--The agency shall require employment
7 screening as provided in chapter 435, using the level 1
8 standards for screening set forth in that chapter, for home
9 medical equipment provider personnel.

10 (1) The agency may grant exemptions from
11 disqualification from employment under this section as
12 provided in s. 435.07.

13 (2) The general manager of each home medical equipment
14 provider must sign an affidavit annually, under penalty of
15 perjury, stating that all home medical equipment provider
16 personnel hired on or after July 1, 1999, who enter the home
17 of a patient in the capacity of their employment have been
18 screened and that its remaining personnel have worked for the
19 home medical equipment provider continuously since before July
20 1, 1999.

21 (3) Proof of compliance with the screening
22 requirements of s. 110.1127, s. 393.0655, s. 394.4572, s.
23 397.451, s. 402.305, s. 402.313, s. 409.175, s. 464.008, or s.
24 985.407 or this part must be accepted in lieu of the
25 requirements of this section if the person has been
26 continuously employed in the same type of occupation for which
27 he or she is seeking employment without a breach in service
28 that exceeds 180 days, the proof of compliance is not more
29 than 2 years old, and the person has been screened by the
30 Department of Law Enforcement. An employer or contractor shall
31 directly provide proof of compliance to another employer or

1 contractor, and a potential employer or contractor may not
2 accept any proof of compliance directly from the person
3 requiring screening. Proof of compliance with the screening
4 requirements of this section shall be provided, upon request,
5 to the person screened by the home medical equipment provider.

6 (4) There is no monetary liability on the part of, and
7 no cause of action for damages arising against, a licensed
8 home medical equipment provider that, upon notice that an
9 employee has been found guilty of, regardless of adjudication,
10 or entered a plea of nolo contendere or guilty to, any offense
11 prohibited under s. 435.03 or under any similar statute of
12 another jurisdiction, terminates the employee, whether or not
13 the employee has filed for an exemption with the agency and
14 whether or not the time for filing has expired.

15 (5) The costs of processing the statewide
16 correspondence criminal records checks must be borne by the
17 home medical equipment provider or by the person being
18 screened, at the discretion of the home medical equipment
19 provider.

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

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

28 1. Fail, by false statement, misrepresentation,
29 impersonation, or other fraudulent means, to disclose in any
30 application for paid employment a material fact used in making
31

1 a determination as to the person's qualifications to be an
2 employee under this section;

3 2. Operate or attempt to operate an entity licensed
4 under this part with persons who do not meet the minimum
5 standards for good moral character as contained in this
6 section; or

7 3. Use information from the criminal records obtained
8 under this section for any purpose other than screening that
9 person for employment as specified in this section, or release
10 such information to any other person for any purpose other
11 than screening for employment under this section.

12 (b) It is a felony of the third degree, punishable as
13 provided in s. 775.082, s. 775.083, or s. 775.084, for any
14 person willfully, knowingly, or intentionally to use
15 information from the juvenile records of a person obtained
16 under this section for any purpose other than screening for
17 employment under this section.

18 Section 26. For the purpose of incorporating the
19 amendment to section 435.03, Florida Statutes, in references
20 thereto, subsection (32) of section 409.912, Florida Statutes,
21 is reenacted to read:

22 409.912 Cost-effective purchasing of health care.--The
23 agency shall purchase goods and services for Medicaid
24 recipients in the most cost-effective manner consistent with
25 the delivery of quality medical care. The agency shall
26 maximize the use of prepaid per capita and prepaid aggregate
27 fixed-sum basis services when appropriate and other
28 alternative service delivery and reimbursement methodologies,
29 including competitive bidding pursuant to s. 287.057, designed
30 to facilitate the cost-effective purchase of a case-managed
31 continuum of care. The agency shall also require providers to

1 minimize the exposure of recipients to the need for acute
2 inpatient, custodial, and other institutional care and the
3 inappropriate or unnecessary use of high-cost services. The
4 agency may establish prior authorization requirements for
5 certain populations of Medicaid beneficiaries, certain drug
6 classes, or particular drugs to prevent fraud, abuse, overuse,
7 and possible dangerous drug interactions. The Pharmaceutical
8 and Therapeutics Committee shall make recommendations to the
9 agency on drugs for which prior authorization is required. The
10 agency shall inform the Pharmaceutical and Therapeutics
11 Committee of its decisions regarding drugs subject to prior
12 authorization.

13 (32) Each managed care plan that is under contract
14 with the agency to provide health care services to Medicaid
15 recipients shall annually conduct a background check with the
16 Florida Department of Law Enforcement of all persons with
17 ownership interest of 5 percent or more or executive
18 management responsibility for the managed care plan and shall
19 submit to the agency information concerning any such person
20 who has been found guilty of, regardless of adjudication, or
21 has entered a plea of nolo contendere or guilty to, any of the
22 offenses listed in s. 435.03.

23 Section 27. For the purpose of incorporating the
24 amendment to section 435.03, Florida Statutes, in references
25 thereto, subsection (4) of section 435.07, Florida Statutes,
26 is reenacted to read:

27 435.07 Exemptions from disqualification.--Unless
28 otherwise provided by law, the provisions of this section
29 shall apply to exemptions from disqualification.

30 (4) Disqualification from employment under subsection
31 (1) may not be removed from, nor may an exemption be granted

1 to, any personnel who is found guilty of, regardless of
2 adjudication, or who has entered a plea of nolo contendere or
3 guilty to, any felony covered by s. 435.03 solely by reason of
4 any pardon, executive clemency, or restoration of civil
5 rights.

6 Section 28. For the purpose of incorporating the
7 amendment to section 435.03, Florida Statutes, in references
8 thereto, paragraph (e) of subsection (1) of section 464.018,
9 Florida Statutes, is reenacted to read:

10 464.018 Disciplinary actions.--

11 (1) The following acts constitute grounds for denial
12 of a license or disciplinary action, as specified in s.
13 456.072(2):

14 (e) Having been found guilty of, regardless of
15 adjudication, or entered a plea of nolo contendere or guilty
16 to, any offense prohibited under s. 435.03 or under any
17 similar statute of another jurisdiction; or having committed
18 an act which constitutes domestic violence as defined in s.
19 741.28.

