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1 A bill to be entitled

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

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30 the reporting of such sexual misconduct; amending s.  
31 435.04, F.S.; expanding level 2 screening standards to  
32 include the offenses related to sexual misconduct with  
33 certain developmentally disabled clients, mental health  
34 patients, or forensic clients and the reporting of such  
35 sexual misconduct; amending s. 393.0655, F.S.; requiring  
36 the employment screening of direct service providers to  
37 include screening as provided under ch. 435, F.S.;  
38 amending s. 393.067, F.S.; reenacting paragraphs (a), (b),  
39 (c), (d), (f), and (g) of subsection (6) of said section,  
40 relating to background screening and licensure of  
41 personnel of intermediate care facilities for the  
42 developmentally disabled, for the purpose of incorporating  
43 the amendment to s. 435.04, F.S., in references thereto;  
44 providing that the licenses of residential facilities and  
45 comprehensive transitional education programs are not  
46 professional licenses of individuals; providing that the  
47 receipt of such license does not create a property right;  
48 providing a privilege that must guide the finder of fact  
49 or trier of law in any administrative proceeding or court  
50 action initiated by the Department of Children and Family  
51 Services; amending s. 394.4572, F.S.; requiring the  
52 employment screening of mental health personnel to include  
53 screening as provided under ch. 435, F.S.; amending s.  
54 943.0585, F.S., relating to court-ordered expunction of  
55 criminal history records, for the purpose of incorporating  
56 the amendment to s. 943.059, F.S., in a reference thereto;  
57 providing that certain criminal history records relating  
58 to sexual misconduct with developmentally disabled

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59 clients, mental health patients, or forensic clients, or  
60 the reporting of such sexual misconduct, shall not be  
61 expunged; providing that the application for eligibility  
62 for expunction certify that the criminal history record  
63 does not relate to an offense involving sexual misconduct  
64 with certain developmentally disabled clients, mental  
65 health patients, or forensic clients, or the reporting of  
66 such sexual misconduct; amending s. 943.059, F.S.,  
67 relating to court-ordered sealing of criminal history  
68 records, for the purpose of incorporating the amendment to  
69 s. 943.0585, F.S., in a reference thereto; providing that  
70 certain criminal history records relating to sexual  
71 misconduct with developmentally disabled clients, mental  
72 health patients, or forensic clients, or the reporting of  
73 such sexual misconduct, shall not be sealed; providing  
74 that the application for eligibility for sealing certify  
75 that the criminal history record does not relate to an  
76 offense involving sexual misconduct with certain  
77 developmentally disabled clients, mental health patients,  
78 or forensic clients, or the reporting of such sexual  
79 misconduct; amending s. 400.215, F.S., and reenacting  
80 paragraphs (b) and (c) of subsection (2) and subsection  
81 (3), relating to background screening requirements for  
82 certain nursing home personnel, for the purpose of  
83 incorporating the amendments to ss. 435.03 and 435.04,  
84 F.S., in references thereto; correcting a cross reference;  
85 amending s. 400.964, F.S., and reenacting subsections (1),  
86 (2), and (7), relating to background screening  
87 requirements for certain personnel employed by

88 intermediate care facilities for the developmentally  
 89 disabled, for the purpose of incorporating the amendments  
 90 to ss. 435.03 and 435.04, F.S., in references thereto;  
 91 correcting a cross reference; amending s. 435.045, F.S.,  
 92 and reenacting paragraph (a) of subsection (1), relating  
 93 to requirements for the placement of dependent children,  
 94 for the purpose of incorporating the amendment to s.  
 95 435.04, F.S., in a reference thereto; correcting a cross  
 96 reference; reenacting ss. 400.414(1)(f) and (g), 400.4174,  
 97 400.509(4)(a), (b), (c), (d), (f), and (g), 400.556(2)(c),  
 98 400.6065(1), (2), and (4), 400.980(4)(a), (b), (c), (d),  
 99 (f), and (g), 409.175(2)(k), 409.907(8)(d), 435.05(1) and  
 100 (3), 744.3135, and 985.04(2), F.S., relating to denial,  
 101 revocation, or suspension of license to operate an  
 102 assisted living facility; background screening  
 103 requirements for certain personnel employed by assisted  
 104 living facilities; registration of particular home health  
 105 care service providers; denial, suspension, or revocation  
 106 of license to operate adult day care centers; background  
 107 screening requirements for certain hospice personnel;  
 108 background screening requirements for registrants of the  
 109 health care service pools; the definition of "screening"  
 110 in connection with the licensure of family foster homes,  
 111 residential child-caring agencies, and child-placing  
 112 agencies; background screening requirements of Medicaid  
 113 providers; employment of persons in positions requiring  
 114 background screening; credit and criminal investigations  
 115 of guardians; oaths, records, and confidential information  
 116 pertaining to juvenile offenders, respectively, for the

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117 purpose of incorporating the amendments to ss. 435.03 and  
 118 435.04, F.S., in references thereto; reenacting ss.  
 119 400.512, 400.619(4), 400.6194(1), 400.953, 409.912(32),  
 120 435.07(4), 464.018(1)(e), 744.309(3), 744.474(12), and  
 121 985.407(4), F.S., relating to background screening of home  
 122 health agency personnel, nurse registry personnel,  
 123 companions, and homemakers; application and renewal of  
 124 adult family-care home provider licenses; relating to  
 125 denial, revocation, or suspension of adult family-care  
 126 home provider license; background screening of home  
 127 medical equipment provider personnel, background screening  
 128 requirements for certain persons responsible for managed  
 129 care plans; exemptions from disqualification from  
 130 employment; denial of nursing license and disciplinary  
 131 actions against such licensees; disqualification of  
 132 guardians; removal of guardians; background screening  
 133 requirements for certain Department of Juvenile Justice  
 134 personnel, respectively, for the purpose of incorporating  
 135 the amendment to s. 435.03, F.S., in references thereto;  
 136 reenacting ss. 39.001(2)(b), 39.821(1), 110.1127(3)(a) and  
 137 (c), 112.0455(12)(a), 381.0059(1), (2), and (4),  
 138 381.60225(1)(a), (b), (c), (d), (f), and (g),  
 139 383.305(7)(a), (b), (c), (d), (f), and (g), 390.015(3)(a),  
 140 (b), (c), (d), (f), and (g), 394.875(13)(a), (b), (c),  
 141 (d), (f), and (g), 395.0055(1), (2), (3), (4), (6), and  
 142 (8), 395.0199(4)(a), (b), (c), (d), (f), and (g),  
 143 397.451(1)(a), 400.071(4)(a), (b), (c), (d), and (f),  
 144 400.471(4)(a), (b), (c), (d), (f), and (g), 400.506(2)(a),  
 145 (b), (c), (d), (f), and (g), 400.5572, 400.607(3)(a),

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146 400.801(4)(a), (b), (c), (d), (f), and (g), 400.805(3)(a),  
 147 (b), (c), (d), (f), and (g), 400.906(5)(a), (b), (c), (d),  
 148 (f), and (g), 400.931(5)(a), (b), (c), (e), and (f),  
 149 400.962(10)(a), (b), (c), (d), and (f), 400.991(7)(b) and  
 150 (d), 402.302(2)(e), 402.305(2)(a), 402.3054(3),  
 151 483.30(2)(a), (b), (c), (d), (f), and (g), 483.101(2)(a),  
 152 (b), (c), (d), (f), and (g), 744.1085(5), 984.01(2)(b),  
 153 985.01(2)(b), 1002.36(7)(a) and (b), F.S., relating to  
 154 background screening requirements for certain Department  
 155 of Children and Family Services personnel; qualifications  
 156 of guardians ad litem; security checks of certain public  
 157 officers and employees; background screening requirements  
 158 of certain laboratory personnel in connection with the  
 159 Drug-Free Workplace Act; background screening requirements  
 160 for school health services personnel; background screening  
 161 of certain personnel of the public health system;  
 162 background screening and licensure of birth center  
 163 personnel; background screening and licensure of abortion  
 164 clinic personnel; background screening of mental health  
 165 personnel; background screening and licensure of personnel  
 166 of crisis stabilization units, residential treatment  
 167 facilities, and residential treatment centers for children  
 168 and adolescents; background screening and licensure of  
 169 personnel of hospitals, ambulatory surgical centers, and  
 170 mobile surgical facilities; background screening of  
 171 certain personnel in connection with registration for  
 172 private utilization reviews; background screening of  
 173 certain service provider personnel; background screening  
 174 and licensure of certain long-term care facility

175 personnel; background screening and licensure of certain  
 176 home health agency personnel; background screening and  
 177 licensure of nurse registry applicants; background  
 178 screening of certain adult day care center personnel;  
 179 denial or revocation of hospice license; background  
 180 screening and licensure of certain transitional living  
 181 facility personnel; background screening and licensure of  
 182 certain prescribed pediatric extended care center  
 183 personnel; background screening and licensure of certain  
 184 home medical equipment provider personnel; background  
 185 screening and licensure of certain personnel of  
 186 intermediate care facilities for the developmentally  
 187 disabled; background screening and licensure of health  
 188 care clinic personnel; the definition of "child care  
 189 facility" in connection with background screening of  
 190 operators; background screening requirements for personnel  
 191 of child care facilities; background screening  
 192 requirements for child enrichment service providers;  
 193 background screening and licensure of certain personnel of  
 194 multiphasic health testing centers; background screening  
 195 and licensure of certain clinical laboratory personnel;  
 196 regulation of professional guardians; background screening  
 197 of certain Department of Juvenile Justice and Department  
 198 of Children and Family Services personnel in connection  
 199 with programs for children and families in need of  
 200 services; background screening of certain Department of  
 201 Juvenile Justice and Department of Children and Family  
 202 Services personnel in connection with juvenile justice  
 203 programs, background screening of personnel of the Florida

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204 School for the Deaf and the Blind, respectively, for the  
 205 purposes of incorporating the amendment to s. 435.04,  
 206 F.S., in references thereto; reenacting s. 943.0582(2)(a)  
 207 and (6), F.S., relating to prearrest, postarrest, or teen  
 208 court diversion program expunction for the purpose of  
 209 incorporating the amendments to ss. 943.0585 and 943.059,  
 210 F.S., in references thereto; reenacting s. 943.053(7),  
 211 (8), and (9), F.S., relating to dissemination of criminal  
 212 justice information, for the purpose of incorporating the  
 213 amendment to s. 943.059, F.S., in references thereto;  
 214 providing applicability; providing an effective date.

215  
 216 Be It Enacted by the Legislature of the State of Florida:

217  
 218 Section 1. Section 393.135, Florida Statutes, is created  
 219 to read:

220 393.135 Sexual misconduct prohibited; reporting required;  
 221 penalties.--

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

223 (a) "Employee" includes any paid staff member, volunteer,  
 224 or intern of the agency or the department; any person under  
 225 contract with the agency or the department; and any person  
 226 providing care or support to a client on behalf of the  
 227 department or its providers.

228 (b) "Sexual activity" means:

229 1. Fondling the genital area, groin, inner thighs,  
 230 buttocks, or breasts of a person.



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231 2. The oral, anal, or vaginal penetration by or union with  
 232 the sexual organ of another or the anal or vaginal penetration  
 233 of another by any other object.

234 3. Intentionally touching in a lewd or lascivious manner  
 235 the breasts, genitals, the genital area, or buttocks, or the  
 236 clothing covering them, of a person, or forcing or enticing a  
 237 person to touch the perpetrator.

238 4. Intentionally masturbating in the presence of another  
 239 person.

240 5. Intentionally exposing the genitals in a lewd or  
 241 lascivious manner in the presence of another person.

242 6. Intentionally committing any other sexual act that does  
 243 not involve actual physical or sexual contact with the victim,  
 244 including, but not limited to, sadomasochistic abuse, sexual  
 245 bestiality, or the simulation of any act involving sexual  
 246 activity in the presence of a victim.

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

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

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

255 (b) Resides in a residential facility, including any  
 256 comprehensive transitional education program, developmental  
 257 services institution, foster care facility, group home facility,  
 258 intermediate care facility for the developmentally disabled, or  
 259 residential habilitation center; or

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260       (c) Receives services from a family care program  
261  
262       commits a felony of the second degree, punishable as provided in  
263       s. 775.082, s. 775.083, or s. 775.084. An employee may be found  
264       guilty of violating this subsection without having committed the  
265       crime of sexual battery.

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

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

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

270       (b) Has no reason to believe that the person with whom the  
271       employee engaged in sexual misconduct is a client receiving  
272       services as described in subsection (2).

273       (5) Notwithstanding prosecution, any violation of this  
274       subsection, as determined by the Public Employees Relations  
275       Commission, constitutes sufficient cause under s. 110.227 for  
276       dismissal from employment, and such person may not again be  
277       employed in any capacity in connection with the developmental  
278       services system.

279       (6) An employee who witnesses sexual misconduct, or who  
280       otherwise knows or has reasonable cause to suspect that a person  
281       has engaged in sexual misconduct, shall immediately report the  
282       incident to the department's central abuse hotline and to the  
283       appropriate local law enforcement agency. Such employee shall  
284       also prepare, date, and sign an independent report that  
285       specifically describes the nature of the sexual misconduct, the  
286       location and time of the incident, and the persons involved. The  
287       employee shall deliver the report to the supervisor or program  
288       director, who is responsible for providing copies to the

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289 department's inspector general. The inspector general shall  
 290 immediately conduct an appropriate administrative investigation,  
 291 and, if there is probable cause to believe that sexual  
 292 misconduct has occurred, the inspector general shall notify the  
 293 state attorney in the circuit in which the incident occurred.

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

299 (b) Any person who knowingly or willfully submits  
 300 inaccurate, incomplete, or untruthful information with respect  
 301 to a report required under this section commits a misdemeanor of  
 302 the first degree, punishable as provided in s. 775.082 or s.  
 303 775.083.

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

309 Section 2. Section 394.4593, Florida Statutes, is created  
 310 to read:

311 394.4593 Sexual misconduct prohibited; reporting required;  
 312 penalties.--

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

314 (a) "Employee" includes any paid staff member, volunteer,  
 315 or intern of the department; any person under contract with the  
 316 department; and any person providing care or support to a client  
 317 on behalf of the department or its providers.

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318 (b) "Sexual activity" means:

319 1. Fondling the genital area, groin, inner thighs,  
 320 buttocks, or breasts of a person.

321 2. The oral, anal, or vaginal penetration by or union with  
 322 the sexual organ of another or the anal or vaginal penetration  
 323 of another by any other object.

324 3. Intentionally touching in a lewd or lascivious manner  
 325 the breasts, genitals, the genital area, or buttocks, or the  
 326 clothing covering them, of a person, or forcing or enticing a  
 327 person to touch the perpetrator.

328 4. Intentionally masturbating in the presence of another  
 329 person.

330 5. Intentionally exposing the genitals in a lewd or  
 331 lascivious manner in the presence of another person.

332 6. Intentionally committing any other sexual act that does  
 333 not involve actual physical or sexual contact with the victim,  
 334 including, but not limited to, sadomasochistic abuse, sexual  
 335 bestiality, or the simulation of any act involving sexual  
 336 activity in the presence of a victim.

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

342 (2) An employee who engages in sexual misconduct with a  
 343 patient who:

344 (a) Is in the custody of the department; or

345 (b) Resides in a receiving facility or a treatment  
 346 facility, as those terms are defined in s. 394.455,

347  
348 commits a felony of the second degree, punishable as provided in  
349 s. 775.082, s. 775.083, or s. 775.084. An employee may be found  
350 guilty of violating this subsection without having committed the  
351 crime of sexual battery.

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

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

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

356 (b) Has no reason to believe that the person with whom the  
357 employee engaged in sexual misconduct is a patient receiving  
358 services as described in subsection (2).

359 (5) Notwithstanding prosecution, any violation of this  
360 subsection, as determined by the Public Employees Relations  
361 Commission, constitutes sufficient cause under s. 110.227 for  
362 dismissal from employment, and such person may not again be  
363 employed in any capacity in connection with the mental health  
364 services system.

365 (6) An employee who witnesses sexual misconduct, or who  
366 otherwise knows or has reasonable cause to suspect that a person  
367 has engaged in sexual misconduct, shall immediately report the  
368 incident to the department's central abuse hotline and to the  
369 appropriate local law enforcement agency. Such employee shall  
370 also prepare, date, and sign an independent report that  
371 specifically describes the nature of the sexual misconduct, the  
372 location and time of the incident, and the persons involved. The  
373 employee shall deliver the report to the supervisor or program  
374 director, who is responsible for providing copies to the  
375 department's inspector general. The inspector general shall

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376 immediately conduct an appropriate administrative investigation,  
 377 and, if there is probable cause to believe that sexual  
 378 misconduct has occurred, the inspector general shall notify the  
 379 state attorney in the circuit in which the incident occurred.

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

385 (b) Any person who knowingly or willfully submits  
 386 inaccurate, incomplete, or untruthful information with respect  
 387 to a report required under this section commits a misdemeanor of  
 388 the first degree, punishable as provided in s. 775.082 or s.  
 389 775.083.

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

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

397 916.1075 Sexual misconduct prohibited; reporting required;  
 398 penalties.--

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

400 (a) "Employee" includes any paid staff member, volunteer,  
 401 or intern of the department; any person under contract with the  
 402 department; and any person providing care or support to a client  
 403 on behalf of the department or its providers.

404 (b) "Sexual activity" means:

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- 405       1. Fondling the genital area, groin, inner thighs,  
406       buttocks, or breasts of a person.
- 407       2. The oral, anal, or vaginal penetration by or union with  
408       the sexual organ of another or the anal or vaginal penetration  
409       of another by any other object.
- 410       3. Intentionally touching in a lewd or lascivious manner  
411       the breasts, genitals, the genital area, or buttocks, or the  
412       clothing covering them, of a person, or forcing or enticing a  
413       person to touch the perpetrator.
- 414       4. Intentionally masturbating in the presence of another  
415       person.
- 416       5. Intentionally exposing the genitals in a lewd or  
417       lascivious manner in the presence of another person.
- 418       6. Intentionally committing any other sexual act that does  
419       not involve actual physical or sexual contact with the victim,  
420       including, but not limited to, sadomasochistic abuse, sexual  
421       bestiality, or the simulation of any act involving sexual  
422       activity in the presence of a victim.
- 423       (c) "Sexual misconduct" means any sexual activity between  
424       an employee and a client, regardless of the consent of the  
425       client. The term does not include an act done for a bona fide  
426       medical purpose or an internal search conducted in the lawful  
427       performance of duty by an employee.
- 428       (2) An employee who engages in sexual misconduct with a  
429       client who resides in a civil or forensic facility commits a  
430       felony of the second degree, punishable as provided in s.  
431       775.082, s. 775.083, or s. 775.084. An employee may be found  
432       guilty of violating this subsection without having committed the  
433       crime of sexual battery.

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

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

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

438 (b) Has no reason to believe that the person with whom the  
439 employee engaged in sexual misconduct is a client receiving  
440 services as described in subsection (2).

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

447 (6) An employee who witnesses sexual misconduct, or who  
448 otherwise knows or has reasonable cause to suspect that a person  
449 has engaged in sexual misconduct, shall immediately report the  
450 incident to the department's central abuse hotline and to the  
451 appropriate local law enforcement agency. Such employee shall  
452 also prepare, date, and sign an independent report that  
453 specifically describes the nature of the sexual misconduct, the  
454 location and time of the incident, and the persons involved. The  
455 employee shall deliver the report to the supervisor or program  
456 director, who is responsible for providing copies to the  
457 department's inspector general. The inspector general shall  
458 immediately conduct an appropriate administrative investigation,  
459 and, if there is probable cause to believe that sexual  
460 misconduct has occurred, the inspector general shall notify the  
461 state attorney in the circuit in which the incident occurred.



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

467       (b) Any person who knowingly or willfully submits  
 468 inaccurate, incomplete, or untruthful information with respect  
 469 to a report required under this section commits a misdemeanor of  
 470 the first degree, punishable as provided in s. 775.082 or s.  
 471 775.083.

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

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

479       435.03 Level 1 screening standards.--

480       (2) Any person for whom employment screening is required  
 481 by statute must not have been found guilty of, regardless of  
 482 adjudication, or entered a plea of nolo contendere or guilty to,  
 483 any offense prohibited under any of the following provisions of  
 484 the Florida Statutes or under any similar statute of another  
 485 jurisdiction:

486       (a) Section 393.135, relating to sexual misconduct with  
 487 certain developmentally disabled clients and reporting of such  
 488 sexual misconduct.