20 Section 29. For the purpose of incorporating the
21 amendment to section 435.03, Florida Statutes, in references
22 thereto, subsection (3) of section 744.309, Florida Statutes,
23 is reenacted to read:

24 744.309 Who may be appointed guardian of a resident
25 ward.--

26 (3) ~~DISQUALIFIED PERSONS.~~--No person who has been
27 convicted of a felony or who, from any incapacity or illness,
28 is incapable of discharging the duties of a guardian, or who
29 is otherwise unsuitable to perform the duties of a guardian,
30 shall be appointed to act as guardian. Further, no person who
31 has been judicially determined to have committed abuse,

1 abandonment, or neglect against a child as defined in s. 39.01
2 or s. 984.03(1), (2), and (37), or who has been found guilty
3 of, regardless of adjudication, or entered a plea of nolo
4 contendere or guilty to, any offense prohibited under s.
5 435.03 or under any similar statute of another jurisdiction,
6 shall be appointed to act as a guardian. Except as provided in
7 subsection (5) or subsection (6), a person who provides
8 substantial services to the proposed ward in a professional or
9 business capacity, or a creditor of the proposed ward, may not
10 be appointed guardian and retain that previous professional or
11 business relationship. A person may not be appointed a
12 guardian if he or she is in the employ of any person, agency,
13 government, or corporation that provides service to the
14 proposed ward in a professional or business capacity, except
15 that a person so employed may be appointed if he or she is the
16 spouse, adult child, parent, or sibling of the proposed ward
17 or the court determines that the potential conflict of
18 interest is insubstantial and that the appointment would
19 clearly be in the proposed ward's best interest. The court may
20 not appoint a guardian in any other circumstance in which a
21 conflict of interest may occur.

22 Section 30. For the purpose of incorporating the
23 amendment to section 435.03, Florida Statutes, in references
24 thereto, subsection (12) of section 744.474, Florida Statutes,
25 is reenacted to read:

26 744.474 Reasons for removal of guardian.--A guardian
27 may be removed for any of the following reasons, and the
28 removal shall be in addition to any other penalties prescribed
29 by law:

30 (12) Having been found guilty of, regardless of
31 adjudication, or entered a plea of nolo contendere or guilty

1 to, any offense prohibited under s. 435.03 or under any
2 similar statute of another jurisdiction.

3 Section 31. For the purpose of incorporating the
4 amendment to section 435.03, Florida Statutes, in references
5 thereto, subsection (4) of section 985.407, Florida Statutes,
6 is reenacted to read:

7 985.407 Departmental contracting powers; personnel
8 standards and screening.--

9 (4) The department shall require employment screening
10 pursuant to chapter 435, using the level 1 standards for
11 screening set forth in that chapter, for personnel in
12 delinquency facilities, services, and programs.

13 Section 32. 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 39.001,
16 Florida Statutes, is reenacted to read:

17 39.001 Purposes and intent; personnel standards and
18 screening.--

19 (2) DEPARTMENT CONTRACTS.--The department may contract
20 with the Federal Government, other state departments and
21 agencies, county and municipal governments and agencies,
22 public and private agencies, and private individuals and
23 corporations in carrying out the purposes of, and the
24 responsibilities established in, this chapter.

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

30 Section 33. For the purpose of incorporating the
31 amendment to section 435.04, Florida Statutes, in references

1 thereto, subsection (1) of section 39.821, Florida Statutes,
2 is reenacted to read:

3 39.821 Qualifications of guardians ad litem.--
4 (1) Because of the special trust or responsibility
5 placed in a guardian ad litem, the Guardian Ad Litem Program
6 may use any private funds collected by the program, or any
7 state funds so designated, to conduct a security background
8 investigation before certifying a volunteer to serve. A
9 security background investigation must include, but need not
10 be limited to, employment history checks, checks of
11 references, local criminal records checks through local law
12 enforcement agencies, and statewide criminal records checks
13 through the Department of Law Enforcement. Upon request, an
14 employer shall furnish a copy of the personnel record for the
15 employee or former employee who is the subject of a security
16 background investigation conducted under this section. The
17 information contained in the personnel record may include, but
18 need not be limited to, disciplinary matters and the reason
19 why the employee was terminated from employment. An employer
20 who releases a personnel record for purposes of a security
21 background investigation is presumed to have acted in good
22 faith and is not liable for information contained in the
23 record without a showing that the employer maliciously
24 falsified the record. A security background investigation
25 conducted under this section must ensure that a person is not
26 certified as a guardian ad litem if the person has been
27 convicted of, regardless of adjudication, or entered a plea of
28 nolo contendere or guilty to, any offense prohibited under the
29 provisions of the Florida Statutes specified in s. 435.04(2)
30 or under any similar law in another jurisdiction. Before
31 certifying an applicant to serve as a guardian ad litem, the

1 chief judge of the circuit court may request a federal
2 criminal records check of the applicant through the Federal
3 Bureau of Investigation. In analyzing and evaluating the
4 information obtained in the security background investigation,
5 the program must give particular emphasis to past activities
6 involving children, including, but not limited to,
7 child-related criminal offenses or child abuse. The program
8 has the sole discretion in determining whether to certify a
9 person based on his or her security background investigation.
10 The information collected pursuant to the security background
11 investigation is confidential and exempt from s. 119.07(1).

12 Section 34. For the purpose of incorporating the
13 amendment to section 435.04, Florida Statutes, in references
14 thereto, paragraphs (a) and (c) of subsection (3) of section
15 110.1127, Florida Statutes, are reenacted to read:

16 110.1127 Employee security checks.--

17 (3)(a) All positions in programs providing care to
18 children, the developmentally disabled, or vulnerable adults
19 for 15 hours or more per week; all permanent and temporary
20 employee positions of the central abuse hotline; and all
21 persons working under contract who have access to abuse
22 records are deemed to be persons and positions of special
23 trust or responsibility, and require employment screening
24 pursuant to chapter 435, using the level 2 standards set forth
25 in that chapter.

26 (c) All persons and employees in such positions of
27 trust or responsibility shall be required to undergo security
28 background investigations as a condition of employment and
29 continued employment. For the purposes of this subsection,
30 security background investigations shall be conducted as

31

1 provided in chapter 435, using the level 2 standards for
2 screening set forth in that chapter.

3 Section 35. For the purpose of incorporating the
4 amendment to section 435.04, Florida Statutes, in references
5 thereto, paragraph (a) of subsection (12) of section 112.0455,
6 Florida Statutes, is reenacted to read:

7 112.0455 Drug-Free Workplace Act.--

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

9 (a) A laboratory may analyze initial or confirmation
10 drug specimens only if:

11 1. The laboratory is licensed and approved by the
12 Agency for Health Care Administration using criteria
13 established by the United States Department of Health and
14 Human Services as general guidelines for modeling the state
15 drug testing program. Each applicant for licensure must comply
16 with the following requirements:

17 a. Upon receipt of a completed, signed, and dated
18 application, the agency shall require background screening, in
19 accordance with the level 2 standards for screening set forth
20 in chapter 435, of the managing employee, or other similarly
21 titled individual responsible for the daily operation of the
22 laboratory, and of the financial officer, or other similarly
23 titled individual who is responsible for the financial
24 operation of the laboratory, including billings for services.
25 The applicant must comply with the procedures for level 2
26 background screening as set forth in chapter 435, as well as
27 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 an offense prohibited under the level 2 standards for
2 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 screening requirements.

8 d. 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 license may be granted to the applicant upon the
17 agency's receipt of a report of the results of the Federal
18 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 e. Each applicant must submit to the agency, with its
31 application, a description and explanation of any exclusions,

1 permanent suspensions, or terminations of the applicant from
2 the Medicare or Medicaid programs. Proof of compliance with
3 the requirements for disclosure of ownership and control
4 interests under the Medicaid or Medicare programs shall be
5 accepted in lieu of this submission.

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

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

31

1 h. The agency may deny or revoke licensure if the
2 applicant:

3 (I) Has falsely represented a material fact in the
4 application required by sub-subparagraph e. or
5 sub-subparagraph f., or has omitted any material fact from the
6 application required by sub-subparagraph e. or
7 sub-subparagraph f.; or

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

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

13 2. The laboratory has written procedures to ensure
14 chain of custody.

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

17 a. The use of internal quality controls including the
18 use of samples of known concentrations which are used to check
19 the performance and calibration of testing equipment, and
20 periodic use of blind samples for overall accuracy.

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

24 c. Security measures implemented by the testing
25 laboratory to preclude adulteration of specimens and drug test
26 results.

27 d. Other necessary and proper actions taken to ensure
28 reliable and accurate drug test results.

29 Section 36. For the purpose of incorporating the
30 amendment to section 435.04, Florida Statutes, in references

31

1 thereto, subsections (1), (2), and (4) of section 381.0059,
2 Florida Statutes, are reenacted to read:

3 381.0059 Background screening requirements for school
4 health services personnel.--

5 (1) Pursuant to the provisions of chapter 435, any
6 person who provides services under a school health services
7 plan pursuant to s. 381.0056 must meet level 2 screening
8 requirements as described in s. 435.04. A person may satisfy
9 the requirements of this subsection by submitting proof of
10 compliance with the requirements of level 2 screening
11 conducted within 12 months before the date that person
12 initially provides services under a school health services
13 plan.

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

18 (4) Under penalty of perjury, each person who provides
19 services under a school health plan pursuant to s. 381.0056
20 must attest to meeting the level 2 screening requirements for
21 participation under the plan and agree to inform his or her
22 employer immediately if convicted of any disqualifying offense
23 while providing services under a plan.

24 Section 37. For the purpose of incorporating the
25 amendment to section 435.04, Florida Statutes, in references
26 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of
27 subsection (1) of section 381.60225, Florida Statutes, are
28 reenacted to read:

29 381.60225 Background screening.--

30 (1) Each applicant for certification must comply with
31 the following requirements:

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

13 (b) The Agency for Health Care Administration may
14 require background screening of any other individual who is an
15 applicant if the Agency for Health Care Administration has
16 probable cause to believe that he or she has been convicted of
17 a crime or has committed any other offense prohibited under
18 the level 2 standards 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 licensure requirements of this state is acceptable
23 in fulfillment of the requirements of paragraph (a).

24 (d) A provisional certification may be granted to the
25 organization, agency, or entity when each individual required
26 by this section to undergo background screening has met the
27 standards for the Department of Law Enforcement background
28 check, but the agency has not yet received background
29 screening results from the Federal Bureau of Investigation, or
30 a request for a disqualification exemption has been submitted
31 to the agency as set forth in chapter 435, but a response has

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

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

1 director's relationship to the corporation satisfies the
2 requirements of this paragraph.

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

10 Section 38. For the purpose of incorporating the
11 amendment to section 435.04, Florida Statutes, in references
12 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of
13 subsection (7) of section 383.305, Florida Statutes, are
14 reenacted to read:

15 383.305 Licensure; issuance, renewal, denial,
16 suspension, revocation; fees; background screening.--

17 (7) Each applicant for licensure must comply with the
18 following requirements:

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

30 (b) The agency may require background screening of any
31 other individual who is an applicant if the agency has

1 | probable cause to believe that he or she has been convicted of
2 | a crime or has committed any other offense prohibited under
3 | the level 2 standards for screening set forth in chapter 435.