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489        (b) Section 394.4593, relating to sexual misconduct with  
 490        certain mental health patients and reporting of such sexual  
 491        misconduct.

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

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

495        (e)~~(e)~~ Section 782.07, relating to manslaughter,  
 496        aggravated manslaughter of an elderly person or disabled adult,  
 497        or aggravated manslaughter of a child.

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

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

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

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

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

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

507        (l)~~(j)~~ Section 787.01, relating to kidnapping.

508        (m)~~(k)~~ Section 787.02, relating to false imprisonment.

509        (n)~~(l)~~ Section 794.011, relating to sexual battery.

510        (o)~~(m)~~ Former s. 794.041, relating to prohibited acts of  
 511        persons in familial or custodial authority.

512        (p)~~(n)~~ Chapter 796, relating to prostitution.

513        (q)~~(o)~~ Section 798.02, relating to lewd and lascivious  
 514        behavior.

515        (r)~~(p)~~ Chapter 800, relating to lewdness and indecent  
 516        exposure.

517        (s)~~(q)~~ Section 806.01, relating to arson.

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518        (t)~~(r)~~ Chapter 812, relating to theft, robbery, and  
 519 related crimes, if the offense was a felony.

520        (u)~~(s)~~ Section 817.563, relating to fraudulent sale of  
 521 controlled substances, only if the offense was a felony.

522        (v)~~(t)~~ Section 825.102, relating to abuse, aggravated  
 523 abuse, or neglect of an elderly person or disabled adult.

524        (w)~~(u)~~ Section 825.1025, relating to lewd or lascivious  
 525 offenses committed upon or in the presence of an elderly person  
 526 or disabled adult.

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

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

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

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

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

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

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

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

542        (ff) Section 916.0175, relating to sexual misconduct with  
 543 certain forensic clients and reporting of such sexual  
 544 misconduct.

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

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547 435.04 Level 2 screening standards.--

548 (2) The security background investigations under this  
 549 section must ensure that no persons subject to the provisions of  
 550 this section have been found guilty of, regardless of  
 551 adjudication, or entered a plea of nolo contendere or guilty to,  
 552 any offense prohibited under any of the following provisions of  
 553 the Florida Statutes or under any similar statute of another  
 554 jurisdiction:

555 (a) Section 393.135, relating to sexual misconduct with  
 556 certain developmentally disabled clients and reporting of such  
 557 sexual misconduct.

558 (b) Section 394.4593, relating to sexual misconduct with  
 559 certain mental health patients and reporting of such sexual  
 560 misconduct.

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

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

564 (e)~~(e)~~ Section 782.07, relating to manslaughter,  
 565 aggravated manslaughter of an elderly person or disabled adult,  
 566 or aggravated manslaughter of a child.

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

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

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

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

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

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

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

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

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

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

583        (p)~~(n)~~ Section 787.04(3), relating to carrying a child  
584 beyond the state lines with criminal intent to avoid producing a  
585 child at a custody hearing or delivering the child to the  
586 designated person.

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

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

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

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

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

596        (v)~~(t)~~ Section 798.02, relating to lewd and lascivious  
597 behavior.

598        (w)~~(u)~~ Chapter 800, relating to lewdness and indecent  
599 exposure.

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

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

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

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605        (aa)~~(y)~~ Section 825.102, relating to abuse, aggravated  
 606 abuse, or neglect of an elderly person or disabled adult.  
 607        (bb)~~(z)~~ Section 825.1025, relating to lewd or lascivious  
 608 offenses committed upon or in the presence of an elderly person  
 609 or disabled adult.  
 610        (cc)~~(aa)~~ Section 825.103, relating to exploitation of an  
 611 elderly person or disabled adult, if the offense was a felony.  
 612        (dd)~~(bb)~~ Section 826.04, relating to incest.  
 613        (ee)~~(ee)~~ Section 827.03, relating to child abuse,  
 614 aggravated child abuse, or neglect of a child.  
 615        (ff)~~(dd)~~ Section 827.04, relating to contributing to the  
 616 delinquency or dependency of a child.  
 617        (gg)~~(ee)~~ Former s. 827.05, relating to negligent treatment  
 618 of children.  
 619        (hh)~~(ff)~~ Section 827.071, relating to sexual performance  
 620 by a child.  
 621        (ii)~~(gg)~~ Section 843.01, relating to resisting arrest with  
 622 violence.  
 623        (jj)~~(hh)~~ Section 843.025, relating to depriving a law  
 624 enforcement, correctional, or correctional probation officer  
 625 means of protection or communication.  
 626        (kk)~~(ii)~~ Section 843.12, relating to aiding in an escape.  
 627        (ll)~~(jj)~~ Section 843.13, relating to aiding in the escape  
 628 of juvenile inmates in correctional institutions.  
 629        (mm)~~(kk)~~ Chapter 847, relating to obscene literature.  
 630        (nn)~~(ll)~~ Section 874.05(1), relating to encouraging or  
 631 recruiting another to join a criminal gang.

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

635       (pp) Section 916.0175, relating to sexual misconduct with  
 636 certain forensic clients and reporting of such sexual  
 637 misconduct.

638       ~~(qq)~~~~(nn)~~ Section 944.35(3), relating to inflicting cruel  
 639 or inhuman treatment on an inmate resulting in great bodily  
 640 harm.

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

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

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

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

649       Section 6. Subsection (1) of section 393.0655, Florida  
 650 Statutes, is amended to read:

651       393.0655 Screening of direct service providers.--

652       (1) MINIMUM STANDARDS.--The department shall require  
 653 employment screening pursuant to chapter 435, using the level 2  
 654 standards for screening set forth in that chapter, for direct  
 655 service providers who are unrelated to their clients. For  
 656 purposes of this chapter, employment screening of direct service  
 657 providers shall also include, but is not limited to, employment  
 658 screening as provided under chapter 435.

659       Section 7. Subsection (3) of section 393.067, Florida  
 660 Statutes, is amended and for the purpose of incorporating the

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661 amendment to section 435.04, Florida Statutes, in references  
 662 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
 663 subsection (6) of said section are reenacted, to read:

664 393.067 Licensure of residential facilities and  
 665 comprehensive transitional education programs.--

666 (3) An application for a license for a residential  
 667 facility or a comprehensive transitional education program shall  
 668 be made to the Department of Children and Family Services on a  
 669 form furnished by it and shall be accompanied by the appropriate  
 670 license fee. A license issued to a residential facility or a  
 671 comprehensive transitional education program, as described in  
 672 this section, is not a professional license of any individual.  
 673 Receipt of a license under this section shall not create a  
 674 property right in the recipient of such license. A license under  
 675 this section is a public trust and a privilege and is not an  
 676 entitlement. This privilege must guide the finder of fact or  
 677 trier of law at any administrative proceeding or court action  
 678 initiated by the department.

679 (6) Each applicant for licensure as an intermediate care  
 680 facility for the developmentally disabled must comply with the  
 681 following requirements:

682 (a) Upon receipt of a completed, signed, and dated  
 683 application, the agency shall require background screening, in  
 684 accordance with the level 2 standards for screening set forth in  
 685 chapter 435, of the managing employee, or other similarly titled  
 686 individual who is responsible for the daily operation of the  
 687 facility, and of the financial officer, or other similarly  
 688 titled individual who is responsible for the financial operation  
 689 of the center, including billings for resident care and



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690 services. The applicant must comply with the procedures for  
691 level 2 background screening as set forth in chapter 435, as  
692 well as the requirements of s. 435.03(3).

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

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

703 (d) A provisional license may be granted to an applicant  
704 when each individual required by this section to undergo  
705 background screening has met the standards for the Department of  
706 Law Enforcement background check, but the agency has not yet  
707 received background screening results from the Federal Bureau of  
708 Investigation, or a request for a disqualification exemption has  
709 been submitted to the agency as set forth in chapter 435, but a  
710 response has not yet been issued. A standard license may be  
711 granted to the applicant upon the agency's receipt of a report  
712 of the results of the Federal Bureau of Investigation background  
713 screening for each individual required by this section to  
714 undergo background screening which confirms that all standards  
715 have been met, or upon the granting of a disqualification  
716 exemption by the agency as set forth in chapter 435. Any other  
717 person who is required to undergo level 2 background screening  
718 may serve in his or her capacity pending the agency's receipt of

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719 the report from the Federal Bureau of Investigation. However,  
720 the person may not continue to serve if the report indicates any  
721 violation of background screening standards and a  
722 disqualification exemption has not been requested of and granted  
723 by the agency as set forth in chapter 435.

724 (f) Each applicant must submit to the agency a description  
725 and explanation of any conviction of an offense prohibited under  
726 the level 2 standards of chapter 435 by a member of the board of  
727 directors of the applicant, its officers, or any individual  
728 owning 5 percent or more of the applicant. This requirement does  
729 not apply to a director of a not-for-profit corporation or  
730 organization if the director serves solely in a voluntary  
731 capacity for the corporation or organization, does not regularly  
732 take part in the day-to-day operational decisions of the  
733 corporation or organization, receives no remuneration for his or  
734 her services on the corporation or organization's board of  
735 directors, and has no financial interest and has no family  
736 members with a financial interest in the corporation or  
737 organization, provided that the director and the not-for-profit  
738 corporation or organization include in the application a  
739 statement affirming that the director's relationship to the  
740 corporation satisfies the requirements of this paragraph.

741 (g) A license may not be granted to an applicant if the  
742 applicant or managing employee has been found guilty of,  
743 regardless of adjudication, or has entered a plea of nolo  
744 contendere or guilty to, any offense prohibited under the level  
745 2 standards for screening set forth in chapter 435, unless an  
746 exemption from disqualification has been granted by the agency  
747 as set forth in chapter 435.

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748 Section 8. Paragraph (a) of subsection (1) of section  
749 394.4572, Florida Statutes, is amended to read:

750 394.4572 Screening of mental health personnel.--

751 (1)(a) The department and the Agency for Health Care  
752 Administration shall require employment screening for mental  
753 health personnel using the standards for level 2 screening set  
754 forth in chapter 435. "Mental health personnel" includes all  
755 program directors, professional clinicians, staff members, and  
756 volunteers working in public or private mental health programs  
757 and facilities who have direct contact with unmarried patients  
758 under the age of 18 years. For purposes of this chapter,  
759 employment screening of mental health personnel shall also  
760 include, but is not limited to, employment screening as provided  
761 under chapter 435.

762 Section 9. Section 943.0585, Florida Statutes, is amended  
763 to read:

764 943.0585 Court-ordered expunction of criminal history  
765 records.--The courts of this state have jurisdiction over their  
766 own procedures, including the maintenance, expunction, and  
767 correction of judicial records containing criminal history  
768 information to the extent such procedures are not inconsistent  
769 with the conditions, responsibilities, and duties established by  
770 this section. Any court of competent jurisdiction may order a  
771 criminal justice agency to expunge the criminal history record  
772 of a minor or an adult who complies with the requirements of  
773 this section. The court shall not order a criminal justice  
774 agency to expunge a criminal history record until the person  
775 seeking to expunge a criminal history record has applied for and  
776 received a certificate of eligibility for expunction pursuant to

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777 subsection (2). A criminal history record that relates to a  
 778 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,  
 779 s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s. 827.071,  
 780 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,  
 781 s. 916.1075, or a violation enumerated in s. 907.041 may not be  
 782 expunged, without regard to whether adjudication was withheld,  
 783 if the defendant was found guilty of or pled guilty or nolo  
 784 contendere to the offense, or if the defendant, as a minor, was  
 785 found to have committed, or pled guilty or nolo contendere to  
 786 committing, the offense as a delinquent act. The court may only  
 787 order expunction of a criminal history record pertaining to one  
 788 arrest or one incident of alleged criminal activity, except as  
 789 provided in this section. The court may, at its sole discretion,  
 790 order the expunction of a criminal history record pertaining to  
 791 more than one arrest if the additional arrests directly relate  
 792 to the original arrest. If the court intends to order the  
 793 expunction of records pertaining to such additional arrests,  
 794 such intent must be specified in the order. A criminal justice  
 795 agency may not expunge any record pertaining to such additional  
 796 arrests if the order to expunge does not articulate the  
 797 intention of the court to expunge a record pertaining to more  
 798 than one arrest. This section does not prevent the court from  
 799 ordering the expunction of only a portion of a criminal history  
 800 record pertaining to one arrest or one incident of alleged  
 801 criminal activity. Notwithstanding any law to the contrary, a  
 802 criminal justice agency may comply with laws, court orders, and  
 803 official requests of other jurisdictions relating to expunction,  
 804 correction, or confidential handling of criminal history records  
 805 or information derived therefrom. This section does not confer

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806 any right to the expunction of any criminal history record, and  
 807 any request for expunction of a criminal history record may be  
 808 denied at the sole discretion of the court.

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

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

814 (b) The petitioner's sworn statement attesting that the  
 815 petitioner:

816 1. Has never, prior to the date on which the petition is  
 817 filed, been adjudicated guilty of a criminal offense or  
 818 comparable ordinance violation or adjudicated delinquent for  
 819 committing a felony or a misdemeanor specified in s.  
 820 943.051(3)(b).

821 2. Has not been adjudicated guilty of, or adjudicated  
 822 delinquent for committing, any of the acts stemming from the  
 823 arrest or alleged criminal activity to which the petition  
 824 pertains.

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

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

832  
 833 Any person who knowingly provides false information on such  
 834 sworn statement to the court commits a felony of the third

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835 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
836 775.084.

837 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.--Prior to  
838 petitioning the court to expunge a criminal history record, a  
839 person seeking to expunge a criminal history record shall apply  
840 to the department for a certificate of eligibility for  
841 expunction. The department shall, by rule adopted pursuant to  
842 chapter 120, establish procedures pertaining to the application  
843 for and issuance of certificates of eligibility for expunction.  
844 The department shall issue a certificate of eligibility for  
845 expunction to a person who is the subject of a criminal history  
846 record if that person:

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

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

852 2. That an indictment, information, or other charging  
853 document, if filed or issued in the case, was dismissed or nolle  
854 prosequi by the state attorney or statewide prosecutor, or was  
855 dismissed by a court of competent jurisdiction.

856 3. That the criminal history record does not relate to a  
857 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,  
858 s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s. 827.071,  
859 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,  
860 s. 916.1075, or a violation enumerated in s. 907.041, where the  
861 defendant was found guilty of, or pled guilty or nolo contendere  
862 to any such offense, or that the defendant, as a minor, was  
863 found to have committed, or pled guilty or nolo contendere to

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864 committing, such an offense as a delinquent act, without regard  
865 to whether adjudication was withheld.

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

869 (c) Has submitted to the department a certified copy of  
870 the disposition of the charge to which the petition to expunge  
871 pertains.

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

877 (e) Has not been adjudicated guilty of, or adjudicated  
878 delinquent for committing, any of the acts stemming from the  
879 arrest or alleged criminal activity to which the petition to  
880 expunge pertains.

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

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

887 (h) Is not required to wait a minimum of 10 years prior to  
888 being eligible for an expunction of such records because all  
889 charges related to the arrest or criminal activity to which the  
890 petition to expunge pertains were dismissed prior to trial,  
891 adjudication, or the withholding of adjudication. Otherwise,  
892 such criminal history record must be sealed under this section,

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893 former s. 893.14, former s. 901.33, or former s. 943.058 for at  
 894 least 10 years before such record is eligible for expunction.

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

896 (a) In judicial proceedings under this section, a copy of  
 897 the completed petition to expunge shall be served upon the  
 898 appropriate state attorney or the statewide prosecutor and upon  
 899 the arresting agency; however, it is not necessary to make any  
 900 agency other than the state a party. The appropriate state  
 901 attorney or the statewide prosecutor and the arresting agency  
 902 may respond to the court regarding the completed petition to  
 903 expunge.

904 (b) If relief is granted by the court, the clerk of the  
 905 court shall certify copies of the order to the appropriate state  
 906 attorney or the statewide prosecutor and the arresting agency.  
 907 The arresting agency is responsible for forwarding the order to  
 908 any other agency to which the arresting agency disseminated the  
 909 criminal history record information to which the order pertains.  
 910 The department shall forward the order to expunge to the Federal  
 911 Bureau of Investigation. The clerk of the court shall certify a  
 912 copy of the order to any other agency which the records of the  
 913 court reflect has received the criminal history record from the  
 914 court.

915 (c) For an order to expunge entered by a court prior to  
 916 July 1, 1992, the department shall notify the appropriate state  
 917 attorney or statewide prosecutor of an order to expunge which is  
 918 contrary to law because the person who is the subject of the  
 919 record has previously been convicted of a crime or comparable  
 920 ordinance violation or has had a prior criminal history record  
 921 sealed or expunged. Upon receipt of such notice, the appropriate



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922 state attorney or statewide prosecutor shall take action, within  
 923 60 days, to correct the record and petition the court to void  
 924 the order to expunge. The department shall seal the record until  
 925 such time as the order is voided by the court.

926 (d) On or after July 1, 1992, the department or any other  
 927 criminal justice agency is not required to act on an order to  
 928 expunge entered by a court when such order does not comply with  
 929 the requirements of this section. Upon receipt of such an order,  
 930 the department must notify the issuing court, the appropriate  
 931 state attorney or statewide prosecutor, the petitioner or the  
 932 petitioner's attorney, and the arresting agency of the reason  
 933 for noncompliance. The appropriate state attorney or statewide  
 934 prosecutor shall take action within 60 days to correct the  
 935 record and petition the court to void the order. No cause of  
 936 action, including contempt of court, shall arise against any  
 937 criminal justice agency for failure to comply with an order to  
 938 expunge when the petitioner for such order failed to obtain the  
 939 certificate of eligibility as required by this section or such  
 940 order does not otherwise comply with the requirements of this  
 941 section.

942 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any  
 943 criminal history record of a minor or an adult which is ordered  
 944 expunged by a court of competent jurisdiction pursuant to this  
 945 section must be physically destroyed or obliterated by any  
 946 criminal justice agency having custody of such record; except  
 947 that any criminal history record in the custody of the  
 948 department must be retained in all cases. A criminal history  
 949 record ordered expunged that is retained by the department is  
 950 confidential and exempt from the provisions of s. 119.07(1) and

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951 s. 24(a), Art. I of the State Constitution and not available to  
 952 any person or entity except upon order of a court of competent  
 953 jurisdiction. A criminal justice agency may retain a notation  
 954 indicating compliance with an order to expunge.

955 (a) The person who is the subject of a criminal history  
 956 record that is expunged under this section or under other  
 957 provisions of law, including former s. 893.14, former s. 901.33,  
 958 and former s. 943.058, may lawfully deny or fail to acknowledge  
 959 the arrests covered by the expunged record, except when the  
 960 subject of the record:

- 961 1. Is a candidate for employment with a criminal justice  
 962 agency;
- 963 2. Is a defendant in a criminal prosecution;
- 964 3. Concurrently or subsequently petitions for relief under  
 965 this section or s. 943.059;
- 966 4. Is a candidate for admission to The Florida Bar;
- 967 5. Is seeking to be employed or licensed by or to contract  
 968 with the Department of Children and Family Services or the  
 969 Department of Juvenile Justice or to be employed or used by such  
 970 contractor or licensee in a sensitive position having direct  
 971 contact with children, the developmentally disabled, the aged,  
 972 or the elderly as provided in s. 110.1127(3), s. 393.063(15), s.  
 973 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.  
 974 409.175(2)(i), s. 415.102(4), s. 916.106(10) and (13), s.  
 975 985.407, or chapter 400; or
- 976 6. Is seeking to be employed or licensed by the Office of  
 977 Teacher Education, Certification, Staff Development, and  
 978 Professional Practices of the Department of Education, any

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979 district school board, or any local governmental entity that  
 980 licenses child care facilities.

981 (b) Subject to the exceptions in paragraph (a), a person  
 982 who has been granted an expunction under this section, former s.  
 983 893.14, former s. 901.33, or former s. 943.058 may not be held  
 984 under any provision of law of this state to commit perjury or to  
 985 be otherwise liable for giving a false statement by reason of  
 986 such person's failure to recite or acknowledge an expunged  
 987 criminal history record.