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

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

31 |

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

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

26 Section 39. For the purpose of incorporating the
27 amendment to section 435.04, Florida Statutes, in references
28 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of
29 subsection (3) of section 390.015, Florida Statutes, are
30 reenacted to read:

31 390.015 Application for license.--

1 (3) 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, in
5 accordance with the level 2 standards for screening set forth
6 in chapter 435, of the managing employee, or other similarly
7 titled individual who is responsible for the daily operation
8 of the clinic, and financial officer, or other similarly
9 titled individual who is responsible for the financial
10 operation of the clinic, including billings for patient care
11 and services. The applicant must comply with the procedures
12 for level 2 background screening as set forth in chapter 435,
13 as well as the requirements of s. 435.03(3).

14 (b) The agency may require background screening of any
15 other individual who is an applicant if the agency has
16 probable cause to believe that he or she has been convicted of
17 a crime or has committed any other offense prohibited under
18 the level 2 standards 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 licensure requirements of this state is acceptable
23 in fulfillment of the requirements of paragraph (a).

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

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

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

31

1 director's relationship to the corporation satisfies the
2 requirements of this paragraph.

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

10 Section 40. For the purpose of incorporating the
11 amendment to section 435.04, Florida Statutes, in references
12 thereto, subsection (1) of section 393.0655, Florida Statutes,
13 is reenacted to read:

14 393.0655 Screening of direct service providers.--

15 (1) MINIMUM STANDARDS.--The department shall require
16 employment screening pursuant to chapter 435, using the level
17 2 standards for screening set forth in that chapter, for
18 direct service providers who are unrelated to their clients.

19 Section 41. For the purpose of incorporating the
20 amendment to section 435.04, Florida Statutes, in references
21 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of
22 subsection (6) of section 393.067, Florida Statutes, are
23 reenacted to read:

24 393.067 Licensure of residential facilities and
25 comprehensive transitional education programs.--

26 (6) Each applicant for licensure as an intermediate
27 care facility for the developmentally disabled must comply
28 with the following requirements:

29 (a) Upon receipt of a completed, signed, and dated
30 application, the agency shall require background screening, in
31 accordance with the level 2 standards for screening set forth

1 in chapter 435, of the managing employee, or other similarly
2 titled individual who is responsible for the daily operation
3 of the facility, and of the financial officer, or other
4 similarly titled individual who is responsible for the
5 financial operation of the center, including billings for
6 resident care and services. The applicant must comply with the
7 procedures for level 2 background screening as set forth in
8 chapter 435, as well as the requirements of s. 435.03(3).

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

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

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

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

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

28 (g) A license may not be granted to an applicant if
29 the applicant or managing employee has been found guilty of,
30 regardless of adjudication, or has entered a plea of nolo
31 contendere or guilty to, any offense prohibited under the

1 level 2 standards for screening set forth in chapter 435,
2 unless an exemption from disqualification has been granted by
3 the agency as set forth in chapter 435.

4 Section 42. Paragraph (a) of subsection (1) of section
5 394.4572, Florida Statutes, is amended to read:

6 394.4572 Screening of mental health personnel.--

7 (1)(a) The department and the Agency for Health Care
8 Administration shall require employment screening for mental
9 health personnel using the standards for level 2 screening set
10 forth in chapter 435. "Mental health personnel" includes all
11 program directors, professional clinicians, staff members, and
12 volunteers working in public or private mental health programs
13 and facilities who have direct contact with unmarried patients
14 under the age of 18 years. For the purpose of this chapter,
15 employment screening of mental health personnel also includes,
16 but is not limited to, employment history checks as provided
17 in chapter 435.

18 Section 43. 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 (13) of section 394.875, Florida Statutes, are
22 reenacted to read:

23 394.875 Crisis stabilization units, residential
24 treatment facilities, and residential treatment centers for
25 children and adolescents; authorized services; license
26 required; penalties.--

27 (13) Each applicant for licensure must comply with the
28 following requirements:

29 (a) Upon receipt of a completed, signed, and dated
30 application, the agency shall require background screening, in
31 accordance with the level 2 standards for screening set forth

1 in chapter 435, of the managing employee and financial
2 officer, or other similarly titled individual who is
3 responsible for the financial operation of the facility,
4 including billings for client care and services. The applicant
5 must comply with the procedures for level 2 background
6 screening as set forth in chapter 435, as well as the
7 requirements of s. 435.03(3).

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

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

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

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

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

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

1 unless an exemption from disqualification has been granted by
2 the agency as set forth in chapter 435.

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

7 395.0055 Background screening.--Each applicant for
8 licensure must comply with the following requirements:

9 (1) Upon receipt of a completed, signed, and dated
10 application, the agency shall require background screening of
11 the managing employee in accordance with the level 2 standards
12 for screening set forth in chapter 435, as well as the
13 requirements of s. 435.03(3).

14 (2) The agency may require background screening for a
15 member of the board of directors of the licensee, or an
16 officer or an individual owning 5 percent or more of the
17 licensee, if the agency has probable cause to believe that
18 such individual has been convicted of an offense prohibited
19 under the level 2 standards for screening set forth in chapter
20 435.

21 (3) Proof of compliance with the level 2 background
22 screening requirements of chapter 435 which has been submitted
23 within the previous 5 years in compliance with any other
24 health care licensure requirements of this state is acceptable
25 in fulfillment of subsection (1).

26 (4) A provisional license may be granted to an
27 applicant when each individual required by this section to
28 undergo background screening has met the standards for the
29 Department of Law Enforcement background check, but the agency
30 has not yet received background screening results from the
31 Federal Bureau of Investigation, or a request for a

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

17 (6) Each applicant must submit to the agency a
18 description and explanation of any conviction of an offense
19 prohibited under the level 2 standards of chapter 435 by a
20 member of the board of directors of the applicant, its
21 officers, or any individual owning 5 percent or more of the
22 applicant.