988 (c) Information relating to the existence of an expunged  
 989 criminal history record which is provided in accordance with  
 990 paragraph (a) is confidential and exempt from the provisions of  
 991 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,  
 992 except that the department shall disclose the existence of a  
 993 criminal history record ordered expunged to the entities set  
 994 forth in subparagraphs (a)1., 4., 5., and 6. for their  
 995 respective licensing and employment purposes, and to criminal  
 996 justice agencies for their respective criminal justice purposes.  
 997 It is unlawful for any employee of an entity set forth in  
 998 subparagraph (a)1., subparagraph (a)4., subparagraph (a)5., or  
 999 subparagraph (a)6. to disclose information relating to the  
 1000 existence of an expunged criminal history record of a person  
 1001 seeking employment or licensure with such entity or contractor,  
 1002 except to the person to whom the criminal history record relates  
 1003 or to persons having direct responsibility for employment or  
 1004 licensure decisions. Any person who violates this paragraph  
 1005 commits a misdemeanor of the first degree, punishable as  
 1006 provided in s. 775.082 or s. 775.083.

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1007 (5) STATUTORY REFERENCES.--Any reference to any other  
 1008 chapter, section, or subdivision of the Florida Statutes in this  
 1009 section constitutes a general reference under the doctrine of  
 1010 incorporation by reference.

1011 Section 10. Section 943.059, Florida Statutes, is amended  
 1012 to read:

1013 943.059 Court-ordered sealing of criminal history  
 1014 records.--The courts of this state shall continue to have  
 1015 jurisdiction over their own procedures, including the  
 1016 maintenance, sealing, and correction of judicial records  
 1017 containing criminal history information to the extent such  
 1018 procedures are not inconsistent with the conditions,  
 1019 responsibilities, and duties established by this section. Any  
 1020 court of competent jurisdiction may order a criminal justice  
 1021 agency to seal the criminal history record of a minor or an  
 1022 adult who complies with the requirements of this section. The  
 1023 court shall not order a criminal justice agency to seal a  
 1024 criminal history record until the person seeking to seal a  
 1025 criminal history record has applied for and received a  
 1026 certificate of eligibility for sealing pursuant to subsection  
 1027 (2). A criminal history record that relates to a violation of s.  
 1028 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.  
 1029 800.04, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s.  
 1030 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s. 916.1075, or  
 1031 a violation enumerated in s. 907.041 may not be sealed, without  
 1032 regard to whether adjudication was withheld, if the defendant  
 1033 was found guilty of or pled guilty or nolo contendere to the  
 1034 offense, or if the defendant, as a minor, was found to have  
 1035 committed or pled guilty or nolo contendere to committing the

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1036 offense as a delinquent act. The court may only order sealing of  
 1037 a criminal history record pertaining to one arrest or one  
 1038 incident of alleged criminal activity, except as provided in  
 1039 this section. The court may, at its sole discretion, order the  
 1040 sealing of a criminal history record pertaining to more than one  
 1041 arrest if the additional arrests directly relate to the original  
 1042 arrest. If the court intends to order the sealing of records  
 1043 pertaining to such additional arrests, such intent must be  
 1044 specified in the order. A criminal justice agency may not seal  
 1045 any record pertaining to such additional arrests if the order to  
 1046 seal does not articulate the intention of the court to seal  
 1047 records pertaining to more than one arrest. This section does  
 1048 not prevent the court from ordering the sealing of only a  
 1049 portion of a criminal history record pertaining to one arrest or  
 1050 one incident of alleged criminal activity. Notwithstanding any  
 1051 law to the contrary, a criminal justice agency may comply with  
 1052 laws, court orders, and official requests of other jurisdictions  
 1053 relating to sealing, correction, or confidential handling of  
 1054 criminal history records or information derived therefrom. This  
 1055 section does not confer any right to the sealing of any criminal  
 1056 history record, and any request for sealing a criminal history  
 1057 record may be denied at the sole discretion of the court.

1058 (1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.--Each  
 1059 petition to a court to seal a criminal history record is  
 1060 complete only when accompanied by:

1061 (a) A certificate of eligibility for sealing issued by the  
 1062 department pursuant to subsection (2).

1063 (b) The petitioner's sworn statement attesting that the  
 1064 petitioner:

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1065 1. Has never, prior to the date on which the petition is  
 1066 filed, been adjudicated guilty of a criminal offense or  
 1067 comparable ordinance violation or adjudicated delinquent for  
 1068 committing a felony or a misdemeanor specified in s.  
 1069 943.051(3)(b).

1070 2. Has not been adjudicated guilty of or adjudicated  
 1071 delinquent for committing any of the acts stemming from the  
 1072 arrest or alleged criminal activity to which the petition to  
 1073 seal pertains.

1074 3. Has never secured a prior sealing or expunction of a  
 1075 criminal history record under this section, former s. 893.14,  
 1076 former s. 901.33, former s. 943.058, or from any jurisdiction  
 1077 outside the state.

1078 4. Is eligible for such a sealing to the best of his or  
 1079 her knowledge or belief and does not have any other petition to  
 1080 seal or any petition to expunge pending before any court.

1081  
 1082 Any person who knowingly provides false information on such  
 1083 sworn statement to the court commits a felony of the third  
 1084 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 1085 775.084.

1086 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.--Prior to  
 1087 petitioning the court to seal a criminal history record, a  
 1088 person seeking to seal a criminal history record shall apply to  
 1089 the department for a certificate of eligibility for sealing. The  
 1090 department shall, by rule adopted pursuant to chapter 120,  
 1091 establish procedures pertaining to the application for and  
 1092 issuance of certificates of eligibility for sealing. The  
 1093 department shall issue a certificate of eligibility for sealing

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1094 to a person who is the subject of a criminal history record  
 1095 provided that such person:

1096 (a) Has submitted to the department a certified copy of  
 1097 the disposition of the charge to which the petition to seal  
 1098 pertains.

1099 (b) Remits a \$75 processing fee to the department for  
 1100 placement in the Department of Law Enforcement Operating Trust  
 1101 Fund, unless such fee is waived by the executive director.

1102 (c) Has never, prior to the date on which the application  
 1103 for a certificate of eligibility is filed, been adjudicated  
 1104 guilty of a criminal offense or comparable ordinance violation  
 1105 or adjudicated delinquent for committing a felony or a  
 1106 misdemeanor specified in s. 943.051(3)(b).

1107 (d) Has not been adjudicated guilty of or adjudicated  
 1108 delinquent for committing any of the acts stemming from the  
 1109 arrest or alleged criminal activity to which the petition to  
 1110 seal pertains.

1111 (e) Has never secured a prior sealing or expunction of a  
 1112 criminal history record under this section, former s. 893.14,  
 1113 former s. 901.33, or former s. 943.058.

1114 (f) Is no longer under court supervision applicable to the  
 1115 disposition of the arrest or alleged criminal activity to which  
 1116 the petition to seal pertains.

1117 (3) PROCESSING OF A PETITION OR ORDER TO SEAL.--

1118 (a) In judicial proceedings under this section, a copy of  
 1119 the completed petition to seal shall be served upon the  
 1120 appropriate state attorney or the statewide prosecutor and upon  
 1121 the arresting agency; however, it is not necessary to make any  
 1122 agency other than the state a party. The appropriate state

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1123 attorney or the statewide prosecutor and the arresting agency  
 1124 may respond to the court regarding the completed petition to  
 1125 seal.

1126 (b) If relief is granted by the court, the clerk of the  
 1127 court shall certify copies of the order to the appropriate state  
 1128 attorney or the statewide prosecutor and to the arresting  
 1129 agency. The arresting agency is responsible for forwarding the  
 1130 order to any other agency to which the arresting agency  
 1131 disseminated the criminal history record information to which  
 1132 the order pertains. The department shall forward the order to  
 1133 seal to the Federal Bureau of Investigation. The clerk of the  
 1134 court shall certify a copy of the order to any other agency  
 1135 which the records of the court reflect has received the criminal  
 1136 history record from the court.

1137 (c) For an order to seal entered by a court prior to July  
 1138 1, 1992, the department shall notify the appropriate state  
 1139 attorney or statewide prosecutor of any order to seal which is  
 1140 contrary to law because the person who is the subject of the  
 1141 record has previously been convicted of a crime or comparable  
 1142 ordinance violation or has had a prior criminal history record  
 1143 sealed or expunged. Upon receipt of such notice, the appropriate  
 1144 state attorney or statewide prosecutor shall take action, within  
 1145 60 days, to correct the record and petition the court to void  
 1146 the order to seal. The department shall seal the record until  
 1147 such time as the order is voided by the court.

1148 (d) On or after July 1, 1992, the department or any other  
 1149 criminal justice agency is not required to act on an order to  
 1150 seal entered by a court when such order does not comply with the  
 1151 requirements of this section. Upon receipt of such an order, the



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1152 department must notify the issuing court, the appropriate state  
 1153 attorney or statewide prosecutor, the petitioner or the  
 1154 petitioner's attorney, and the arresting agency of the reason  
 1155 for noncompliance. The appropriate state attorney or statewide  
 1156 prosecutor shall take action within 60 days to correct the  
 1157 record and petition the court to void the order. No cause of  
 1158 action, including contempt of court, shall arise against any  
 1159 criminal justice agency for failure to comply with an order to  
 1160 seal when the petitioner for such order failed to obtain the  
 1161 certificate of eligibility as required by this section or when  
 1162 such order does not comply with the requirements of this  
 1163 section.

1164 (e) An order sealing a criminal history record pursuant to  
 1165 this section does not require that such record be surrendered to  
 1166 the court, and such record shall continue to be maintained by  
 1167 the department and other criminal justice agencies.

1168 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A criminal  
 1169 history record of a minor or an adult which is ordered sealed by  
 1170 a court of competent jurisdiction pursuant to this section is  
 1171 confidential and exempt from the provisions of s. 119.07(1) and  
 1172 s. 24(a), Art. I of the State Constitution and is available only  
 1173 to the person who is the subject of the record, to the subject's  
 1174 attorney, to criminal justice agencies for their respective  
 1175 criminal justice purposes, or to those entities set forth in  
 1176 subparagraphs (a)1., 4., 5., and 6. for their respective  
 1177 licensing and employment purposes.

1178 (a) The subject of a criminal history record sealed under  
 1179 this section or under other provisions of law, including former  
 1180 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully

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1181 deny or fail to acknowledge the arrests covered by the sealed  
 1182 record, except when the subject of the record:

1183 1. Is a candidate for employment with a criminal justice  
 1184 agency;

1185 2. Is a defendant in a criminal prosecution;

1186 3. Concurrently or subsequently petitions for relief under  
 1187 this section or s. 943.0585;

1188 4. Is a candidate for admission to The Florida Bar;

1189 5. Is seeking to be employed or licensed by or to contract  
 1190 with the Department of Children and Family Services or the  
 1191 Department of Juvenile Justice or to be employed or used by such  
 1192 contractor or licensee in a sensitive position having direct  
 1193 contact with children, the developmentally disabled, the aged,  
 1194 or the elderly as provided in s. 110.1127(3), s. 393.063(15), s.  
 1195 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.  
 1196 409.175(2)(i), s. 415.102(4), s. 415.103, s. 916.106(10) and  
 1197 (13), s. 985.407, or chapter 400; or

1198 6. Is seeking to be employed or licensed by the Office of  
 1199 Teacher Education, Certification, Staff Development, and  
 1200 Professional Practices of the Department of Education, any  
 1201 district school board, or any local governmental entity which  
 1202 licenses child care facilities.

1203 (b) Subject to the exceptions in paragraph (a), a person  
 1204 who has been granted a sealing under this section, former s.  
 1205 893.14, former s. 901.33, or former s. 943.058 may not be held  
 1206 under any provision of law of this state to commit perjury or to  
 1207 be otherwise liable for giving a false statement by reason of  
 1208 such person's failure to recite or acknowledge a sealed criminal  
 1209 history record.

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1210 (c) Information relating to the existence of a sealed  
 1211 criminal record provided in accordance with the provisions of  
 1212 paragraph (a) is confidential and exempt from the provisions of  
 1213 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,  
 1214 except that the department shall disclose the sealed criminal  
 1215 history record to the entities set forth in subparagraphs (a)1.,  
 1216 4., 5., and 6. for their respective licensing and employment  
 1217 purposes. It is unlawful for any employee of an entity set forth  
 1218 in subparagraph (a)1., subparagraph (a)4., subparagraph (a)5.,  
 1219 or subparagraph (a)6. to disclose information relating to the  
 1220 existence of a sealed criminal history record of a person  
 1221 seeking employment or licensure with such entity or contractor,  
 1222 except to the person to whom the criminal history record relates  
 1223 or to persons having direct responsibility for employment or  
 1224 licensure decisions. Any person who violates the provisions of  
 1225 this paragraph commits a misdemeanor of the first degree,  
 1226 punishable as provided in s. 775.082 or s. 775.083.

1227 (5) STATUTORY REFERENCES.--Any reference to any other  
 1228 chapter, section, or subdivision of the Florida Statutes in this  
 1229 section constitutes a general reference under the doctrine of  
 1230 incorporation by reference.

1231 Section 11. Paragraph (a) of subsection (2) of section  
 1232 400.215, Florida Statutes, is amended, and paragraphs (b) and  
 1233 (c) of subsection (2) and subsection (3) of said section are  
 1234 reenacted for the purpose of incorporating the amendments to  
 1235 sections 435.03 and 435.04, Florida Statutes, in references  
 1236 thereto, to read:

1237 400.215 Personnel screening requirement.--

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1238 (2) Employers and employees shall comply with the  
 1239 requirements of s. 435.05.

1240 (a) Notwithstanding the provisions of s. 435.05(1),  
 1241 facilities must have in their possession evidence that level 1  
 1242 screening has been completed before allowing an employee to  
 1243 begin working with patients as provided in subsection (1). All  
 1244 information necessary for conducting background screening using  
 1245 level 1 standards as specified in s. 435.03~~(1)~~ shall be  
 1246 submitted by the nursing facility to the agency. Results of the  
 1247 background screening shall be provided by the agency to the  
 1248 requesting nursing facility.

1249 (b) Employees qualified under the provisions of paragraph  
 1250 (a) who have not maintained continuous residency within the  
 1251 state for the 5 years immediately preceding the date of request  
 1252 for background screening must complete level 2 screening, as  
 1253 provided in chapter 435. Such employees may work in a  
 1254 conditional status up to 180 days pending the receipt of written  
 1255 findings evidencing the completion of level 2 screening. Level 2  
 1256 screening shall not be required of employees or prospective  
 1257 employees who attest in writing under penalty of perjury that  
 1258 they meet the residency requirement. Completion of level 2  
 1259 screening shall require the employee or prospective employee to  
 1260 furnish to the nursing facility a full set of fingerprints to  
 1261 enable a criminal background investigation to be conducted. The  
 1262 nursing facility shall submit the completed fingerprint card to  
 1263 the agency. The agency shall establish a record of the request  
 1264 in the database provided for in paragraph (c) and forward the  
 1265 request to the Department of Law Enforcement, which is  
 1266 authorized to submit the fingerprints to the Federal Bureau of

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1267 Investigation for a national criminal history records check. The  
 1268 results of the national criminal history records check shall be  
 1269 returned to the agency, which shall maintain the results in the  
 1270 database provided for in paragraph (c). The agency shall notify  
 1271 the administrator of the requesting nursing facility or the  
 1272 administrator of any other facility licensed under chapter 393,  
 1273 chapter 394, chapter 395, chapter 397, or this chapter, as  
 1274 requested by such facility, as to whether or not the employee  
 1275 has qualified under level 1 or level 2 screening. An employee or  
 1276 prospective employee who has qualified under level 2 screening  
 1277 and has maintained such continuous residency within the state  
 1278 shall not be required to complete a subsequent level 2 screening  
 1279 as a condition of employment at another facility.

1280 (c) The agency shall establish and maintain a database of  
 1281 background screening information which shall include the results  
 1282 of both level 1 and level 2 screening. The Department of Law  
 1283 Enforcement shall timely provide to the agency, electronically,  
 1284 the results of each statewide screening for incorporation into  
 1285 the database. The agency shall, upon request from any facility,  
 1286 agency, or program required by or authorized by law to screen  
 1287 its employees or applicants, notify the administrator of the  
 1288 facility, agency, or program of the qualifying or disqualifying  
 1289 status of the employee or applicant named in the request.

1290 (3) The applicant is responsible for paying the fees  
 1291 associated with obtaining the required screening. Payment for  
 1292 the screening shall be submitted to the agency. The agency shall  
 1293 establish a schedule of fees to cover the costs of level 1 and  
 1294 level 2 screening. Facilities may reimburse employees for these  
 1295 costs. The Department of Law Enforcement shall charge the agency

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1296 for a level 1 or level 2 screening a rate sufficient to cover  
 1297 the costs of such screening pursuant to s. 943.053(3). The  
 1298 agency shall, as allowable, reimburse nursing facilities for the  
 1299 cost of conducting background screening as required by this  
 1300 section. This reimbursement will not be subject to any rate  
 1301 ceilings or payment targets in the Medicaid Reimbursement plan.

1302 Section 12. For the purpose of incorporating the  
 1303 amendments to sections 435.03 and 435.04, Florida Statutes, in  
 1304 references thereto, subsections (1) and (2) of section 400.964,  
 1305 Florida Statutes, are reenacted, and subsection (7) of said  
 1306 section is amended and reenacted, to read:

1307 400.964 Personnel screening requirement.--

1308 (1) The agency shall require level 2 background screening  
 1309 as provided in chapter 435 for all employees or prospective  
 1310 employees of facilities licensed under this part who are  
 1311 expected to be, or whose responsibilities are such that they  
 1312 would be considered to be, a direct service provider.

1313 (2) Employers and employees shall comply with the  
 1314 requirements of chapter 435.

1315 (7) All employees must comply with the requirements of  
 1316 this section by October 1, 2000. A person employed by a facility  
 1317 licensed pursuant to this part as of the effective date of this  
 1318 act is not required to submit to rescreening if the facility has  
 1319 in its possession written evidence that the person has been  
 1320 screened and qualified according to level 1 standards as  
 1321 specified in s. 435.03~~(1)~~. Any current employee who meets the  
 1322 level 1 requirement but does not meet the 5-year residency  
 1323 requirement must provide to the employing facility written  
 1324 attestation under penalty of perjury that the employee has not

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1325 been convicted of a disqualifying offense in another state or  
 1326 jurisdiction. All applicants hired on or after October 1, 1999,  
 1327 must comply with the requirements of this section.

1328 Section 13. For the purpose of incorporating the amendment  
 1329 to section 435.04, Florida Statutes, in a reference thereto,  
 1330 paragraph (a) of subsection (1) of section 435.045, Florida  
 1331 Statutes, is amended and reenacted to read:

1332 435.045 Requirements for placement of dependent  
 1333 children.--

1334 (1)(a) Unless an election provided for in subsection (2)  
 1335 is made with respect to the state, the department is authorized  
 1336 to conduct criminal records checks equivalent to the level 2  
 1337 screening required in s. 435.04~~(1)~~ for any person being  
 1338 considered by the department for placement of a child subject to  
 1339 a placement decision pursuant to chapter 39. Approval shall not  
 1340 be granted:

1341 1. In any case in which a record check reveals a felony  
 1342 conviction for child abuse, abandonment, or neglect; for spousal  
 1343 abuse; for a crime against children, including child  
 1344 pornography, or for a crime involving violence, including rape,  
 1345 sexual assault, or homicide but not including other physical  
 1346 assault or battery, if the department finds that a court of  
 1347 competent jurisdiction has determined that the felony was  
 1348 committed at any time; and

1349 2. In any case in which a record check reveals a felony  
 1350 conviction for physical assault, battery, or a drug-related  
 1351 offense, if the department finds that a court of competent  
 1352 jurisdiction has determined that the felony was committed within  
 1353 the past 5 years.