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

30 Section 45. 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 (4) of section 395.0199, Florida Statutes, are
3 reenacted to read:

4 395.0199 Private utilization review.--

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

7 (a) Upon receipt of a completed, signed, and dated
8 application, the agency shall require background screening, in
9 accordance with the level 2 standards for screening set forth
10 in chapter 435, of the managing employee or other similarly
11 titled individual who is responsible for the operation of the
12 entity. The applicant must comply with the procedures for
13 level 2 background screening as set forth in chapter 435, as
14 well as the requirements of s. 435.03(3).

15 (b) The agency may require background screening of any
16 other individual who is an applicant, if the agency has
17 probable cause to believe that he or she has been convicted of
18 a crime or has committed any other offense prohibited under
19 the level 2 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 health care licensure requirements of this state is acceptable
24 in fulfillment of the requirements of paragraph (a).

25 (d) A provisional registration may be granted to an
26 applicant when each individual required by this section to
27 undergo background screening has met the standards for the
28 Department of Law Enforcement background check, but the agency
29 has not yet received background screening results from the
30 Federal Bureau of Investigation, or a request for a
31 disqualification exemption has been submitted to the agency as

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

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

1 director's relationship to the corporation satisfies the
2 requirements of this paragraph.

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

10 Section 46. For the purpose of incorporating the
11 amendment to section 435.04, Florida Statutes, in references
12 thereto, paragraph (a) of subsection (1) of section 397.451,
13 Florida Statutes, is reenacted to read:

14 397.451 Background checks of service provider
15 personnel.--

16 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND
17 EXCEPTIONS.--

18 (a) Background checks shall apply as follows:

19 1. All owners, directors, and chief financial officers
20 of service providers are subject to level 2 background
21 screening as provided under chapter 435.

22 2. All service provider personnel who have direct
23 contact with children receiving services or with adults who
24 are developmentally disabled receiving services are subject to
25 level 2 background screening as provided under chapter 435.

26 Section 47. For the purpose of incorporating the
27 amendment to section 435.04, Florida Statutes, in references
28 thereto, paragraphs (a), (b), (c), (d), and (f) of subsection
29 (4) of section 400.071, Florida Statutes, are reenacted to
30 read:

31 400.071 Application for license.--

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 facility
8 administrator, or similarly titled individual who is
9 responsible for the day-to-day operation of the licensed
10 facility, and the facility financial officer, or similarly
11 titled individual who is responsible for the financial
12 operation of the licensed facility.

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 has probable cause to believe that such individual
17 has been convicted of an offense prohibited under the level 2
18 standards 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, 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 license may be granted to the applicant upon the
10 agency's receipt of a report of the results of the Federal
11 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 shall 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 Section 48. For the purpose of incorporating the
11 amendment to section 435.04, Florida Statutes, in references
12 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of
13 subsection (4) of section 400.471, Florida Statutes, are
14 reenacted to read:

15 400.471 Application for license; fee; provisional
16 license; temporary permit.--

17 (4) Each applicant for licensure must comply with the
18 following requirements:

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

29 (b) The agency may require background screening for a
30 member of the board of directors of the licensee or an officer
31 or an individual owning 5 percent or more of the licensee if

1 the agency reasonably suspects that such individual has been
2 convicted of an offense prohibited under the level 2 standards
3 for screening set forth in chapter 435.

4 (c) Proof of compliance with the level 2 background
5 screening requirements of chapter 435 which has been submitted
6 within the previous 5 years in compliance with any other
7 health care or assisted living licensure requirements of this
8 state is acceptable in fulfillment of paragraph (a). Proof of
9 compliance with background screening which has been submitted
10 within the previous 5 years to fulfill the requirements of the
11 Financial Services Commission and the Office of Insurance
12 Regulation pursuant to chapter 651 as part of an application
13 for a certificate of authority to operate a continuing care
14 retirement community is acceptable in fulfillment of the
15 Department of Law Enforcement and Federal Bureau of
16 Investigation background check.

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

1 Bureau of Investigation. However, the person may not continue
2 to serve if the report indicates any violation of background
3 screening standards and a disqualification exemption has not
4 been requested of and granted by the agency as set forth in
5 chapter 435.

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

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

31

1 Section 49. 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 400.506, Florida Statutes, are
5 reenacted to read:

6 400.506 Licensure of nurse registries; requirements;
7 penalties.--

8 (2) 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, or other similarly
14 titled individual who is responsible for the daily operation
15 of the nurse registry, and of the financial officer, or other
16 similarly titled individual who is responsible for the
17 financial operation of the registry, including billings for
18 patient care and services. The applicant shall comply with the
19 procedures for level 2 background screening as set forth in
20 chapter 435.

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

26 (c) Proof of compliance with the level 2 background
27 screening requirements of chapter 435 which has been submitted
28 within the previous 5 years in compliance with any other
29 health care or assisted living licensure requirements of this
30 state is acceptable in fulfillment of the requirements of
31 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. A standard license may be
7 granted to the applicant 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 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 50. For the purpose of incorporating the
16 amendment to section 435.04, Florida Statutes, in references
17 thereto, section 400.5572, Florida Statutes, is reenacted to
18 read:

19 400.5572 Background screening.--

20 (1)(a) Level 2 background screening must be conducted
21 on each of the following persons, who shall be considered
22 employees for the purposes of conducting screening under
23 chapter 435:

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

26 2. An officer or board member if the owner of the
27 adult day care center is a firm, corporation, partnership, or
28 association, or any person owning 5 percent or more of the
29 facility, if the agency has probable cause to believe that
30 such person has been convicted of any offense prohibited by s.
31 435.04. For each officer, board member, or person owning 5

1 percent or more who has been convicted of any such offense,
2 the facility shall submit to the agency a description and
3 explanation of the conviction at the time of license
4 application. This subparagraph does not apply to a board
5 member of a not-for-profit corporation or organization if the
6 board member serves solely in a voluntary capacity, does not
7 regularly take part in the day-to-day operational decisions of
8 the corporation or organization, receives no remuneration for
9 his or her services, and has no financial interest and has no
10 family members with a financial interest in the corporation or
11 organization, provided that the board member and facility
12 submit a statement affirming that the board member's
13 relationship to the facility satisfies the requirements of
14 this subparagraph.