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1354 Section 14. For the purpose of incorporating the  
 1355 amendments to sections 435.03 and 435.04, Florida Statutes, in  
 1356 references thereto, paragraphs (f) and (g) of subsection (1) of  
 1357 section 400.414, Florida Statutes, are reenacted to read:

1358 400.414 Denial, revocation, or suspension of license;  
 1359 imposition of administrative fine; grounds.--

1360 (1) The agency may deny, revoke, or suspend any license  
 1361 issued under this part, or impose an administrative fine in the  
 1362 manner provided in chapter 120, for any of the following actions  
 1363 by an assisted living facility, for the actions of any person  
 1364 subject to level 2 background screening under s. 400.4174, or  
 1365 for the actions of any facility employee:

1366 (f) A determination that a person subject to level 2  
 1367 background screening under s. 400.4174(1) does not meet the  
 1368 screening standards of s. 435.04 or that the facility is  
 1369 retaining an employee subject to level 1 background screening  
 1370 standards under s. 400.4174(2) who does not meet the screening  
 1371 standards of s. 435.03 and for whom exemptions from  
 1372 disqualification have not been provided by the agency.

1373 (g) A determination that an employee, volunteer,  
 1374 administrator, or owner, or person who otherwise has access to  
 1375 the residents of a facility does not meet the criteria specified  
 1376 in s. 435.03(2), and the owner or administrator has not taken  
 1377 action to remove the person. Exemptions from disqualification  
 1378 may be granted as set forth in s. 435.07. No administrative  
 1379 action may be taken against the facility if the person is  
 1380 granted an exemption.

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1382 Administrative proceedings challenging agency action under this  
 1383 subsection shall be reviewed on the basis of the facts and  
 1384 conditions that resulted in the agency action.

1385 Section 15. For the purpose of incorporating the  
 1386 amendments to sections 435.03 and 435.04, Florida Statutes, in  
 1387 references thereto, section 400.4174, Florida Statutes, is  
 1388 reenacted to read:

1389 400.4174 Background screening; exemptions.--

1390 (1)(a) Level 2 background screening must be conducted on  
 1391 each of the following persons, who shall be considered employees  
 1392 for the purposes of conducting screening under chapter 435:

1393 1. The facility owner if an individual, the administrator,  
 1394 and the financial officer.

1395 2. An officer or board member if the facility owner is a  
 1396 firm, corporation, partnership, or association, or any person  
 1397 owning 5 percent or more of the facility if the agency has  
 1398 probable cause to believe that such person has been convicted of  
 1399 any offense prohibited by s. 435.04. For each officer, board  
 1400 member, or person owning 5 percent or more who has been  
 1401 convicted of any such offense, the facility shall submit to the  
 1402 agency a description and explanation of the conviction at the  
 1403 time of license application. This subparagraph does not apply to  
 1404 a board member of a not-for-profit corporation or organization  
 1405 if the board member serves solely in a voluntary capacity, does  
 1406 not regularly take part in the day-to-day operational decisions  
 1407 of the corporation or organization, receives no remuneration for  
 1408 his or her services, and has no financial interest and has no  
 1409 family members with a financial interest in the corporation or  
 1410 organization, provided that the board member and facility submit

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1411 a statement affirming that the board member's relationship to  
 1412 the facility satisfies the requirements of this subparagraph.

1413 (b) Proof of compliance with level 2 screening standards  
 1414 which has been submitted within the previous 5 years to meet any  
 1415 facility or professional licensure requirements of the agency or  
 1416 the Department of Health satisfies the requirements of this  
 1417 subsection, provided that such proof is accompanied, under  
 1418 penalty of perjury, by an affidavit of compliance with the  
 1419 provisions of chapter 435. Proof of compliance with the  
 1420 background screening requirements of the Financial Services  
 1421 Commission and the Office of Insurance Regulation for applicants  
 1422 for a certificate of authority to operate a continuing care  
 1423 retirement community under chapter 651, submitted within the  
 1424 last 5 years, satisfies the Department of Law Enforcement and  
 1425 Federal Bureau of Investigation portions of a level 2 background  
 1426 check.

1427 (c) The agency may grant a provisional license to a  
 1428 facility applying for an initial license when each individual  
 1429 required by this subsection to undergo screening has completed  
 1430 the Department of Law Enforcement background checks, but has not  
 1431 yet received results from the Federal Bureau of Investigation,  
 1432 or when a request for an exemption from disqualification has  
 1433 been submitted to the agency pursuant to s. 435.07, but a  
 1434 response has not been issued.

1435 (2) The owner or administrator of an assisted living  
 1436 facility must conduct level 1 background screening, as set forth  
 1437 in chapter 435, on all employees hired on or after October 1,  
 1438 1998, who perform personal services as defined in s.  
 1439 400.402(17). The agency may exempt an individual from employment

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1440 disqualification as set forth in chapter 435. Such persons shall  
 1441 be considered as having met this requirement if:

1442 (a) Proof of compliance with level 1 screening  
 1443 requirements obtained to meet any professional license  
 1444 requirements in this state is provided and accompanied, under  
 1445 penalty of perjury, by a copy of the person's current  
 1446 professional license and an affidavit of current compliance with  
 1447 the background screening requirements.

1448 (b) The person required to be screened has been  
 1449 continuously employed in the same type of occupation for which  
 1450 the person is seeking employment without a breach in service  
 1451 which exceeds 180 days, and proof of compliance with the level 1  
 1452 screening requirement which is no more than 2 years old is  
 1453 provided. Proof of compliance shall be provided directly from  
 1454 one employer or contractor to another, and not from the person  
 1455 screened. Upon request, a copy of screening results shall be  
 1456 provided by the employer retaining documentation of the  
 1457 screening to the person screened.

1458 (c) The person required to be screened is employed by a  
 1459 corporation or business entity or related corporation or  
 1460 business entity that owns, operates, or manages more than one  
 1461 facility or agency licensed under this chapter, and for whom a  
 1462 level 1 screening was conducted by the corporation or business  
 1463 entity as a condition of initial or continued employment.

1464 Section 16. For the purpose of incorporating the  
 1465 amendments to sections 435.03 and 435.04, Florida Statutes, in  
 1466 references thereto, paragraphs (a), (b), (c), (d), (f), and (g)  
 1467 of subsection (4) of section 400.509, Florida Statutes, are  
 1468 reenacted to read:

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1469           400.509 Registration of particular service providers  
 1470 exempt from licensure; certificate of registration; regulation  
 1471 of registrants.--

1472           (4) Each applicant for registration must comply with the  
 1473 following requirements:

1474           (a) Upon receipt of a completed, signed, and dated  
 1475 application, the agency shall require background screening, in  
 1476 accordance with the level 1 standards for screening set forth in  
 1477 chapter 435, of every individual who will have contact with the  
 1478 client. The agency shall require background screening of the  
 1479 managing employee or other similarly titled individual who is  
 1480 responsible for the operation of the entity, and of the  
 1481 financial officer or other similarly titled individual who is  
 1482 responsible for the financial operation of the entity, including  
 1483 billings for client services in accordance with the level 2  
 1484 standards for background screening as set forth in chapter 435.

1485           (b) The agency may require background screening of any  
 1486 other individual who is affiliated with the applicant if the  
 1487 agency has a reasonable basis for believing that he or she has  
 1488 been convicted of a crime or has committed any other offense  
 1489 prohibited under the level 2 standards for screening set forth  
 1490 in chapter 435.

1491           (c) Proof of compliance with the level 2 background  
 1492 screening requirements of chapter 435 which has been submitted  
 1493 within the previous 5 years in compliance with any other health  
 1494 care or assisted living licensure requirements of this state is  
 1495 acceptable in fulfillment of paragraph (a).

1496           (d) A provisional registration may be granted to an  
 1497 applicant when each individual required by this section to

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1498 undergo background screening has met the standards for the  
1499 abuse-registry background check through the agency and the  
1500 Department of Law Enforcement background check, but the agency  
1501 has not yet received background screening results from the  
1502 Federal Bureau of Investigation. A standard registration may be  
1503 granted to the applicant upon the agency's receipt of a report  
1504 of the results of the Federal Bureau of Investigation background  
1505 screening for each individual required by this section to  
1506 undergo background screening which confirms that all standards  
1507 have been met, or upon the granting of a disqualification  
1508 exemption by the agency as set forth in chapter 435. Any other  
1509 person who is required to undergo level 2 background screening  
1510 may serve in his or her capacity pending the agency's receipt of  
1511 the report from the Federal Bureau of Investigation. However,  
1512 the person may not continue to serve if the report indicates any  
1513 violation of background screening standards and if a  
1514 disqualification exemption has not been requested of and granted  
1515 by the agency as set forth in chapter 435.

1516 (f) Each applicant must submit to the agency a description  
1517 and explanation of any conviction of an offense prohibited under  
1518 the level 2 standards of chapter 435 which was committed by a  
1519 member of the board of directors of the applicant, its officers,  
1520 or any individual owning 5 percent or more of the applicant.  
1521 This requirement does not apply to a director of a not-for-  
1522 profit corporation or organization who serves solely in a  
1523 voluntary capacity for the corporation or organization, does not  
1524 regularly take part in the day-to-day operational decisions of  
1525 the corporation or organization, receives no remuneration for  
1526 his or her services on the corporation's or organization's board

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1527 of directors, and has no financial interest and no family  
 1528 members having a financial interest in the corporation or  
 1529 organization, if the director and the not-for-profit corporation  
 1530 or organization include in the application a statement affirming  
 1531 that the director's relationship to the corporation satisfies  
 1532 the requirements of this paragraph.

1533 (g) A registration may not be granted to an applicant if  
 1534 the applicant or managing employee has been found guilty of,  
 1535 regardless of adjudication, or has entered a plea of nolo  
 1536 contendere or guilty to, any offense prohibited under the level  
 1537 2 standards for screening set forth in chapter 435, unless an  
 1538 exemption from disqualification has been granted by the agency  
 1539 as set forth in chapter 435.

1540 Section 17. For the purpose of incorporating the  
 1541 amendments to sections 435.03 and 435.04, Florida Statutes, in  
 1542 references thereto, paragraph (c) of subsection (2) of section  
 1543 400.556, Florida Statutes, is reenacted to read:

1544 400.556 Denial, suspension, revocation of license;  
 1545 administrative fines; investigations and inspections.--

1546 (2) Each of the following actions by the owner of an adult  
 1547 day care center or by its operator or employee is a ground for  
 1548 action by the agency against the owner of the center or its  
 1549 operator or employee:

1550 (c) A failure of persons subject to level 2 background  
 1551 screening under s. 400.4174(1) to meet the screening standards  
 1552 of s. 435.04, or the retention by the center of an employee  
 1553 subject to level 1 background screening standards under s.  
 1554 400.4174(2) who does not meet the screening standards of s.

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1555 435.03 and for whom exemptions from disqualification have not  
 1556 been provided by the agency.

1557 Section 18. For the purpose of incorporating the  
 1558 amendments to sections 435.03 and 435.04, Florida Statutes, in  
 1559 references thereto, subsections (1), (2), and (4) of section  
 1560 400.6065, Florida Statutes, are reenacted to read:

1561 400.6065 Background screening.--

1562 (1) Upon receipt of a completed application under s.  
 1563 400.606, the agency shall require level 2 background screening  
 1564 on each of the following persons, who shall be considered  
 1565 employees for the purposes of conducting screening under chapter  
 1566 435:

1567 (a) The hospice administrator and financial officer.

1568 (b) An officer or board member if the hospice is a firm,  
 1569 corporation, partnership, or association, or any person owning 5  
 1570 percent or more of the hospice if the agency has probable cause  
 1571 to believe that such officer, board member, or owner has been  
 1572 convicted of any offense prohibited by s. 435.04. For each  
 1573 officer, board member, or person owning 5 percent or more who  
 1574 has been convicted of any such offense, the hospice shall submit  
 1575 to the agency a description and explanation of the conviction at  
 1576 the time of license application. This paragraph does not apply  
 1577 to a board member of a not-for-profit corporation or  
 1578 organization if the board member serves solely in a voluntary  
 1579 capacity, does not regularly take part in the day-to-day  
 1580 operational decisions of the corporation or organization,  
 1581 receives no remuneration for his or her services, and has no  
 1582 financial interest and has no family members with a financial  
 1583 interest in the corporation or organization, provided that the

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1584 board member and the corporation or organization submit a  
 1585 statement affirming that the board member's relationship to the  
 1586 corporation or organization satisfies the requirements of this  
 1587 paragraph.

1588 (2) Proof of compliance with level 2 screening standards  
 1589 which has been submitted within the previous 5 years to meet any  
 1590 facility or professional licensure requirements of the agency or  
 1591 the Department of Health satisfies the requirements of this  
 1592 section.

1593 (4) The agency shall require employment or contractor  
 1594 screening as provided in chapter 435, using the level 1  
 1595 standards for screening set forth in that chapter, for hospice  
 1596 personnel.

1597 Section 19. For the purpose of incorporating the  
 1598 amendments to sections 435.03 and 435.04, Florida Statutes, in  
 1599 references thereto, paragraphs (a), (b), (c), (d), (f), and (g)  
 1600 of subsection (4) of section 400.980, Florida Statutes, are  
 1601 reenacted to read:

1602 400.980 Health care services pools.--

1603 (4) Each applicant for registration must comply with the  
 1604 following requirements:

1605 (a) Upon receipt of a completed, signed, and dated  
 1606 application, the agency shall require background screening, in  
 1607 accordance with the level 1 standards for screening set forth in  
 1608 chapter 435, of every individual who will have contact with  
 1609 patients. The agency shall require background screening of the  
 1610 managing employee or other similarly titled individual who is  
 1611 responsible for the operation of the entity, and of the  
 1612 financial officer or other similarly titled individual who is



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1613 responsible for the financial operation of the entity, including  
 1614 billings for services in accordance with the level 2 standards  
 1615 for background screening as set forth in chapter 435.

1616 (b) The agency may require background screening of any  
 1617 other individual who is affiliated with the applicant if the  
 1618 agency has a reasonable basis for believing that he or she has  
 1619 been convicted of a crime or has committed any other offense  
 1620 prohibited under the level 2 standards for screening set forth  
 1621 in chapter 435.

1622 (c) Proof of compliance with the level 2 background  
 1623 screening requirements of chapter 435 which has been submitted  
 1624 within the previous 5 years in compliance with any other health  
 1625 care or assisted living licensure requirements of this state is  
 1626 acceptable in fulfillment of paragraph (a).

1627 (d) A provisional registration may be granted to an  
 1628 applicant when each individual required by this section to  
 1629 undergo background screening has met the standards for the  
 1630 Department of Law Enforcement background check but the agency  
 1631 has not yet received background screening results from the  
 1632 Federal Bureau of Investigation. A standard registration may be  
 1633 granted to the applicant upon the agency's receipt of a report  
 1634 of the results of the Federal Bureau of Investigation background  
 1635 screening for each individual required by this section to  
 1636 undergo background screening which confirms that all standards  
 1637 have been met, or upon the granting of a disqualification  
 1638 exemption by the agency as set forth in chapter 435. Any other  
 1639 person who is required to undergo level 2 background screening  
 1640 may serve in his or her capacity pending the agency's receipt of  
 1641 the report from the Federal Bureau of Investigation. However,

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1642 the person may not continue to serve if the report indicates any  
 1643 violation of background screening standards and if a  
 1644 disqualification exemption has not been requested of and granted  
 1645 by the agency as set forth in chapter 435.

1646 (f) Each applicant must submit to the agency a description  
 1647 and explanation of any conviction of an offense prohibited under  
 1648 the level 2 standards of chapter 435 which was committed by a  
 1649 member of the board of directors of the applicant, its officers,  
 1650 or any individual owning 5 percent or more of the applicant.  
 1651 This requirement does not apply to a director of a not-for-  
 1652 profit corporation or organization who serves solely in a  
 1653 voluntary capacity for the corporation or organization, does not  
 1654 regularly take part in the day-to-day operational decisions of  
 1655 the corporation or organization, receives no remuneration for  
 1656 his or her services on the corporation's or organization's board  
 1657 of directors, and has no financial interest and no family  
 1658 members having a financial interest in the corporation or  
 1659 organization, if the director and the not-for-profit corporation  
 1660 or organization include in the application a statement affirming  
 1661 that the director's relationship to the corporation satisfies  
 1662 the requirements of this paragraph.

1663 (g) A registration may not be granted to an applicant if  
 1664 the applicant or managing employee has been found guilty of,  
 1665 regardless of adjudication, or has entered a plea of nolo  
 1666 contendere or guilty to, any offense prohibited under the level  
 1667 2 standards for screening set forth in chapter 435, unless an  
 1668 exemption from disqualification has been granted by the agency  
 1669 as set forth in chapter 435.

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1670 Section 20. For the purpose of incorporating the  
 1671 amendments to sections 435.03 and 435.04, Florida Statutes, in  
 1672 references thereto, paragraph (k) of subsection (2) of section  
 1673 409.175, Florida Statutes, is reenacted to read:

1674 409.175 Licensure of family foster homes, residential  
 1675 child-caring agencies, and child-placing agencies; public  
 1676 records exemption.--

1677 (2) As used in this section, the term:

1678 (k) "Screening" means the act of assessing the background  
 1679 of personnel and includes, but is not limited to, employment  
 1680 history checks as provided in chapter 435, using the level 2  
 1681 standards for screening set forth in that chapter. Screening for  
 1682 employees and volunteers in summer day camps and summer 24-hour  
 1683 camps and screening for all volunteers included under the  
 1684 definition of "personnel" shall be conducted as provided in  
 1685 chapter 435, using the level 1 standards set forth in that  
 1686 chapter.

1687 Section 21. For the purpose of incorporating the  
 1688 amendments to sections 435.03 and 435.04, Florida Statutes, in  
 1689 references thereto, paragraph (d) of subsection (8) of section  
 1690 409.907, Florida Statutes, is reenacted to read:

1691 409.907 Medicaid provider agreements.--The agency may make  
 1692 payments for medical assistance and related services rendered to  
 1693 Medicaid recipients only to an individual or entity who has a  
 1694 provider agreement in effect with the agency, who is performing  
 1695 services or supplying goods in accordance with federal, state,  
 1696 and local law, and who agrees that no person shall, on the  
 1697 grounds of handicap, race, color, or national origin, or for any  
 1698 other reason, be subjected to discrimination under any program

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1699 or activity for which the provider receives payment from the  
1700 agency.

1701 (8)

1702 (d) Proof of compliance with the requirements of level 2  
1703 screening under s. 435.04 conducted within 12 months prior to  
1704 the date that the Medicaid provider application is submitted to  
1705 the agency shall fulfill the requirements of this subsection.  
1706 Proof of compliance with the requirements of level 1 screening  
1707 under s. 435.03 conducted within 12 months prior to the date  
1708 that the Medicaid provider application is submitted to the  
1709 agency shall meet the requirement that the Department of Law  
1710 Enforcement conduct a state criminal history record check.

1711 Section 22. For the purpose of incorporating the  
1712 amendments to sections 435.03 and 435.04, Florida Statutes, in  
1713 references thereto, subsections (1) and (3) of section 435.05,  
1714 Florida Statutes, are reenacted to read:

1715 435.05 Requirements for covered employees.--Except as  
1716 otherwise provided by law, the following requirements shall  
1717 apply to covered employees:

1718 (1)(a) Every person employed in a position for which  
1719 employment screening is required must, within 5 working days  
1720 after starting to work, submit to the employer a complete set of  
1721 information necessary to conduct a screening under this section.

1722 (b) For level 1 screening, the employer must submit the  
1723 information necessary for screening to the Florida Department of  
1724 Law Enforcement within 5 working days after receiving it. The  
1725 Florida Department of Law Enforcement will conduct a search of  
1726 its records and will respond to the employer agency. The

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1727 employer will inform the employee whether screening has revealed  
 1728 any disqualifying information.

1729 (c) For level 2 screening, the employer or licensing  
 1730 agency must submit the information necessary for screening to  
 1731 the Florida Department of Law Enforcement within 5 working days  
 1732 after receiving it. The Florida Department of Law Enforcement  
 1733 will conduct a search of its criminal and juvenile records and  
 1734 will request that the Federal Bureau of Investigation conduct a  
 1735 search of its records for each employee for whom the request is  
 1736 made. The Florida Department of Law Enforcement will respond to  
 1737 the employer or licensing agency, and the employer or licensing  
 1738 agency will inform the employee whether screening has revealed  
 1739 disqualifying information.

1740 (d) The person whose background is being checked must  
 1741 supply any missing criminal or other necessary information to  
 1742 the employer within 30 days after the employer makes a request  
 1743 for the information or be subject to automatic disqualification.

1744 (3) Each employer required to conduct level 2 background  
 1745 screening must sign an affidavit annually, under penalty of  
 1746 perjury, stating that all covered employees have been screened  
 1747 or are newly hired and are awaiting the results of the required  
 1748 screening checks.

1749 Section 23. For the purpose of incorporating the  
 1750 amendments to sections 435.03 and 435.04, Florida Statutes, in  
 1751 references thereto, section 744.3135, Florida Statutes, as  
 1752 amended by chapter 2003-402, Laws of Florida, is reenacted to  
 1753 read:

1754 744.3135 Credit and criminal investigation.—The court may  
 1755 require a nonprofessional guardian and shall require a

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1756 professional or public guardian, and all employees of a  
 1757 professional guardian who have a fiduciary responsibility to a  
 1758 ward, to submit, at their own expense, to an investigation of  
 1759 the guardian's credit history and to undergo level 2 background  
 1760 screening as required under s. 435.04. The clerk of the court  
 1761 shall obtain fingerprint cards from the Federal Bureau of  
 1762 Investigation and make them available to guardians. Any guardian  
 1763 who is so required shall have his or her fingerprints taken and  
 1764 forward the proper fingerprint card along with the necessary fee  
 1765 to the Florida Department of Law Enforcement for processing. The  
 1766 professional guardian shall pay to the clerk of the court a fee  
 1767 of up to \$7.50 for handling and processing professional guardian  
 1768 files. The results of the fingerprint checks shall be forwarded  
 1769 to the clerk of court who shall maintain the results in a  
 1770 guardian file and shall make the results available to the court.  
 1771 If credit or criminal investigations are required, the court  
 1772 must consider the results of the investigations in appointing a  
 1773 guardian. Professional guardians and all employees of a  
 1774 professional guardian who have a fiduciary responsibility to a  
 1775 ward, so appointed, must resubmit, at their own expense, to an  
 1776 investigation of credit history, and undergo level 1 background  
 1777 screening as required under s. 435.03, at least every 2 years  
 1778 after the date of their appointment. At any time, the court may  
 1779 require guardians or their employees to submit to an  
 1780 investigation of credit history and undergo level 1 background  
 1781 screening as required under s. 435.03. The court must consider  
 1782 the results of these investigations in reappointing a guardian.  
 1783 This section shall not apply to a professional guardian, or to  
 1784 the employees of a professional guardian, that is a trust

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1785 company, a state banking corporation or state savings  
 1786 association authorized and qualified to exercise fiduciary  
 1787 powers in this state, or a national banking association or  
 1788 federal savings and loan association authorized and qualified to  
 1789 exercise fiduciary powers in this state.

1790 Section 24. For the purpose of incorporating the  
 1791 amendments to sections 435.03 and 435.04, Florida Statutes, in  
 1792 references thereto, subsection (2) of section 985.04, Florida  
 1793 Statutes, is reenacted to read:

1794 985.04 Oaths; records; confidential information.--

1795 (2) Records maintained by the Department of Juvenile  
 1796 Justice, including copies of records maintained by the court,  
 1797 which pertain to a child found to have committed a delinquent  
 1798 act which, if committed by an adult, would be a crime specified  
 1799 in ss. 435.03 and 435.04 may not be destroyed pursuant to this  
 1800 section for a period of 25 years after the youth's final  
 1801 referral to the department, except in cases of the death of the  
 1802 child. Such records, however, shall be sealed by the court for  
 1803 use only in meeting the screening requirements for personnel in  
 1804 s. 402.3055 and the other sections cited above, or pursuant to  
 1805 departmental rule; however, current criminal history information  
 1806 must be obtained from the Department of Law Enforcement in  
 1807 accordance with s. 943.053. The information shall be released to  
 1808 those persons specified in the above cited sections for the  
 1809 purposes of complying with those sections. The court may punish  
 1810 by contempt any person who releases or uses the records for any  
 1811 unauthorized purpose.

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1812 Section 25. For the purpose of incorporating the amendment  
 1813 to section 435.03, Florida Statutes, in references thereto,  
 1814 section 400.512, Florida Statutes, is reenacted to read:

1815 400.512 Screening of home health agency personnel; nurse  
 1816 registry personnel; and companions and homemakers.--The agency  
 1817 shall require employment or contractor screening as provided in  
 1818 chapter 435, using the level 1 standards for screening set forth  
 1819 in that chapter, for home health agency personnel; persons  
 1820 referred for employment by nurse registries; and persons  
 1821 employed by companion or homemaker services registered under s.  
 1822 400.509.

1823 (1)(a) The Agency for Health Care Administration may, upon  
 1824 request, grant exemptions from disqualification from employment  
 1825 or contracting under this section as provided in s. 435.07,  
 1826 except for health care practitioners licensed by the Department  
 1827 of Health or a regulatory board within that department.

1828 (b) The appropriate regulatory board within the Department  
 1829 of Health, or that department itself when there is no board,  
 1830 may, upon request of the licensed health care practitioner,  
 1831 grant exemptions from disqualification from employment or  
 1832 contracting under this section as provided in s. 435.07.

1833 (2) The administrator of each home health agency, the  
 1834 managing employee of each nurse registry, and the managing  
 1835 employee of each companion or homemaker service registered under  
 1836 s. 400.509 must sign an affidavit annually, under penalty of  
 1837 perjury, stating that all personnel hired, contracted with, or  
 1838 registered on or after October 1, 1994, who enter the home of a  
 1839 patient or client in their service capacity have been screened



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1840 and that its remaining personnel have worked for the home health  
 1841 agency or registrant continuously since before October 1, 1994.

1842 (3) As a prerequisite to operating as a home health  
 1843 agency, nurse registry, or companion or homemaker service under  
 1844 s. 400.509, the administrator or managing employee,  
 1845 respectively, must submit to the agency his or her name and any  
 1846 other information necessary to conduct a complete screening  
 1847 according to this section. The agency shall submit the  
 1848 information to the Department of Law Enforcement for state  
 1849 processing. The agency shall review the record of the  
 1850 administrator or manager with respect to the offenses specified  
 1851 in this section and shall notify the owner of its findings. If  
 1852 disposition information is missing on a criminal record, the  
 1853 administrator or manager, upon request of the agency, must  
 1854 obtain and supply within 30 days the missing disposition  
 1855 information to the agency. Failure to supply missing information  
 1856 within 30 days or to show reasonable efforts to obtain such  
 1857 information will result in automatic disqualification.

1858 (4) Proof of compliance with the screening requirements of  
 1859 chapter 435 shall be accepted in lieu of the requirements of  
 1860 this section if the person has been continuously employed or  
 1861 registered without a breach in service that exceeds 180 days,  
 1862 the proof of compliance is not more than 2 years old, and the  
 1863 person has been screened by the Department of Law Enforcement. A  
 1864 home health agency, nurse registry, or companion or homemaker  
 1865 service registered under s. 400.509 shall directly provide proof  
 1866 of compliance to another home health agency, nurse registry, or  
 1867 companion or homemaker service registered under s. 400.509. The  
 1868 recipient home health agency, nurse registry, or companion or

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1869 homemaker service registered under s. 400.509 may not accept any  
 1870 proof of compliance directly from the person who requires  
 1871 screening. Proof of compliance with the screening requirements  
 1872 of this section shall be provided upon request to the person  
 1873 screened by the home health agencies; nurse registries; or  
 1874 companion or homemaker services registered under s. 400.509.

1875 (5) There is no monetary liability on the part of, and no  
 1876 cause of action for damages arises against, a licensed home  
 1877 health agency, licensed nurse registry, or companion or  
 1878 homemaker service registered under s. 400.509, that, upon notice  
 1879 that the employee or contractor has been found guilty of,  
 1880 regardless of adjudication, or entered a plea of nolo contendere  
 1881 or guilty to, any offense prohibited under s. 435.03 or under  
 1882 any similar statute of another jurisdiction, terminates the  
 1883 employee or contractor, whether or not the employee or  
 1884 contractor has filed for an exemption with the agency in  
 1885 accordance with chapter 435 and whether or not the time for  
 1886 filing has expired.

1887 (6) The costs of processing the statewide correspondence  
 1888 criminal records checks must be borne by the home health agency;  
 1889 the nurse registry; or the companion or homemaker service  
 1890 registered under s. 400.509, or by the person being screened, at  
 1891 the discretion of the home health agency, nurse registry, or s.  
 1892 400.509 registrant.

1893 (7)(a) It is a misdemeanor of the first degree, punishable  
 1894 under s. 775.082 or s. 775.083, for any person willfully,  
 1895 knowingly, or intentionally to:

- 1896 1. Fail, by false statement, misrepresentation,
- 1897 impersonation, or other fraudulent means, to disclose in any

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1898 application for voluntary or paid employment a material fact  
 1899 used in making a determination as to such person's  
 1900 qualifications to be an employee under this section;

1901 2. Operate or attempt to operate an entity licensed or  
 1902 registered under this part with persons who do not meet the  
 1903 minimum standards for good moral character as contained in this  
 1904 section; or

1905 3. Use information from the criminal records obtained  
 1906 under this section for any purpose other than screening that  
 1907 person for employment as specified in this section or release  
 1908 such information to any other person for any purpose other than  
 1909 screening for employment under this section.

1910 (b) It is a felony of the third degree, punishable under  
 1911 s. 775.082, s. 775.083, or s. 775.084, for any person willfully,  
 1912 knowingly, or intentionally to use information from the juvenile  
 1913 records of a person obtained under this section for any purpose  
 1914 other than screening for employment under this section.

1915 Section 26. For the purpose of incorporating the amendment  
 1916 to section 435.03, Florida Statutes, in references thereto,  
 1917 subsection (4) of section 400.619, Florida Statutes, is  
 1918 reenacted to read:

1919 400.619 Licensure application and renewal.--

1920 (4) Upon receipt of a completed license application or  
 1921 license renewal, and the fee, the agency shall initiate a level  
 1922 1 background screening as provided under chapter 435 on the  
 1923 adult family-care home provider, the designated relief person,  
 1924 all adult household members, and all staff members. The agency  
 1925 shall conduct an onsite visit to the home that is to be  
 1926 licensed.

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1927 (a) Proof of compliance with level 1 screening standards  
 1928 which has been submitted within the previous 5 years to meet any  
 1929 facility or professional licensure requirements of the agency or  
 1930 the Department of Health satisfies the requirements of this  
 1931 subsection. Such proof must be accompanied, under penalty of  
 1932 perjury, by a copy of the person's current professional license  
 1933 and an affidavit of current compliance with the background  
 1934 screening requirements.

1935 (b) The person required to be screened must have been  
 1936 continuously employed in the same type of occupation for which  
 1937 the person is seeking employment without a breach in service  
 1938 that exceeds 180 days, and proof of compliance with the level 1  
 1939 screening requirement which is no more than 2 years old must be  
 1940 provided. Proof of compliance shall be provided directly from  
 1941 one employer or contractor to another, and not from the person  
 1942 screened. Upon request, a copy of screening results shall be  
 1943 provided to the person screened by the employer retaining  
 1944 documentation of the screening.

1945 Section 27. For the purpose of incorporating the amendment  
 1946 to section 435.03, Florida Statutes, in references thereto,  
 1947 subsection (1) of section 400.6194, Florida Statutes, is  
 1948 reenacted to read:

1949 400.6194 Denial, revocation, or suspension of a  
 1950 license.--The agency may deny, suspend, or revoke a license for  
 1951 any of the following reasons:

1952 (1) Failure of any of the persons required to undergo  
 1953 background screening under s. 400.619 to meet the level 1  
 1954 screening standards of s. 435.03, unless an exemption from  
 1955 disqualification has been provided by the agency.

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1956 Section 28. For the purpose of incorporating the amendment  
 1957 to section 435.03, Florida Statutes, in references thereto,  
 1958 section 400.953, Florida Statutes, is reenacted to read:

1959 400.953 Background screening of home medical equipment  
 1960 provider personnel.--The agency shall require employment  
 1961 screening as provided in chapter 435, using the level 1  
 1962 standards for screening set forth in that chapter, for home  
 1963 medical equipment provider personnel.

1964 (1) The agency may grant exemptions from disqualification  
 1965 from employment under this section as provided in s. 435.07.

1966 (2) The general manager of each home medical equipment  
 1967 provider must sign an affidavit annually, under penalty of  
 1968 perjury, stating that all home medical equipment provider  
 1969 personnel hired on or after July 1, 1999, who enter the home of  
 1970 a patient in the capacity of their employment have been screened  
 1971 and that its remaining personnel have worked for the home  
 1972 medical equipment provider continuously since before July 1,  
 1973 1999.

1974 (3) Proof of compliance with the screening requirements of  
 1975 s. 110.1127, s. 393.0655, s. 394.4572, s. 397.451, s. 402.305,  
 1976 s. 402.313, s. 409.175, s. 464.008, or s. 985.407 or this part  
 1977 must be accepted in lieu of the requirements of this section if  
 1978 the person has been continuously employed in the same type of  
 1979 occupation for which he or she is seeking employment without a  
 1980 breach in service that exceeds 180 days, the proof of compliance  
 1981 is not more than 2 years old, and the person has been screened  
 1982 by the Department of Law Enforcement. An employer or contractor  
 1983 shall directly provide proof of compliance to another employer  
 1984 or contractor, and a potential employer or contractor may not

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1985 accept any proof of compliance directly from the person  
 1986 requiring screening. Proof of compliance with the screening  
 1987 requirements of this section shall be provided, upon request, to  
 1988 the person screened by the home medical equipment provider.

1989 (4) There is no monetary liability on the part of, and no  
 1990 cause of action for damages arising against, a licensed home  
 1991 medical equipment provider that, upon notice that an employee  
 1992 has been found guilty of, regardless of adjudication, or entered  
 1993 a plea of nolo contendere or guilty to, any offense prohibited  
 1994 under s. 435.03 or under any similar statute of another  
 1995 jurisdiction, terminates the employee, whether or not the  
 1996 employee has filed for an exemption with the agency and whether  
 1997 or not the time for filing has expired.

1998 (5) The costs of processing the statewide correspondence  
 1999 criminal records checks must be borne by the home medical  
 2000 equipment provider or by the person being screened, at the  
 2001 discretion of the home medical equipment provider.

2002 (6) Neither the agency nor the home medical equipment  
 2003 provider may use the criminal records or juvenile records of a  
 2004 person for any purpose other than determining whether that  
 2005 person meets minimum standards of good moral character for home  
 2006 medical equipment provider personnel.

2007 (7)(a) It is a misdemeanor of the first degree, punishable  
 2008 as provided in s. 775.082 or s. 775.083, for any person  
 2009 willfully, knowingly, or intentionally to:

2010 1. Fail, by false statement, misrepresentation,  
 2011 impersonation, or other fraudulent means, to disclose in any  
 2012 application for paid employment a material fact used in making a

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2013 determination as to the person's qualifications to be an  
 2014 employee under this section;

2015 2. Operate or attempt to operate an entity licensed under  
 2016 this part with persons who do not meet the minimum standards for  
 2017 good moral character as contained in this section; or

2018 3. Use information from the criminal records obtained  
 2019 under this section for any purpose other than screening that  
 2020 person for employment as specified in this section, or release  
 2021 such information to any other person for any purpose other than  
 2022 screening for employment under this section.

2023 (b) It is a felony of the third degree, punishable as  
 2024 provided in s. 775.082, s. 775.083, or s. 775.084, for any  
 2025 person willfully, knowingly, or intentionally to use information  
 2026 from the juvenile records of a person obtained under this  
 2027 section for any purpose other than screening for employment  
 2028 under this section.

2029 Section 29. For the purpose of incorporating the amendment  
 2030 to section 435.03, Florida Statutes, in references thereto,  
 2031 subsection (32) of section 409.912, Florida Statutes, is  
 2032 reenacted to read:

2033 409.912 Cost-effective purchasing of health care.--The  
 2034 agency shall purchase goods and services for Medicaid recipients  
 2035 in the most cost-effective manner consistent with the delivery  
 2036 of quality medical care. The agency shall maximize the use of  
 2037 prepaid per capita and prepaid aggregate fixed-sum basis  
 2038 services when appropriate and other alternative service delivery  
 2039 and reimbursement methodologies, including competitive bidding  
 2040 pursuant to s. 287.057, designed to facilitate the cost-  
 2041 effective purchase of a case-managed continuum of care. The

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2042 agency shall also require providers to minimize the exposure of  
 2043 recipients to the need for acute inpatient, custodial, and other  
 2044 institutional care and the inappropriate or unnecessary use of  
 2045 high-cost services. The agency may establish prior authorization  
 2046 requirements for certain populations of Medicaid beneficiaries,  
 2047 certain drug classes, or particular drugs to prevent fraud,  
 2048 abuse, overuse, and possible dangerous drug interactions. The  
 2049 Pharmaceutical and Therapeutics Committee shall make  
 2050 recommendations to the agency on drugs for which prior  
 2051 authorization is required. The agency shall inform the  
 2052 Pharmaceutical and Therapeutics Committee of its decisions  
 2053 regarding drugs subject to prior authorization.

2054 (32) Each managed care plan that is under contract with  
 2055 the agency to provide health care services to Medicaid  
 2056 recipients shall annually conduct a background check with the  
 2057 Florida Department of Law Enforcement of all persons with  
 2058 ownership interest of 5 percent or more or executive management  
 2059 responsibility for the managed care plan and shall submit to the  
 2060 agency information concerning any such person who has been found  
 2061 guilty of, regardless of adjudication, or has entered a plea of  
 2062 nolo contendere or guilty to, any of the offenses listed in s.  
 2063 435.03.

2064 Section 30. For the purpose of incorporating the amendment  
 2065 to section 435.03, Florida Statutes, in references thereto,  
 2066 subsection (4) of section 435.07, Florida Statutes, is reenacted  
 2067 to read:

2068 435.07 Exemptions from disqualification.--Unless otherwise  
 2069 provided by law, the provisions of this section shall apply to  
 2070 exemptions from disqualification.



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2071 (4) Disqualification from employment under subsection (1)  
 2072 may not be removed from, nor may an exemption be granted to, any  
 2073 personnel who is found guilty of, regardless of adjudication, or  
 2074 who has entered a plea of nolo contendere or guilty to, any  
 2075 felony covered by s. 435.03 solely by reason of any pardon,  
 2076 executive clemency, or restoration of civil rights.

2077 Section 31. For the purpose of incorporating the amendment  
 2078 to section 435.03, Florida Statutes, in references thereto,  
 2079 paragraph (e) of subsection (1) of section 464.018, Florida  
 2080 Statutes, is reenacted to read:

2081 464.018 Disciplinary actions.--

2082 (1) The following acts constitute grounds for denial of a  
 2083 license or disciplinary action, as specified in s. 456.072(2):

2084 (e) Having been found guilty of, regardless of  
 2085 adjudication, or entered a plea of nolo contendere or guilty to,  
 2086 any offense prohibited under s. 435.03 or under any similar  
 2087 statute of another jurisdiction; or having committed an act  
 2088 which constitutes domestic violence as defined in s. 741.28.

2089 Section 32. For the purpose of incorporating the amendment  
 2090 to section 435.03, Florida Statutes, in references thereto,  
 2091 subsection (3) of section 744.309, Florida Statutes, is  
 2092 reenacted to read:

2093 744.309 Who may be appointed guardian of a resident  
 2094 ward.--

2095 (3) DISQUALIFIED PERSONS.--No person who has been  
 2096 convicted of a felony or who, from any incapacity or illness, is  
 2097 incapable of discharging the duties of a guardian, or who is  
 2098 otherwise unsuitable to perform the duties of a guardian, shall  
 2099 be appointed to act as guardian. Further, no person who has been

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2100 judicially determined to have committed abuse, abandonment, or  
 2101 neglect against a child as defined in s. 39.01 or s. 984.03(1),  
 2102 (2), and (37), or who has been found guilty of, regardless of  
 2103 adjudication, or entered a plea of nolo contendere or guilty to,  
 2104 any offense prohibited under s. 435.03 or under any similar  
 2105 statute of another jurisdiction, shall be appointed to act as a  
 2106 guardian. Except as provided in subsection (5) or subsection  
 2107 (6), a person who provides substantial services to the proposed  
 2108 ward in a professional or business capacity, or a creditor of  
 2109 the proposed ward, may not be appointed guardian and retain that  
 2110 previous professional or business relationship. A person may not  
 2111 be appointed a guardian if he or she is in the employ of any  
 2112 person, agency, government, or corporation that provides service  
 2113 to the proposed ward in a professional or business capacity,  
 2114 except that a person so employed may be appointed if he or she  
 2115 is the spouse, adult child, parent, or sibling of the proposed  
 2116 ward or the court determines that the potential conflict of  
 2117 interest is insubstantial and that the appointment would clearly  
 2118 be in the proposed ward's best interest. The court may not  
 2119 appoint a guardian in any other circumstance in which a conflict  
 2120 of interest may occur.