15 (b) Proof of compliance with level 2 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.

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

29 (2) The owner or administrator of an adult day care
30 center must conduct level 1 background screening as set forth
31 in chapter 435 on all employees hired on or after October 1,

1 1998, who provide basic services or supportive and optional
2 services to the participants. Such persons satisfy this
3 requirement if:

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

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

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

26 Section 51. For the purpose of incorporating the
27 amendment to section 435.04, Florida Statutes, in references
28 thereto, paragraph (a) of subsection (3) of section 400.607,
29 Florida Statutes, is reenacted to read:

30 400.607 Denial, suspension, or revocation of license;
31 imposition of administrative fine; grounds; injunctions.--

1 (3) The agency may deny or revoke a license upon a
2 determination that:

3 (a) Persons subject to level 2 background screening
4 under s. 400.6065 do not meet the screening standards of s.
5 435.04, and exemptions from disqualification have not been
6 provided by the agency.

7 Section 52. For the purpose of incorporating the
8 amendment to section 435.04, Florida Statutes, in references
9 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of
10 subsection (4) of section 400.801, Florida Statutes, are
11 reenacted to read:

12 400.801 Homes for special services.--

13 (4) 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, in
17 accordance with the level 2 standards for screening set forth
18 in chapter 435, of the managing employee, or other similarly
19 titled individual who is responsible for the daily operation
20 of the facility, and of the financial officer, or other
21 similarly titled individual who is responsible for the
22 financial operation of the facility, including billings for
23 client care and services, in accordance with the level 2
24 standards for screening set forth in chapter 435. The
25 applicant must comply with the procedures for level 2
26 background screening as set forth in 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 53. 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 (3) of section 400.805, Florida Statutes, are
27 reenacted to read:

28 400.805 Transitional living facilities.--

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

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 or assisted living licensure requirements of this
21 state is acceptable in fulfillment of the requirements of
22 paragraph (a).

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

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

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

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 54. 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 (5) of section 400.906, Florida Statutes, are
12 reenacted to read:

13 400.906 Initial application for license.--

14 (5) 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 operator, and of the financial officer,
20 or other similarly titled individual who is responsible for
21 the financial operation of the center, including billings for
22 patient care and 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 may require background screening of any
26 other individual who is an applicant if the agency has a
27 reasonable basis for believing that he or she has been
28 convicted of a crime or has committed any other offense
29 prohibited under the level 2 standards for screening set forth
30 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 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 55. For the purpose of incorporating the
23 amendment to section 435.04, Florida Statutes, in references
24 thereto, paragraphs (a), (b), (c), (e), and (f) of subsection
25 (5) of section 400.931, Florida Statutes, are reenacted to
26 read:

27 400.931 Application for license; fee; provisional
28 license; temporary permit.--

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 of
3 the applicant, in accordance with the level 2 standards for
4 screening set forth in chapter 435. As used in this
5 subsection, the term "applicant" means the general manager and
6 the financial officer or similarly titled individual who is
7 responsible for the financial operation of the licensed
8 facility.

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

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

20 (e) 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's 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 provision.

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

14 Section 56. For the purpose of incorporating the
15 amendment to section 435.04, Florida Statutes, in references
16 thereto, paragraphs (a), (b), (c), (d), and (f) of subsection
17 (10) of section 400.962, Florida Statutes, are reenacted to
18 read:

19 400.962 License required; license application.--

20 (10)(a) 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. As used in this
24 subsection, the term "applicant" means the facility
25 administrator, or similarly titled individual who is
26 responsible for the day-to-day operation of the licensed
27 facility, and the facility financial officer, or similarly
28 titled individual who is responsible for the financial
29 operation of the licensed facility.

30 (b) The agency may require background screening for a
31 member of the board of directors of the licensee or an officer

1 or an individual owning 5 percent or more of the licensee if
2 the agency has probable cause to believe that such individual
3 has been convicted of an offense prohibited under the level 2
4 standards for screening set forth in chapter 435.

5 (c) Proof of compliance with the level 2 background
6 screening requirements of chapter 435 which has been submitted
7 within the previous 5 years in compliance with any other
8 licensure requirements under this chapter satisfies the
9 requirements of paragraph (a). Proof of compliance with
10 background screening which has been submitted within the
11 previous 5 years to fulfill the requirements of the Financial
12 Services Commission and the Office of Insurance Regulation
13 under chapter 651 as part of an application for a certificate
14 of authority to operate a continuing care retirement community
15 satisfies the requirements for the Department of Law
16 Enforcement and Federal Bureau of Investigation background
17 checks.

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

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

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

27 Section 57. For the purpose of incorporating the
28 amendment to section 435.04, Florida Statutes, in references
29 thereto, paragraphs (b) and (d) of subsection (7) of section
30 400.991, Florida Statutes, are reenacted to read:

31

1 400.991 License requirements; background screenings;
2 prohibitions.--

3 (7) Each applicant for licensure shall comply with the
4 following requirements:

5 (b) Upon receipt of a completed, signed, and dated
6 application, the agency shall require background screening of
7 the applicant, in accordance with the level 2 standards for
8 screening set forth in chapter 435. Proof of compliance with
9 the level 2 background screening requirements of chapter 435
10 which has been submitted within the previous 5 years in
11 compliance with any other health care licensure requirements
12 of this state is acceptable in fulfillment of this paragraph.

13 (d) A license may not be granted to a clinic if the
14 applicant has been found guilty of, regardless of
15 adjudication, or has entered a plea of nolo contendere or
16 guilty to, any offense prohibited under the level 2 standards
17 for screening set forth in chapter 435, or a violation of
18 insurance fraud under s. 817.234, within the past 5 years. If
19 the applicant has been convicted of an offense prohibited
20 under the level 2 standards or insurance fraud in any
21 jurisdiction, the applicant must show that his or her civil
22 rights have been restored prior to submitting an application.

23 Section 58. For the purpose of incorporating the
24 amendment to section 435.04, Florida Statutes, in references
25 thereto, paragraph (e) of subsection (2) of section 402.302,
26 Florida Statutes, is reenacted to read:

27 402.302 Definitions.--

28 (2) "Child care facility" includes any child care
29 center or child care arrangement which provides child care for
30 more than five children unrelated to the operator and which
31 receives a payment, fee, or grant for any of the children

1 receiving care, wherever operated, and whether or not operated
2 for profit. The following are not included:

3 (e) Operators of transient establishments, as defined
4 in chapter 509, which provide child care services solely for
5 the guests of their establishment or resort, provided that all
6 child care personnel of the establishment are screened
7 according to the level 2 screening requirements of chapter
8 435.

9 Section 59. For the purpose of incorporating the
10 amendment to section 435.04, Florida Statutes, in references
11 thereto, paragraph (a) of subsection (2) of section 402.305,
12 Florida Statutes, is reenacted to read:

13 402.305 Licensing standards; child care facilities.--

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

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

19 Section 60. For the purpose of incorporating the
20 amendment to section 435.04, Florida Statutes, in references
21 thereto, subsection (3) of section 402.3054, Florida Statutes,
22 is reenacted to read:

23 402.3054 Child enrichment service providers.--

24 (3) A child enrichment service provider shall be of
25 good moral character based upon screening. This screening
26 shall be conducted as provided in chapter 435, using the level
27 2 standards for screening set forth in that chapter. A child
28 enrichment service provider must meet the screening
29 requirements prior to providing services to a child in a child
30 care facility. A child enrichment service provider who has met
31

1 the screening standards shall not be required to be under the
2 direct and constant supervision of child care personnel.

3 Section 61. For the purpose of incorporating the
4 amendment to section 435.04, Florida Statutes, in references
5 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of
6 subsection (2) of section 483.30, Florida Statutes, are
7 reenacted to read:

8 483.30 Licensing of centers.--

9 (2) Each applicant for licensure must comply with the
10 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 center, 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 patient 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 license may be granted to the applicant upon the
10 agency's receipt of a report of the results of the Federal
11 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 62. For the purpose of incorporating the
18 amendment to section 435.04, Florida Statutes, in references
19 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of
20 subsection (2) of section 483.101, Florida Statutes, are
21 reenacted to read:

22 483.101 Application for clinical laboratory license.--

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

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

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

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

10 (c) Proof of compliance with the level 2 background
11 screening requirements of chapter 435 which has been submitted
12 within the previous 5 years in compliance with any other
13 health care licensure requirements of this state is acceptable
14 in fulfillment of the requirements of 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, or a request for a
21 disqualification exemption has been submitted to the agency as
22 set forth in chapter 435 but a response has not yet been
23 issued. A license may be granted to the applicant upon the
24 agency's receipt of a report of the results of the Federal
25 Bureau of Investigation background screening for each
26 individual required by this section to undergo background
27 screening which confirms that all standards have been met, or
28 upon the granting of a disqualification exemption by the
29 agency as set forth in chapter 435. Any other person who is
30 required to undergo level 2 background screening may serve in
31 his or her capacity pending the agency's receipt of the report

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

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

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

31

1 Section 63. For the purpose of incorporating the
2 amendment to section 435.04, Florida Statutes, in references
3 thereto, subsection (5) of section 744.1085, Florida Statutes,
4 is reenacted to read:

5 744.1085 Regulation of professional guardians;
6 application; bond required; educational requirements.--

7 (5) As required in s. 744.3135, each professional
8 guardian shall allow a level 2 background screening of the
9 guardian and employees of the guardian in accordance with the
10 provisions of s. 435.04.

11 Section 64. For the purpose of incorporating the
12 amendment to section 435.04, Florida Statutes, in references
13 thereto, paragraph (b) of subsection (2) of section 984.01,
14 Florida Statutes, is reenacted to read:

15 984.01 Purposes and intent; personnel standards and
16 screening.--

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

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

29 Section 65. For the purpose of incorporating the
30 amendment to section 435.04, Florida Statutes, in references
31

1 thereto, paragraph (b) of subsection (2) of section 985.01,
2 Florida Statutes, is reenacted to read:

3 985.01 Purposes and intent; personnel standards and
4 screening.--

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

12 (b) The Department of Juvenile Justice and the
13 Department of Children and Family Services shall require
14 employment screening pursuant to chapter 435, using the level
15 2 standards set forth in that chapter for personnel in
16 programs for children or youths.

17 Section 66. For the purpose of incorporating the
18 amendment to section 435.04, Florida Statutes, in references
19 thereto, paragraphs (a) and (b) of subsection (7) of section
20 1002.36, Florida Statutes, are reenacted to read:

21 1002.36 Florida School for the Deaf and the Blind.--

22 (7) PERSONNEL SCREENING.--

23 (a) The Board of Trustees of the Florida School for
24 the Deaf and the Blind shall, because of the special trust or
25 responsibility of employees of the school, require all
26 employees and applicants for employment to undergo personnel
27 screening and security background investigations as provided
28 in chapter 435, using the level 2 standards for screening set
29 forth in that chapter, as a condition of employment and
30 continued employment. The cost of a personnel screening and
31 security background investigation for an employee of the

1 school shall be paid by the school. The cost of such a
2 screening and investigation for an applicant for employment
3 may be paid by the school.