2121 Section 33. For the purpose of incorporating the amendment  
 2122 to section 435.03, Florida Statutes, in references thereto,  
 2123 subsection (12) of section 744.474, Florida Statutes, is  
 2124 reenacted to read:

2125 744.474 Reasons for removal of guardian.--A guardian may  
 2126 be removed for any of the following reasons, and the removal  
 2127 shall be in addition to any other penalties prescribed by law:

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2128 (12) Having been found guilty of, regardless of  
 2129 adjudication, or entered a plea of nolo contendere or guilty to,  
 2130 any offense prohibited under s. 435.03 or under any similar  
 2131 statute of another jurisdiction.

2132 Section 34. For the purpose of incorporating the amendment  
 2133 to section 435.03, Florida Statutes, in references thereto,  
 2134 subsection (4) of section 985.407, Florida Statutes, is  
 2135 reenacted to read:

2136 985.407 Departmental contracting powers; personnel  
 2137 standards and screening.--

2138 (4) The department shall require employment screening  
 2139 pursuant to chapter 435, using the level 1 standards for  
 2140 screening set forth in that chapter, for personnel in  
 2141 delinquency facilities, services, and programs.

2142 Section 35. For the purpose of incorporating the amendment  
 2143 to section 435.04, Florida Statutes, in references thereto,  
 2144 paragraph (b) of subsection (2) of section 39.001, Florida  
 2145 Statutes, is reenacted to read:

2146 39.001 Purposes and intent; personnel standards and  
 2147 screening.--

2148 (2) DEPARTMENT CONTRACTS.--The department may contract  
 2149 with the Federal Government, other state departments and  
 2150 agencies, county and municipal governments and agencies, public  
 2151 and private agencies, and private individuals and corporations  
 2152 in carrying out the purposes of, and the responsibilities  
 2153 established in, this chapter.

2154 (b) The department shall require employment screening, and  
 2155 rescreening no less frequently than once every 5 years, pursuant

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2156 to chapter 435, using the level 2 standards set forth in that  
 2157 chapter for personnel in programs for children or youths.

2158 Section 36. For the purpose of incorporating the amendment  
 2159 to section 435.04, Florida Statutes, in references thereto,  
 2160 subsection (1) of section 39.821, Florida Statutes, is reenacted  
 2161 to read:

2162 39.821 Qualifications of guardians ad litem.--

2163 (1) Because of the special trust or responsibility placed  
 2164 in a guardian ad litem, the Guardian Ad Litem Program may use  
 2165 any private funds collected by the program, or any state funds  
 2166 so designated, to conduct a security background investigation  
 2167 before certifying a volunteer to serve. A security background  
 2168 investigation must include, but need not be limited to,  
 2169 employment history checks, checks of references, local criminal  
 2170 records checks through local law enforcement agencies, and  
 2171 statewide criminal records checks through the Department of Law  
 2172 Enforcement. Upon request, an employer shall furnish a copy of  
 2173 the personnel record for the employee or former employee who is  
 2174 the subject of a security background investigation conducted  
 2175 under this section. The information contained in the personnel  
 2176 record may include, but need not be limited to, disciplinary  
 2177 matters and the reason why the employee was terminated from  
 2178 employment. An employer who releases a personnel record for  
 2179 purposes of a security background investigation is presumed to  
 2180 have acted in good faith and is not liable for information  
 2181 contained in the record without a showing that the employer  
 2182 maliciously falsified the record. A security background  
 2183 investigation conducted under this section must ensure that a  
 2184 person is not certified as a guardian ad litem if the person has

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2185 been convicted of, regardless of adjudication, or entered a plea  
 2186 of nolo contendere or guilty to, any offense prohibited under  
 2187 the provisions of the Florida Statutes specified in s. 435.04(2)  
 2188 or under any similar law in another jurisdiction. Before  
 2189 certifying an applicant to serve as a guardian ad litem, the  
 2190 chief judge of the circuit court may request a federal criminal  
 2191 records check of the applicant through the Federal Bureau of  
 2192 Investigation. In analyzing and evaluating the information  
 2193 obtained in the security background investigation, the program  
 2194 must give particular emphasis to past activities involving  
 2195 children, including, but not limited to, child-related criminal  
 2196 offenses or child abuse. The program has the sole discretion in  
 2197 determining whether to certify a person based on his or her  
 2198 security background investigation. The information collected  
 2199 pursuant to the security background investigation is  
 2200 confidential and exempt from s. 119.07(1).

2201 Section 37. For the purpose of incorporating the amendment  
 2202 to section 435.04, Florida Statutes, in references thereto,  
 2203 paragraphs (a) and (c) of subsection (3) of section 110.1127,  
 2204 Florida Statutes, are reenacted to read:

2205 110.1127 Employee security checks.--

2206 (3)(a) All positions in programs providing care to  
 2207 children, the developmentally disabled, or vulnerable adults for  
 2208 15 hours or more per week; all permanent and temporary employee  
 2209 positions of the central abuse hotline; and all persons working  
 2210 under contract who have access to abuse records are deemed to be  
 2211 persons and positions of special trust or responsibility, and  
 2212 require employment screening pursuant to chapter 435, using the  
 2213 level 2 standards set forth in that chapter.

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2214 (c) All persons and employees in such positions of trust  
 2215 or responsibility shall be required to undergo security  
 2216 background investigations as a condition of employment and  
 2217 continued employment. For the purposes of this subsection,  
 2218 security background investigations shall be conducted as  
 2219 provided in chapter 435, using the level 2 standards for  
 2220 screening set forth in that chapter.

2221 Section 38. For the purpose of incorporating the amendment  
 2222 to section 435.04, Florida Statutes, in references thereto,  
 2223 paragraph (a) of subsection (12) of section 112.0455, Florida  
 2224 Statutes, is reenacted to read:

2225 112.0455 Drug-Free Workplace Act.--

2226 (12) DRUG-TESTING STANDARDS; LABORATORIES.--

2227 (a) A laboratory may analyze initial or confirmation drug  
 2228 specimens only if:

2229 1. The laboratory is licensed and approved by the Agency  
 2230 for Health Care Administration using criteria established by the  
 2231 United States Department of Health and Human Services as general  
 2232 guidelines for modeling the state drug testing program. Each  
 2233 applicant for licensure must comply with the following  
 2234 requirements:

2235 a. Upon receipt of a completed, signed, and dated  
 2236 application, the agency shall require background screening, in  
 2237 accordance with the level 2 standards for screening set forth in  
 2238 chapter 435, of the managing employee, or other similarly titled  
 2239 individual responsible for the daily operation of the  
 2240 laboratory, and of the financial officer, or other similarly  
 2241 titled individual who is responsible for the financial operation  
 2242 of the laboratory, including billings for services. The

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2243 applicant must comply with the procedures for level 2 background  
 2244 screening as set forth in chapter 435, as well as the  
 2245 requirements of s. 435.03(3).

2246 b. The agency may require background screening of any  
 2247 other individual who is an applicant if the agency has probable  
 2248 cause to believe that he or she has been convicted of an offense  
 2249 prohibited under the level 2 standards for screening set forth  
 2250 in chapter 435.

2251 c. Proof of compliance with the level 2 background  
 2252 screening requirements of chapter 435 which has been submitted  
 2253 within the previous 5 years in compliance with any other health  
 2254 care licensure requirements of this state is acceptable in  
 2255 fulfillment of screening requirements.

2256 d. A provisional license may be granted to an applicant  
 2257 when each individual required by this section to undergo  
 2258 background screening has met the standards for the Department of  
 2259 Law Enforcement background check, but the agency has not yet  
 2260 received background screening results from the Federal Bureau of  
 2261 Investigation, or a request for a disqualification exemption has  
 2262 been submitted to the agency as set forth in chapter 435, but a  
 2263 response has not yet been issued. A license may be granted to  
 2264 the applicant upon the agency's receipt of a report of the  
 2265 results of the Federal Bureau of Investigation background  
 2266 screening for each individual required by this section to  
 2267 undergo background screening which confirms that all standards  
 2268 have been met, or upon the granting of a disqualification  
 2269 exemption by the agency as set forth in chapter 435. Any other  
 2270 person who is required to undergo level 2 background screening  
 2271 may serve in his or her capacity pending the agency's receipt of

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2272 the report from the Federal Bureau of Investigation. However,  
 2273 the person may not continue to serve if the report indicates any  
 2274 violation of background screening standards and a  
 2275 disqualification exemption has not been requested of and granted  
 2276 by the agency as set forth in chapter 435.

2277 e. Each applicant must submit to the agency, with its  
 2278 application, a description and explanation of any exclusions,  
 2279 permanent suspensions, or terminations of the applicant from the  
 2280 Medicare or Medicaid programs. Proof of compliance with the  
 2281 requirements for disclosure of ownership and control interests  
 2282 under the Medicaid or Medicare programs shall be accepted in  
 2283 lieu of this submission.

2284 f. Each applicant must submit to the agency a description  
 2285 and explanation of any conviction of an offense prohibited under  
 2286 the level 2 standards of chapter 435 by a member of the board of  
 2287 directors of the applicant, its officers, or any individual  
 2288 owning 5 percent or more of the applicant. This requirement does  
 2289 not apply to a director of a not-for-profit corporation or  
 2290 organization if the director serves solely in a voluntary  
 2291 capacity for the corporation or organization, does not regularly  
 2292 take part in the day-to-day operational decisions of the  
 2293 corporation or organization, receives no remuneration for his or  
 2294 her services on the corporation or organization's board of  
 2295 directors, and has no financial interest and has no family  
 2296 members with a financial interest in the corporation or  
 2297 organization, provided that the director and the not-for-profit  
 2298 corporation or organization include in the application a  
 2299 statement affirming that the director's relationship to the  
 2300 corporation satisfies the requirements of this sub-subparagraph.



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2301 g. A license may not be granted to any applicant if the  
 2302 applicant or managing employee has been found guilty of,  
 2303 regardless of adjudication, or has entered a plea of nolo  
 2304 contendere or guilty to, any offense prohibited under the level  
 2305 2 standards for screening set forth in chapter 435, unless an  
 2306 exemption from disqualification has been granted by the agency  
 2307 as set forth in chapter 435.

2308 h. The agency may deny or revoke licensure if the  
 2309 applicant:

2310 (I) Has falsely represented a material fact in the  
 2311 application required by sub-subparagraph e. or sub-subparagraph  
 2312 f., or has omitted any material fact from the application  
 2313 required by sub-subparagraph e. or sub-subparagraph f.; or

2314 (II) Has had prior action taken against the applicant  
 2315 under the Medicaid or Medicare program as set forth in sub-  
 2316 subparagraph e.

2317 i. An application for license renewal must contain the  
 2318 information required under sub-subparagraphs e. and f.

2319 2. The laboratory has written procedures to ensure chain  
 2320 of custody.

2321 3. The laboratory follows proper quality control  
 2322 procedures, including, but not limited to:

2323 a. The use of internal quality controls including the use  
 2324 of samples of known concentrations which are used to check the  
 2325 performance and calibration of testing equipment, and periodic  
 2326 use of blind samples for overall accuracy.

2327 b. An internal review and certification process for drug  
 2328 test results, conducted by a person qualified to perform that  
 2329 function in the testing laboratory.

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2330 c. Security measures implemented by the testing laboratory  
 2331 to preclude adulteration of specimens and drug test results.

2332 d. Other necessary and proper actions taken to ensure  
 2333 reliable and accurate drug test results.

2334 Section 39. For the purpose of incorporating the amendment  
 2335 to section 435.04, Florida Statutes, in references thereto,  
 2336 subsections (1), (2), and (4) of section 381.0059, Florida  
 2337 Statutes, are reenacted to read:

2338 381.0059 Background screening requirements for school  
 2339 health services personnel.--

2340 (1) Pursuant to the provisions of chapter 435, any person  
 2341 who provides services under a school health services plan  
 2342 pursuant to s. 381.0056 must meet level 2 screening requirements  
 2343 as described in s. 435.04. A person may satisfy the requirements  
 2344 of this subsection by submitting proof of compliance with the  
 2345 requirements of level 2 screening conducted within 12 months  
 2346 before the date that person initially provides services under a  
 2347 school health services plan.

2348 (2) A person may provide services under a school health  
 2349 services plan pursuant to s. 381.0056 prior to the completion of  
 2350 level 2 screening. However, pending the results of the  
 2351 screening, such person may not be alone with a minor.

2352 (4) Under penalty of perjury, each person who provides  
 2353 services under a school health plan pursuant to s. 381.0056 must  
 2354 attest to meeting the level 2 screening requirements for  
 2355 participation under the plan and agree to inform his or her  
 2356 employer immediately if convicted of any disqualifying offense  
 2357 while providing services under a plan.

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2358 Section 40. For the purpose of incorporating the amendment  
 2359 to section 435.04, Florida Statutes, in references thereto,  
 2360 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (1) of  
 2361 section 381.60225, Florida Statutes, are reenacted to read:

2362 381.60225 Background screening.--

2363 (1) Each applicant for certification must comply with the  
 2364 following requirements:

2365 (a) Upon receipt of a completed, signed, and dated  
 2366 application, the Agency for Health Care Administration shall  
 2367 require background screening, in accordance with the level 2  
 2368 standards for screening set forth in chapter 435, of the  
 2369 managing employee, or other similarly titled individual  
 2370 responsible for the daily operation of the organization, agency,  
 2371 or entity, and financial officer, or other similarly titled  
 2372 individual who is responsible for the financial operation of the  
 2373 organization, agency, or entity, including billings for  
 2374 services. The applicant must comply with the procedures for  
 2375 level 2 background screening as set forth in chapter 435, as  
 2376 well as the requirements of s. 435.03(3).

2377 (b) The Agency for Health Care Administration may require  
 2378 background screening of any other individual who is an applicant  
 2379 if the Agency for Health Care Administration has probable cause  
 2380 to believe that he or she has been convicted of a crime or has  
 2381 committed any other offense prohibited under the level 2  
 2382 standards for screening set forth in chapter 435.

2383 (c) Proof of compliance with the level 2 background  
 2384 screening requirements of chapter 435 which has been submitted  
 2385 within the previous 5 years in compliance with any other health

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2386 care licensure requirements of this state is acceptable in  
 2387 fulfillment of the requirements of paragraph (a).

2388 (d) A provisional certification may be granted to the  
 2389 organization, agency, or entity when each individual required by  
 2390 this section to undergo background screening has met the  
 2391 standards for the Department of Law Enforcement background  
 2392 check, but the agency has not yet received background screening  
 2393 results from the Federal Bureau of Investigation, or a request  
 2394 for a disqualification exemption has been submitted to the  
 2395 agency as set forth in chapter 435, but a response has not yet  
 2396 been issued. A standard certification may be granted to the  
 2397 organization, agency, or entity upon the agency's receipt of a  
 2398 report of the results of the Federal Bureau of Investigation  
 2399 background screening for each individual required by this  
 2400 section to undergo background screening which confirms that all  
 2401 standards have been met, or upon the granting of a  
 2402 disqualification exemption by the agency as set forth in chapter  
 2403 435. Any other person who is required to undergo level 2  
 2404 background screening may serve in his or her capacity pending  
 2405 the agency's receipt of the report from the Federal Bureau of  
 2406 Investigation. However, the person may not continue to serve if  
 2407 the report indicates any violation of background screening  
 2408 standards and a disqualification exemption has not been  
 2409 requested of and granted by the agency as set forth in chapter  
 2410 435.

2411 (f) Each applicant must submit to the agency a description  
 2412 and explanation of any conviction of an offense prohibited under  
 2413 the level 2 standards of chapter 435 by a member of the board of  
 2414 directors of the applicant, its officers, or any individual

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2415 owning 5 percent or more of the applicant. This requirement does  
 2416 not apply to a director of a not-for-profit corporation or  
 2417 organization if the director serves solely in a voluntary  
 2418 capacity for the corporation or organization, does not regularly  
 2419 take part in the day-to-day operational decisions of the  
 2420 corporation or organization, receives no remuneration for his or  
 2421 her services on the corporation or organization's board of  
 2422 directors, and has no financial interest and has no family  
 2423 members with a financial interest in the corporation or  
 2424 organization, provided that the director and the not-for-profit  
 2425 corporation or organization include in the application a  
 2426 statement affirming that the director's relationship to the  
 2427 corporation satisfies the requirements of this paragraph.

2428 (g) The agency may not certify any organization, agency,  
 2429 or entity if any applicant or managing employee has been found  
 2430 guilty of, regardless of adjudication, or has entered a plea of  
 2431 nolo contendere or guilty to, any offense prohibited under the  
 2432 level 2 standards for screening set forth in chapter 435, unless  
 2433 an exemption from disqualification has been granted by the  
 2434 agency as set forth in chapter 435.

2435 Section 41. For the purpose of incorporating the amendment  
 2436 to section 435.04, Florida Statutes, in references thereto,  
 2437 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (7) of  
 2438 section 383.305, Florida Statutes, are reenacted to read:

2439 383.305 Licensure; issuance, renewal, denial, suspension,  
 2440 revocation; fees; background screening.--

2441 (7) Each applicant for licensure must comply with the  
 2442 following requirements:

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2443 (a) Upon receipt of a completed, signed, and dated  
2444 application, the agency shall require background screening, in  
2445 accordance with the level 2 standards for screening set forth in  
2446 chapter 435, of the managing employee, or other similarly titled  
2447 individual who is responsible for the daily operation of the  
2448 center, and of the financial officer, or other similarly titled  
2449 individual who is responsible for the financial operation of the  
2450 center, including billings for patient care and services. The  
2451 applicant must comply with the procedures for level 2 background  
2452 screening as set forth in chapter 435 as well as the  
2453 requirements of s. 435.03(3).

2454 (b) The agency may require background screening of any  
2455 other individual who is an applicant if the agency has probable  
2456 cause to believe that he or she has been convicted of a crime or  
2457 has committed any other offense prohibited under the level 2  
2458 standards for screening set forth in chapter 435.

2459 (c) Proof of compliance with the level 2 background  
2460 screening requirements of chapter 435 which has been submitted  
2461 within the previous 5 years in compliance with any other health  
2462 care licensure requirements of this state is acceptable in  
2463 fulfillment of the requirements of paragraph (a).

2464 (d) A provisional license may be granted to an applicant  
2465 when each individual required by this section to undergo  
2466 background screening has met the standards for the Department of  
2467 Law Enforcement background check, but the agency has not yet  
2468 received background screening results from the Federal Bureau of  
2469 Investigation, or a request for a disqualification exemption has  
2470 been submitted to the agency as set forth in chapter 435 but a  
2471 response has not yet been issued. A standard license may be

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2472 granted to the applicant upon the agency's receipt of a report  
 2473 of the results of the Federal Bureau of Investigation background  
 2474 screening for each individual required by this section to  
 2475 undergo background screening which confirms that all standards  
 2476 have been met, or upon the granting of a disqualification  
 2477 exemption by the agency as set forth in chapter 435. Any other  
 2478 person who is required to undergo level 2 background screening  
 2479 may serve in his or her capacity pending the agency's receipt of  
 2480 the report from the Federal Bureau of Investigation. However,  
 2481 the person may not continue to serve if the report indicates any  
 2482 violation of background screening standards and a  
 2483 disqualification exemption has not been requested of and granted  
 2484 by the agency as set forth in chapter 435.

2485 (f) Each applicant must submit to the agency a description  
 2486 and explanation of any conviction of an offense prohibited under  
 2487 the level 2 standards of chapter 435 by a member of the board of  
 2488 directors of the applicant, its officers, or any individual  
 2489 owning 5 percent or more of the applicant. This requirement does  
 2490 not apply to a director of a not-for-profit corporation or  
 2491 organization if the director serves solely in a voluntary  
 2492 capacity for the corporation or organization, does not regularly  
 2493 take part in the day-to-day operational decisions of the  
 2494 corporation or organization, receives no remuneration for his or  
 2495 her services on the corporation or organization's board of  
 2496 directors, and has no financial interest and has no family  
 2497 members with a financial interest in the corporation or  
 2498 organization, provided that the director and the not-for-profit  
 2499 corporation or organization include in the application a

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2500 statement affirming that the director's relationship to the  
 2501 corporation satisfies the requirements of this paragraph.

2502 (g) A license may not be granted to an applicant if the  
 2503 applicant or managing employee has been found guilty of,  
 2504 regardless of adjudication, or has entered a plea of nolo  
 2505 contendere or guilty to, any offense prohibited under the level  
 2506 2 standards for screening set forth in chapter 435, unless an  
 2507 exemption from disqualification has been granted by the agency  
 2508 as set forth in chapter 435.

2509 Section 42. For the purpose of incorporating the amendment  
 2510 to section 435.04, Florida Statutes, in references thereto,  
 2511 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (3) of  
 2512 section 390.015, Florida Statutes, are reenacted to read:

2513 390.015 Application for license.--

2514 (3) Each applicant for licensure must comply with the  
 2515 following requirements:

2516 (a) Upon receipt of a completed, signed, and dated  
 2517 application, the agency shall require background screening, in  
 2518 accordance with the level 2 standards for screening set forth in  
 2519 chapter 435, of the managing employee, or other similarly titled  
 2520 individual who is responsible for the daily operation of the  
 2521 clinic, and financial officer, or other similarly titled  
 2522 individual who is responsible for the financial operation of the  
 2523 clinic, including billings for patient care and services. The  
 2524 applicant must comply with the procedures for level 2 background  
 2525 screening as set forth in chapter 435, as well as the  
 2526 requirements of s. 435.03(3).

2527 (b) The agency may require background screening of any  
 2528 other individual who is an applicant if the agency has probable



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2529 cause to believe that he or she has been convicted of a crime or  
 2530 has committed any other offense prohibited under the level 2  
 2531 standards for screening set forth in chapter 435.

2532 (c) Proof of compliance with the level 2 background  
 2533 screening requirements of chapter 435 which has been submitted  
 2534 within the previous 5 years in compliance with any other health  
 2535 care licensure requirements of this state is acceptable in  
 2536 fulfillment of the requirements of paragraph (a).

2537 (d) A provisional license may be granted to an applicant  
 2538 when each individual required by this section to undergo  
 2539 background screening has met the standards for the Department of  
 2540 Law Enforcement background check, but the agency has not yet  
 2541 received background screening results from the Federal Bureau of  
 2542 Investigation, or a request for a disqualification exemption has  
 2543 been submitted to the agency as set forth in chapter 435 but a  
 2544 response has not yet been issued. A standard license may be  
 2545 granted to the applicant upon the agency's receipt of a report  
 2546 of the results of the Federal Bureau of Investigation background  
 2547 screening for each individual required by this section to  
 2548 undergo background screening which confirms that all standards  
 2549 have been met, or upon the granting of a disqualification  
 2550 exemption by the agency as set forth in chapter 435. Any other  
 2551 person who is required to undergo level 2 background screening  
 2552 may serve in his or her capacity pending the agency's receipt of  
 2553 the report from the Federal Bureau of Investigation. However,  
 2554 the person may not continue to serve if the report indicates any  
 2555 violation of background screening standards and a  
 2556 disqualification exemption has not been requested of and granted  
 2557 by the agency as set forth in chapter 435.

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2558 (f) Each applicant must submit to the agency a description  
 2559 and explanation of any conviction of an offense prohibited under  
 2560 the level 2 standards of chapter 435 by a member of the board of  
 2561 directors of the applicant, its officers, or any individual  
 2562 owning 5 percent or more of the applicant. This requirement does  
 2563 not apply to a director of a not-for-profit corporation or  
 2564 organization if the director serves solely in a voluntary  
 2565 capacity for the corporation or organization, does not regularly  
 2566 take part in the day-to-day operational decisions of the  
 2567 corporation or organization, receives no remuneration for his or  
 2568 her services on the corporation or organization's board of  
 2569 directors, and has no financial interest and has no family  
 2570 members with a financial interest in the corporation or  
 2571 organization, provided that the director and the not-for-profit  
 2572 corporation or organization include in the application a  
 2573 statement affirming that the director's relationship to the  
 2574 corporation satisfies the requirements of this paragraph.

2575 (g) A license may not be granted to an applicant if the  
 2576 applicant or managing employee has been found guilty of,  
 2577 regardless of adjudication, or has entered a plea of nolo  
 2578 contendere or guilty to, any offense prohibited under the level  
 2579 2 standards for screening set forth in chapter 435, unless an  
 2580 exemption from disqualification has been granted by the agency  
 2581 as set forth in chapter 435.

2582 Section 43. For the purpose of incorporating the amendment  
 2583 to section 435.04, Florida Statutes, in references thereto,  
 2584 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (13)  
 2585 of section 394.875, Florida Statutes, are reenacted to read:

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2586 394.875 Crisis stabilization units, residential treatment  
 2587 facilities, and residential treatment centers for children and  
 2588 adolescents; authorized services; license required; penalties.--

2589 (13) Each applicant for licensure must comply with the  
 2590 following requirements:

2591 (a) Upon receipt of a completed, signed, and dated  
 2592 application, the agency shall require background screening, in  
 2593 accordance with the level 2 standards for screening set forth in  
 2594 chapter 435, of the managing employee and financial officer, or  
 2595 other similarly titled individual who is responsible for the  
 2596 financial operation of the facility, including billings for  
 2597 client care and services. The applicant must comply with the  
 2598 procedures for level 2 background screening as set forth in  
 2599 chapter 435, as well as the requirements of s. 435.03(3).

2600 (b) The agency may require background screening of any  
 2601 other individual who is an applicant if the agency has probable  
 2602 cause to believe that he or she has been convicted of a crime or  
 2603 has committed any other offense prohibited under the level 2  
 2604 standards for screening set forth in chapter 435.

2605 (c) Proof of compliance with the level 2 background  
 2606 screening requirements of chapter 435 which has been submitted  
 2607 within the previous 5 years in compliance with any other health  
 2608 care licensure requirements of this state is acceptable in  
 2609 fulfillment of the requirements of paragraph (a).

2610 (d) A provisional license may be granted to an applicant  
 2611 when each individual required by this section to undergo  
 2612 background screening has met the standards for the Department of  
 2613 Law Enforcement background check, but the agency has not yet  
 2614 received background screening results from the Federal Bureau of

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2615 Investigation, or a request for a disqualification exemption has  
 2616 been submitted to the agency as set forth in chapter 435, but a  
 2617 response has not yet been issued. A standard license may be  
 2618 granted to the applicant upon the agency's receipt of a report  
 2619 of the results of the Federal Bureau of Investigation background  
 2620 screening for each individual required by this section to  
 2621 undergo background screening which confirms that all standards  
 2622 have been met, or upon the granting of a disqualification  
 2623 exemption by the agency as set forth in chapter 435. Any other  
 2624 person who is required to undergo level 2 background screening  
 2625 may serve in his or her capacity pending the agency's receipt of  
 2626 the report from the Federal Bureau of Investigation. However,  
 2627 the person may not continue to serve if the report indicates any  
 2628 violation of background screening standards and a  
 2629 disqualification exemption has not been requested of and granted  
 2630 by the agency as set forth in chapter 435.

2631 (f) Each applicant must submit to the agency a description  
 2632 and explanation of any conviction of an offense prohibited under  
 2633 the level 2 standards of chapter 435 by a member of the board of  
 2634 directors of the applicant, its officers, or any individual  
 2635 owning 5 percent or more of the applicant. This requirement does  
 2636 not apply to a director of a not-for-profit corporation or  
 2637 organization if the director serves solely in a voluntary  
 2638 capacity for the corporation or organization, does not regularly  
 2639 take part in the day-to-day operational decisions of the  
 2640 corporation or organization, receives no remuneration for his or  
 2641 her services on the corporation or organization's board of  
 2642 directors, and has no financial interest and has no family  
 2643 members with a financial interest in the corporation or

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2644 organization, provided that the director and the not-for-profit  
 2645 corporation or organization include in the application a  
 2646 statement affirming that the director's relationship to the  
 2647 corporation satisfies the requirements of this paragraph.

2648 (g) A license may not be granted to an applicant if the  
 2649 applicant or managing employee has been found guilty of,  
 2650 regardless of adjudication, or has entered a plea of nolo  
 2651 contendere or guilty to, any offense prohibited under the level  
 2652 2 standards for screening set forth in chapter 435, unless an  
 2653 exemption from disqualification has been granted by the agency  
 2654 as set forth in chapter 435.

2655 Section 44. For the purpose of incorporating the amendment  
 2656 to section 435.04, Florida Statutes, in references thereto,  
 2657 subsections (1), (2), (3), (4), (6), and (8) of section  
 2658 395.0055, Florida Statutes, are reenacted to read:

2659 395.0055 Background screening.--Each applicant for  
 2660 licensure must comply with the following requirements:

2661 (1) Upon receipt of a completed, signed, and dated  
 2662 application, the agency shall require background screening of  
 2663 the managing employee in accordance with the level 2 standards  
 2664 for screening set forth in chapter 435, as well as the  
 2665 requirements of s. 435.03(3).

2666 (2) The agency may require background screening for a  
 2667 member of the board of directors of the licensee, or an officer  
 2668 or an individual owning 5 percent or more of the licensee, if  
 2669 the agency has probable cause to believe that such individual  
 2670 has been convicted of an offense prohibited under the level 2  
 2671 standards for screening set forth in chapter 435.

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2672 (3) Proof of compliance with the level 2 background  
2673 screening requirements of chapter 435 which has been submitted  
2674 within the previous 5 years in compliance with any other health  
2675 care licensure requirements of this state is acceptable in  
2676 fulfillment of subsection (1).

2677 (4) A provisional license may be granted to an applicant  
2678 when each individual required by this section to undergo  
2679 background screening has met the standards for the Department of  
2680 Law Enforcement background check, but the agency has not yet  
2681 received background screening results from the Federal Bureau of  
2682 Investigation, or a request for a disqualification exemption has  
2683 been submitted to the agency as set forth in chapter 435 but a  
2684 response has not yet been issued. A standard license may be  
2685 granted to the applicant upon the agency's receipt of a report  
2686 of the results of the Federal Bureau of Investigation background  
2687 screening for each individual required by this section to  
2688 undergo background screening which confirms that all standards  
2689 have been met, or upon the granting of a disqualification  
2690 exemption by the agency as set forth in chapter 435. Any other  
2691 person who is required to undergo level 2 background screening  
2692 may serve in his or her capacity pending the agency's receipt of  
2693 the report from the Federal Bureau of Investigation; however,  
2694 the person may not continue to serve if the report indicates any  
2695 violation of background screening standards and a  
2696 disqualification exemption has not been requested of and granted  
2697 by the agency as set forth in chapter 435.

2698 (6) Each applicant must submit to the agency a description  
2699 and explanation of any conviction of an offense prohibited under  
2700 the level 2 standards of chapter 435 by a member of the board of

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2701 directors of the applicant, its officers, or any individual  
 2702 owning 5 percent or more of the applicant.

2703 (8) A license may not be granted to an applicant if the  
 2704 applicant or managing employee has been found guilty of,  
 2705 regardless of adjudication, or has entered a plea of nolo  
 2706 contendere or guilty to, any offense prohibited under the level  
 2707 2 standards for screening set forth in chapter 435, unless an  
 2708 exemption from disqualification has been granted by the agency  
 2709 as set forth in chapter 435.

2710 Section 45. For the purpose of incorporating the amendment  
 2711 to section 435.04, Florida Statutes, in references thereto,  
 2712 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (4) of  
 2713 section 395.0199, Florida Statutes, are reenacted to read:

2714 395.0199 Private utilization review.--

2715 (4) Each applicant for registration must comply with the  
 2716 following requirements:

2717 (a) Upon receipt of a completed, signed, and dated  
 2718 application, the agency shall require background screening, in  
 2719 accordance with the level 2 standards for screening set forth in  
 2720 chapter 435, of the managing employee or other similarly titled  
 2721 individual who is responsible for the operation of the entity.  
 2722 The applicant must comply with the procedures for level 2  
 2723 background screening as set forth in chapter 435, as well as the  
 2724 requirements of s. 435.03(3).

2725 (b) The agency may require background screening of any  
 2726 other individual who is an applicant, if the agency has probable  
 2727 cause to believe that he or she has been convicted of a crime or  
 2728 has committed any other offense prohibited under the level 2  
 2729 standards for screening set forth in chapter 435.

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2730 (c) Proof of compliance with the level 2 background  
 2731 screening requirements of chapter 435 which has been submitted  
 2732 within the previous 5 years in compliance with any other health  
 2733 care licensure requirements of this state is acceptable in  
 2734 fulfillment of the requirements of paragraph (a).

2735 (d) A provisional registration may be granted to an  
 2736 applicant when each individual required by this section to  
 2737 undergo background screening has met the standards for the  
 2738 Department of Law Enforcement background check, but the agency  
 2739 has not yet received background screening results from the  
 2740 Federal Bureau of Investigation, or a request for a  
 2741 disqualification exemption has been submitted to the agency as  
 2742 set forth in chapter 435 but a response has not yet been issued.  
 2743 A standard registration may be granted to the applicant upon the  
 2744 agency's receipt of a report of the results of the Federal  
 2745 Bureau of Investigation background screening for each individual  
 2746 required by this section to undergo background screening which  
 2747 confirms that all standards have been met, or upon the granting  
 2748 of a disqualification exemption by the agency as set forth in  
 2749 chapter 435. Any other person who is required to undergo level 2  
 2750 background screening may serve in his or her capacity pending  
 2751 the agency's receipt of the report from the Federal Bureau of  
 2752 Investigation. However, the person may not continue to serve if  
 2753 the report indicates any violation of background screening  
 2754 standards and a disqualification exemption has not been  
 2755 requested of and granted by the agency as set forth in chapter  
 2756 435.

2757 (f) Each applicant must submit to the agency a description  
 2758 and explanation of any conviction of an offense prohibited under



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2759 the level 2 standards of chapter 435 by a member of the board of  
 2760 directors of the applicant, its officers, or any individual  
 2761 owning 5 percent or more of the applicant. This requirement does  
 2762 not apply to a director of a not-for-profit corporation or  
 2763 organization if the director serves solely in a voluntary  
 2764 capacity for the corporation or organization, does not regularly  
 2765 take part in the day-to-day operational decisions of the  
 2766 corporation or organization, receives no remuneration for his or  
 2767 her services on the corporation or organization's board of  
 2768 directors, and has no financial interest and has no family  
 2769 members with a financial interest in the corporation or  
 2770 organization, provided that the director and the not-for-profit  
 2771 corporation or organization include in the application a  
 2772 statement affirming that the director's relationship to the  
 2773 corporation satisfies the requirements of this paragraph.

2774 (g) A registration may not be granted to an applicant if  
 2775 the applicant or managing employee has been found guilty of,  
 2776 regardless of adjudication, or has entered a plea of nolo  
 2777 contendere or guilty to, any offense prohibited under the level  
 2778 2 standards for screening set forth in chapter 435, unless an  
 2779 exemption from disqualification has been granted by the agency  
 2780 as set forth in chapter 435.

2781 Section 46. For the purpose of incorporating the amendment  
 2782 to section 435.04, Florida Statutes, in references thereto,  
 2783 paragraph (a) of subsection (1) of section 397.451, Florida  
 2784 Statutes, is reenacted to read:

2785 397.451 Background checks of service provider personnel.--

2786 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND  
 2787 EXCEPTIONS.--

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2788 (a) Background checks shall apply as follows:

2789 1. All owners, directors, and chief financial officers of  
 2790 service providers are subject to level 2 background screening as  
 2791 provided under chapter 435.

2792 2. All service provider personnel who have direct contact  
 2793 with children receiving services or with adults who are  
 2794 developmentally disabled receiving services are subject to level  
 2795 2 background screening as provided under chapter 435.

2796 Section 47. For the purpose of incorporating the amendment  
 2797 to section 435.04, Florida Statutes, in references thereto,  
 2798 paragraphs (a), (b), (c), (d), and (f) of subsection (4) of  
 2799 section 400.071, Florida Statutes, are reenacted to read:

2800 400.071 Application for license.--

2801 (4) Each applicant for licensure must comply with the  
 2802 following requirements:

2803 (a) Upon receipt of a completed, signed, and dated  
 2804 application, the agency shall require background screening of  
 2805 the applicant, in accordance with the level 2 standards for  
 2806 screening set forth in chapter 435. As used in this subsection,  
 2807 the term "applicant" means the facility administrator, or  
 2808 similarly titled individual who is responsible for the day-to-  
 2809 day operation of the licensed facility, and the facility  
 2810 financial officer, or similarly titled individual who is  
 2811 responsible for the financial operation of the licensed  
 2812 facility.

2813 (b) The agency may require background screening for a  
 2814 member of the board of directors of the licensee or an officer  
 2815 or an individual owning 5 percent or more of the licensee if the  
 2816 agency has probable cause to believe that such individual has

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2817 | been convicted of an offense prohibited under the level 2  
 2818 | standards for screening set forth in chapter 435.

2819 |       (c) Proof of compliance with the level 2 background  
 2820 | screening requirements of chapter 435 which has been submitted  
 2821 | within the previous 5 years in compliance with any other health  
 2822 | care or assisted living licensure requirements of this state is  
 2823 | acceptable in fulfillment of paragraph (a). Proof of compliance  
 2824 | with background screening which has been submitted within the  
 2825 | previous 5 years to fulfill the requirements of the Financial  
 2826 | Services Commission and the Office of Insurance Regulation  
 2827 | pursuant to chapter 651 as part of an application for a  
 2828 | certificate of authority to operate a continuing care retirement  
 2829 | community is acceptable in fulfillment of the Department of Law  
 2830 | Enforcement and Federal Bureau of Investigation background  
 2831 | check.

2832 |       (d) A provisional license may be granted to an applicant  
 2833 | when each individual required by this section to undergo  
 2834 | background screening has met the standards for the Department of  
 2835 | Law Enforcement background check, but the agency has not yet  
 2836 | received background screening results from the Federal Bureau of  
 2837 | Investigation, or a request for a disqualification exemption has  
 2838 | been submitted to the agency as set forth in chapter 435, but a  
 2839 | response has not yet been issued. A license may be granted to  
 2840 | the applicant upon the agency's receipt of a report of the  
 2841 | results of the Federal Bureau of Investigation background  
 2842 | screening for each individual required by this section to  
 2843 | undergo background screening which confirms that all standards  
 2844 | have been met, or upon the granting of a disqualification  
 2845 | exemption by the agency as set forth in chapter 435. Any other

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2846 person who is required to undergo level 2 background screening  
 2847 may serve in his or her capacity pending the agency's receipt of  
 2848 the report from the Federal Bureau of Investigation; however,  
 2849 the person may not continue to serve if the report indicates any  
 2850 violation of background screening standards and a  
 2851 disqualification exemption has not been requested of and granted  
 2852 by the agency as set forth in chapter 435.

2853 (f) Each applicant must submit to the agency a description  
 2854 and explanation of any conviction of an offense prohibited under  
 2855 the level 2 standards of chapter 435 by a member of the board of  
 2856 directors of the applicant, its officers, or any individual  
 2857 owning 5 percent or more of the applicant. This requirement  
 2858 shall not apply to a director of a not-for-profit corporation or  
 2859 organization if the director serves solely in a voluntary  
 2860 capacity for the corporation or organization, does not regularly  
 2861 take part in the day-to-day operational decisions of the  
 2862 corporation or organization, receives no remuneration for his or  
 2863 her services on the corporation or organization's board of  
 2864 directors, and has no financial interest and has no family  
 2865 members with a financial interest in the corporation or  
 2866 organization, provided that the director and the not-for-profit  
 2867 corporation or organization include in the application a  
 2868 statement affirming that the director's relationship to the  
 2869 corporation satisfies the requirements of this paragraph.