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

6 1. The applicant or employee shall submit to the
7 Florida School for the Deaf and the Blind a complete set of
8 fingerprints taken by an authorized law enforcement agency or
9 an employee of the Florida School for the Deaf and the Blind
10 who is trained to take fingerprints. The Florida School for
11 the Deaf and the Blind shall submit the fingerprints to the
12 Department of Law Enforcement for state processing and the
13 Federal Bureau of Investigation for federal processing.

14 2.a. The applicant or employee shall attest to the
15 minimum standards for good moral character as contained in
16 chapter 435, using the level 2 standards set forth in that
17 chapter under penalty of perjury.

18 b. New personnel shall be on a probationary status
19 pending a determination of compliance with such minimum
20 standards for good moral character. This paragraph is in
21 addition to any probationary status provided for by Florida
22 law or Florida School for the Deaf and the Blind rules or
23 collective bargaining contracts.

24 3. The Florida School for the Deaf and the Blind shall
25 review the record of the applicant or employee with respect to
26 the crimes contained in s. 435.04 and shall notify the
27 applicant or employee of its findings. When disposition
28 information is missing on a criminal record, it shall be the
29 responsibility of the applicant or employee, upon request of
30 the Florida School for the Deaf and the Blind, to obtain and
31 supply within 30 days the missing disposition information to

1 the Florida School for the Deaf and the Blind. Failure to
2 supply missing information within 30 days or to show
3 reasonable efforts to obtain such information shall result in
4 automatic disqualification of an applicant and automatic
5 termination of an employee.

6 4. After an initial personnel screening and security
7 background investigation, written notification shall be given
8 to the affected employee within a reasonable time prior to any
9 subsequent screening and investigation.

10 Section 67. For the purpose of incorporating the
11 amendments to sections 943.0585 and 943.059, Florida Statutes,
12 in references thereto, paragraph (a) of subsection (2) and
13 subsection (6) of section 943.0582, Florida Statutes, are
14 reenacted to read:

15 943.0582 Prearrest, postarrest, or teen court
16 diversion program expunction.--

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

20 1. The provisions of s. 943.0585(4)(a) do not apply,
21 except that the criminal history record of a person whose
22 record is expunged pursuant to this section shall be made
23 available only to criminal justice agencies for the purpose of
24 determining eligibility for prearrest, postarrest, or teen
25 court diversion programs; when the record is sought as part of
26 a criminal investigation; or when the subject of the record is
27 a candidate for employment with a criminal justice agency. For
28 all other purposes, a person whose record is expunged under
29 this section may lawfully deny or fail to acknowledge the
30 arrest and the charge covered by the expunged record.

31

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

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

10 Section 68. For the purpose of incorporating the
11 amendment to section 943.059, Florida Statutes, in references
12 thereto, subsections (7), (8), and (9) of section 943.053,
13 Florida Statutes, are reenacted to read:

14 943.053 Dissemination of criminal justice information;
15 fees.--

16 (7) Notwithstanding the provisions of s. 943.0525, and
17 any user agreements adopted pursuant thereto, and
18 notwithstanding the confidentiality of sealed records as
19 provided for in s. 943.059, the sheriff of any county that has
20 contracted with a private entity to operate a county detention
21 facility pursuant to the provisions of s. 951.062 shall
22 provide that private entity, in a timely manner, copies of the
23 Florida criminal history records for its inmates. The sheriff
24 may assess a charge for the Florida criminal history records
25 pursuant to the provisions of chapter 119. Sealed records
26 received by the private entity under this section remain
27 confidential and exempt from the provisions of s. 119.07(1).

28 (8) Notwithstanding the provisions of s. 943.0525, and
29 any user agreements adopted pursuant thereto, and
30 notwithstanding the confidentiality of sealed records as
31 provided for in s. 943.059, the Department of Corrections

1 shall provide, in a timely manner, copies of the Florida
2 criminal history records for inmates housed in a private state
3 correctional facility to the private entity under contract to
4 operate the facility pursuant to the provisions of s. 944.105
5 or s. 957.03. The department may assess a charge for the
6 Florida criminal history records pursuant to the provisions of
7 chapter 119. Sealed records received by the private entity
8 under this section remain confidential and exempt from the
9 provisions of s. 119.07(1).

10 (9) Notwithstanding the provisions of s. 943.0525 and
11 any user agreements adopted pursuant thereto, and
12 notwithstanding the confidentiality of sealed records as
13 provided for in s. 943.059, the Department of Juvenile Justice
14 or any other state or local criminal justice agency may
15 provide copies of the Florida criminal history records for
16 juvenile offenders currently or formerly detained or housed in
17 a contracted juvenile assessment center or detention facility
18 or serviced in a contracted treatment program and for
19 employees or other individuals who will have access to these
20 facilities, only to the entity under direct contract with the
21 Department of Juvenile Justice to operate these facilities or
22 programs pursuant to the provisions of s. 985.411. The
23 criminal justice agency providing such data may assess a
24 charge for the Florida criminal history records pursuant to
25 the provisions of chapter 119. Sealed records received by the
26 private entity under this section remain confidential and
27 exempt from the provisions of s. 119.07(1). Information
28 provided under this section shall be used only for the
29 criminal justice purpose for which it was requested and may
30 not be further disseminated.

31

1 Section 69. The creation of sections 393.135,
2 394.4593, and 916.1075, Florida Statutes, by this act shall
3 apply to offenses committed on or after the effective date of
4 this act.

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

6
7 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
8 COMMITTEE SUBSTITUTE FOR
9 Senate Bill 1772

10 Clarifies the definition of "employee."

11 Provides a definition for the term "sexual activity" that is
12 consistent with the definitions of felony offenses (lewd and
13 lascivious battery, lewd or lascivious molestation, and lewd
14 or lascivious exhibition upon an elderly person or disabled
15 adult) that are specified in s. 825.1025, F.S.
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31