2870 Section 48. For the purpose of incorporating the amendment  
 2871 to section 435.04, Florida Statutes, in references thereto,  
 2872 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (4) of  
 2873 section 400.471, Florida Statutes, are reenacted to read:

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2874 400.471 Application for license; fee; provisional license;  
 2875 temporary permit.--

2876 (4) Each applicant for licensure must comply with the  
 2877 following requirements:

2878 (a) Upon receipt of a completed, signed, and dated  
 2879 application, the agency shall require background screening of  
 2880 the applicant, in accordance with the level 2 standards for  
 2881 screening set forth in chapter 435. As used in this subsection,  
 2882 the term "applicant" means the administrator, or a similarly  
 2883 titled person who is responsible for the day-to-day operation of  
 2884 the licensed home health agency, and the financial officer, or  
 2885 similarly titled individual who is responsible for the financial  
 2886 operation of the licensed home health agency.

2887 (b) The agency may require background screening for a  
 2888 member of the board of directors of the licensee or an officer  
 2889 or an individual owning 5 percent or more of the licensee if the  
 2890 agency reasonably suspects that such individual has been  
 2891 convicted of an offense prohibited under the level 2 standards  
 2892 for screening set forth in chapter 435.

2893 (c) Proof of compliance with the level 2 background  
 2894 screening requirements of chapter 435 which has been submitted  
 2895 within the previous 5 years in compliance with any other health  
 2896 care or assisted living licensure requirements of this state is  
 2897 acceptable in fulfillment of paragraph (a). Proof of compliance  
 2898 with background screening which has been submitted within the  
 2899 previous 5 years to fulfill the requirements of the Financial  
 2900 Services Commission and the Office of Insurance Regulation  
 2901 pursuant to chapter 651 as part of an application for a  
 2902 certificate of authority to operate a continuing care retirement

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2903 community is acceptable in fulfillment of the Department of Law  
 2904 Enforcement and Federal Bureau of Investigation background  
 2905 check.

2906 (d) A provisional license may be granted to an applicant  
 2907 when each individual required by this section to undergo  
 2908 background screening has met the standards for the Department of  
 2909 Law Enforcement background check, but the agency has not yet  
 2910 received background screening results from the Federal Bureau of  
 2911 Investigation. A standard license may be granted to the licensee  
 2912 upon the agency's receipt of a report of the results of the  
 2913 Federal Bureau of Investigation background screening for each  
 2914 individual required by this section to undergo background  
 2915 screening which confirms that all standards have been met, or  
 2916 upon the granting of a disqualification exemption by the agency  
 2917 as set forth in chapter 435. Any other person who is required to  
 2918 undergo level 2 background screening may serve in his or her  
 2919 capacity pending the agency's receipt of the report from the  
 2920 Federal Bureau of Investigation. However, the person may not  
 2921 continue to serve if the report indicates any violation of  
 2922 background screening standards and a disqualification exemption  
 2923 has not been requested of and granted by the agency as set forth  
 2924 in chapter 435.

2925 (f) Each applicant must submit to the agency a description  
 2926 and explanation of any conviction of an offense prohibited under  
 2927 the level 2 standards of chapter 435 by a member of the board of  
 2928 directors of the applicant, its officers, or any individual  
 2929 owning 5 percent or more of the applicant. This requirement does  
 2930 not apply to a director of a not-for-profit corporation or  
 2931 organization if the director serves solely in a voluntary

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2932 capacity for the corporation or organization, does not regularly  
 2933 take part in the day-to-day operational decisions of the  
 2934 corporation or organization, receives no remuneration for his or  
 2935 her services on the corporation or organization's board of  
 2936 directors, and has no financial interest and has no family  
 2937 members with a financial interest in the corporation or  
 2938 organization, provided that the director and the not-for-profit  
 2939 corporation or organization include in the application a  
 2940 statement affirming that the director's relationship to the  
 2941 corporation satisfies the requirements of this paragraph.

2942 (g) A license may not be granted to an applicant if the  
 2943 applicant, administrator, or financial officer has been found  
 2944 guilty of, regardless of adjudication, or has entered a plea of  
 2945 nolo contendere or guilty to, any offense prohibited under the  
 2946 level 2 standards for screening set forth in chapter 435, unless  
 2947 an exemption from disqualification has been granted by the  
 2948 agency as set forth in chapter 435.

2949 Section 49. For the purpose of incorporating the amendment  
 2950 to section 435.04, Florida Statutes, in references thereto,  
 2951 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (2) of  
 2952 section 400.506, Florida Statutes, are reenacted to read:

2953 400.506 Licensure of nurse registries; requirements;  
 2954 penalties.--

2955 (2) Each applicant for licensure must comply with the  
 2956 following requirements:

2957 (a) Upon receipt of a completed, signed, and dated  
 2958 application, the agency shall require background screening, in  
 2959 accordance with the level 2 standards for screening set forth in  
 2960 chapter 435, of the managing employee, or other similarly titled

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2961 individual who is responsible for the daily operation of the  
 2962 nurse registry, and of the financial officer, or other similarly  
 2963 titled individual who is responsible for the financial operation  
 2964 of the registry, including billings for patient care and  
 2965 services. The applicant shall comply with the procedures for  
 2966 level 2 background screening as set forth in chapter 435.

2967 (b) The agency may require background screening of any  
 2968 other individual who is an applicant if the agency has probable  
 2969 cause to believe that he or she has been convicted of a crime or  
 2970 has committed any other offense prohibited under the level 2  
 2971 standards for screening set forth in chapter 435.

2972 (c) Proof of compliance with the level 2 background  
 2973 screening requirements of chapter 435 which has been submitted  
 2974 within the previous 5 years in compliance with any other health  
 2975 care or assisted living licensure requirements of this state is  
 2976 acceptable in fulfillment of the requirements of paragraph (a).

2977 (d) A provisional license may be granted to an applicant  
 2978 when each individual required by this section to undergo  
 2979 background screening has met the standards for the Department of  
 2980 Law Enforcement background check but the agency has not yet  
 2981 received background screening results from the Federal Bureau of  
 2982 Investigation. A standard license may be granted to the  
 2983 applicant upon the agency's receipt of a report of the results  
 2984 of the Federal Bureau of Investigation background screening for  
 2985 each individual required by this section to undergo background  
 2986 screening which confirms that all standards have been met, or  
 2987 upon the granting of a disqualification exemption by the agency  
 2988 as set forth in chapter 435. Any other person who is required to  
 2989 undergo level 2 background screening may serve in his or her



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2990 capacity pending the agency's receipt of the report from the  
 2991 Federal Bureau of Investigation. However, the person may not  
 2992 continue to serve if the report indicates any violation of  
 2993 background screening standards and a disqualification exemption  
 2994 has not been requested of and granted by the agency as set forth  
 2995 in chapter 435.

2996 (f) Each applicant must submit to the agency a description  
 2997 and explanation of any conviction of an offense prohibited under  
 2998 the level 2 standards of chapter 435 by a member of the board of  
 2999 directors of the applicant, its officers, or any individual  
 3000 owning 5 percent or more of the applicant. This requirement does  
 3001 not apply to a director of a not-for-profit corporation or  
 3002 organization if the director serves solely in a voluntary  
 3003 capacity for the corporation or organization, does not regularly  
 3004 take part in the day-to-day operational decisions of the  
 3005 corporation or organization, receives no remuneration for his or  
 3006 her services on the corporation or organization's board of  
 3007 directors, and has no financial interest and has no family  
 3008 members with a financial interest in the corporation or  
 3009 organization, provided that the director and the not-for-profit  
 3010 corporation or organization include in the application a  
 3011 statement affirming that the director's relationship to the  
 3012 corporation satisfies the requirements of this paragraph.

3013 (g) A license may not be granted to an applicant if the  
 3014 applicant or managing employee has been found guilty of,  
 3015 regardless of adjudication, or has entered a plea of nolo  
 3016 contendere or guilty to, any offense prohibited under the level  
 3017 2 standards for screening set forth in chapter 435, unless an

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3018 exemption from disqualification has been granted by the agency  
 3019 as set forth in chapter 435.

3020 Section 50. For the purpose of incorporating the amendment  
 3021 to section 435.04, Florida Statutes, in references thereto,  
 3022 section 400.5572, Florida Statutes, is reenacted to read:

3023 400.5572 Background screening.--

3024 (1)(a) Level 2 background screening must be conducted on  
 3025 each of the following persons, who shall be considered employees  
 3026 for the purposes of conducting screening under chapter 435:

3027 1. The adult day care center owner if an individual, the  
 3028 operator, and the financial officer.

3029 2. An officer or board member if the owner of the adult  
 3030 day care center is a firm, corporation, partnership, or  
 3031 association, or any person owning 5 percent or more of the  
 3032 facility, if the agency has probable cause to believe that such  
 3033 person has been convicted of any offense prohibited by s.  
 3034 435.04. For each officer, board member, or person owning 5  
 3035 percent or more who has been convicted of any such offense, the  
 3036 facility shall submit to the agency a description and  
 3037 explanation of the conviction at the time of license  
 3038 application. This subparagraph does not apply to a board member  
 3039 of a not-for-profit corporation or organization if the board  
 3040 member serves solely in a voluntary capacity, does not regularly  
 3041 take part in the day-to-day operational decisions of the  
 3042 corporation or organization, receives no remuneration for his or  
 3043 her services, and has no financial interest and has no family  
 3044 members with a financial interest in the corporation or  
 3045 organization, provided that the board member and facility submit

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3046 a statement affirming that the board member's relationship to  
 3047 the facility satisfies the requirements of this subparagraph.

3048 (b) Proof of compliance with level 2 screening standards  
 3049 which has been submitted within the previous 5 years to meet any  
 3050 facility or professional licensure requirements of the agency or  
 3051 the Department of Health satisfies the requirements of this  
 3052 subsection.

3053 (c) The agency may grant a provisional license to an adult  
 3054 day care center applying for an initial license when each  
 3055 individual required by this subsection to undergo screening has  
 3056 completed the Department of Law Enforcement background check,  
 3057 but has not yet received results from the Federal Bureau of  
 3058 Investigation, or when a request for an exemption from  
 3059 disqualification has been submitted to the agency pursuant to s.  
 3060 435.07, but a response has not been issued.

3061 (2) The owner or administrator of an adult day care center  
 3062 must conduct level 1 background screening as set forth in  
 3063 chapter 435 on all employees hired on or after October 1, 1998,  
 3064 who provide basic services or supportive and optional services  
 3065 to the participants. Such persons satisfy this requirement if:

3066 (a) Proof of compliance with level 1 screening  
 3067 requirements obtained to meet any professional license  
 3068 requirements in this state is provided and accompanied, under  
 3069 penalty of perjury, by a copy of the person's current  
 3070 professional license and an affidavit of current compliance with  
 3071 the background screening requirements.

3072 (b) The person required to be screened has been  
 3073 continuously employed, without a breach in service that exceeds  
 3074 180 days, in the same type of occupation for which the person is

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3075 seeking employment and provides proof of compliance with the  
 3076 level 1 screening requirement which is no more than 2 years old.  
 3077 Proof of compliance must be provided directly from one employer  
 3078 or contractor to another, and not from the person screened. Upon  
 3079 request, a copy of screening results shall be provided to the  
 3080 person screened by the employer retaining documentation of the  
 3081 screening.

3082 (c) The person required to be screened is employed by a  
 3083 corporation or business entity or related corporation or  
 3084 business entity that owns, operates, or manages more than one  
 3085 facility or agency licensed under this chapter, and for whom a  
 3086 level 1 screening was conducted by the corporation or business  
 3087 entity as a condition of initial or continued employment.

3088 Section 51. For the purpose of incorporating the amendment  
 3089 to section 435.04, Florida Statutes, in references thereto,  
 3090 paragraph (a) of subsection (3) of section 400.607, Florida  
 3091 Statutes, is reenacted to read:

3092 400.607 Denial, suspension, or revocation of license;  
 3093 imposition of administrative fine; grounds; injunctions.--

3094 (3) The agency may deny or revoke a license upon a  
 3095 determination that:

3096 (a) Persons subject to level 2 background screening under  
 3097 s. 400.6065 do not meet the screening standards of s. 435.04,  
 3098 and exemptions from disqualification have not been provided by  
 3099 the agency.

3100 Section 52. For the purpose of incorporating the amendment  
 3101 to section 435.04, Florida Statutes, in references thereto,  
 3102 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (4) of  
 3103 section 400.801, Florida Statutes, are reenacted to read:

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3104 400.801 Homes for special services.--

3105 (4) Each applicant for licensure must comply with the  
 3106 following requirements:

3107 (a) Upon receipt of a completed, signed, and dated  
 3108 application, the agency shall require background screening, in  
 3109 accordance with the level 2 standards for screening set forth in  
 3110 chapter 435, of the managing employee, or other similarly titled  
 3111 individual who is responsible for the daily operation of the  
 3112 facility, and of the financial officer, or other similarly  
 3113 titled individual who is responsible for the financial operation  
 3114 of the facility, including billings for client care and  
 3115 services, in accordance with the level 2 standards for screening  
 3116 set forth in chapter 435. The applicant must comply with the  
 3117 procedures for level 2 background screening as set forth in  
 3118 chapter 435.

3119 (b) The agency may require background screening of any  
 3120 other individual who is an applicant if the agency has probable  
 3121 cause to believe that he or she has been convicted of a crime or  
 3122 has committed any other offense prohibited under the level 2  
 3123 standards for screening set forth in chapter 435.

3124 (c) Proof of compliance with the level 2 background  
 3125 screening requirements of chapter 435 which has been submitted  
 3126 within the previous 5 years in compliance with any other health  
 3127 care or assisted living licensure requirements of this state is  
 3128 acceptable in fulfillment of the requirements of paragraph (a).

3129 (d) A provisional license may be granted to an applicant  
 3130 when each individual required by this section to undergo  
 3131 background screening has met the standards for the Department of  
 3132 Law Enforcement background check, but the agency has not yet

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3133 received background screening results from the Federal Bureau of  
 3134 Investigation, or a request for a disqualification exemption has  
 3135 been submitted to the agency as set forth in chapter 435, but a  
 3136 response has not yet been issued. A standard license may be  
 3137 granted to the applicant upon the agency's receipt of a report  
 3138 of the results of the Federal Bureau of Investigation background  
 3139 screening for each individual required by this section to  
 3140 undergo background screening which confirms that all standards  
 3141 have been met, or upon the granting of a disqualification  
 3142 exemption by the agency as set forth in chapter 435. Any other  
 3143 person who is required to undergo level 2 background screening  
 3144 may serve in his or her capacity pending the agency's receipt of  
 3145 the report from the Federal Bureau of Investigation. However,  
 3146 the person may not continue to serve if the report indicates any  
 3147 violation of background screening standards and a  
 3148 disqualification exemption has not been requested of and granted  
 3149 by the agency as set forth in chapter 435.

3150 (f) Each applicant must submit to the agency a description  
 3151 and explanation of any conviction of an offense prohibited under  
 3152 the level 2 standards of chapter 435 by a member of the board of  
 3153 directors of the applicant, its officers, or any individual  
 3154 owning 5 percent or more of the applicant. This requirement does  
 3155 not apply to a director of a not-for-profit corporation or  
 3156 organization if the director serves solely in a voluntary  
 3157 capacity for the corporation or organization, does not regularly  
 3158 take part in the day-to-day operational decisions of the  
 3159 corporation or organization, receives no remuneration for his or  
 3160 her services on the corporation or organization's board of  
 3161 directors, and has no financial interest and has no family

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3162 members with a financial interest in the corporation or  
 3163 organization, provided that the director and the not-for-profit  
 3164 corporation or organization include in the application a  
 3165 statement affirming that the director's relationship to the  
 3166 corporation satisfies the requirements of this paragraph.

3167 (g) A license may not be granted to an applicant if the  
 3168 applicant or managing employee has been found guilty of,  
 3169 regardless of adjudication, or has entered a plea of nolo  
 3170 contendere or guilty to, any offense prohibited under the level  
 3171 2 standards for screening set forth in chapter 435, unless an  
 3172 exemption from disqualification has been granted by the agency  
 3173 as set forth in chapter 435.

3174 Section 53. For the purpose of incorporating the amendment  
 3175 to section 435.04, Florida Statutes, in references thereto,  
 3176 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (3) of  
 3177 section 400.805, Florida Statutes, are reenacted to read:

3178 400.805 Transitional living facilities.--

3179 (3) Each applicant for licensure must comply with the  
 3180 following requirements:

3181 (a) Upon receipt of a completed, signed, and dated  
 3182 application, the agency shall require background screening, in  
 3183 accordance with the level 2 standards for screening set forth in  
 3184 chapter 435, of the managing employee, or other similarly titled  
 3185 individual who is responsible for the daily operation of the  
 3186 facility, and of the financial officer, or other similarly  
 3187 titled individual who is responsible for the financial operation  
 3188 of the facility, including billings for client care and  
 3189 services. The applicant must comply with the procedures for  
 3190 level 2 background screening as set forth in chapter 435.

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3191 (b) The agency may require background screening of any  
 3192 other individual who is an applicant if the agency has probable  
 3193 cause to believe that he or she has been convicted of a crime or  
 3194 has committed any other offense prohibited under the level 2  
 3195 standards for screening set forth in chapter 435.

3196 (c) Proof of compliance with the level 2 background  
 3197 screening requirements of chapter 435 which has been submitted  
 3198 within the previous 5 years in compliance with any other health  
 3199 care or assisted living licensure requirements of this state is  
 3200 acceptable in fulfillment of the requirements of paragraph (a).

3201 (d) A provisional license may be granted to an applicant  
 3202 when each individual required by this section to undergo  
 3203 background screening has met the standards for the Department of  
 3204 Law Enforcement background check, but the agency has not yet  
 3205 received background screening results from the Federal Bureau of  
 3206 Investigation, or a request for a disqualification exemption has  
 3207 been submitted to the agency as set forth in chapter 435, but a  
 3208 response has not yet been issued. A standard license may be  
 3209 granted to the applicant upon the agency's receipt of a report  
 3210 of the results of the Federal Bureau of Investigation background  
 3211 screening for each individual required by this section to  
 3212 undergo background screening which confirms that all standards  
 3213 have been met, or upon the granting of a disqualification  
 3214 exemption by the agency as set forth in chapter 435. Any other  
 3215 person who is required to undergo level 2 background screening  
 3216 may serve in his or her capacity pending the agency's receipt of  
 3217 the report from the Federal Bureau of Investigation. However,  
 3218 the person may not continue to serve if the report indicates any  
 3219 violation of background screening standards and a



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3220 disqualification exemption has not been requested of and granted  
 3221 by the agency as set forth in chapter 435.

3222 (f) Each applicant must submit to the agency a description  
 3223 and explanation of any conviction of an offense prohibited under  
 3224 the level 2 standards of chapter 435 by a member of the board of  
 3225 directors of the applicant, its officers, or any individual  
 3226 owning 5 percent or more of the applicant. This requirement does  
 3227 not apply to a director of a not-for-profit corporation or  
 3228 organization if the director serves solely in a voluntary  
 3229 capacity for the corporation or organization, does not regularly  
 3230 take part in the day-to-day operational decisions of the  
 3231 corporation or organization, receives no remuneration for his or  
 3232 her services on the corporation or organization's board of  
 3233 directors, and has no financial interest and has no family  
 3234 members with a financial interest in the corporation or  
 3235 organization, provided that the director and the not-for-profit  
 3236 corporation or organization include in the application a  
 3237 statement affirming that the director's relationship to the  
 3238 corporation satisfies the requirements of this paragraph.

3239 (g) A license may not be granted to an applicant if the  
 3240 applicant or managing employee has been found guilty of,  
 3241 regardless of adjudication, or has entered a plea of nolo  
 3242 contendere or guilty to, any offense prohibited under the level  
 3243 2 standards for screening set forth in chapter 435, unless an  
 3244 exemption from disqualification has been granted by the agency  
 3245 as set forth in chapter 435.

3246 Section 54. For the purpose of incorporating the amendment  
 3247 to section 435.04, Florida Statutes, in references thereto,

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3248 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (5) of  
 3249 section 400.906, Florida Statutes, are reenacted to read:

3250 400.906 Initial application for license.--

3251 (5) Each applicant for licensure must comply with the  
 3252 following requirements:

3253 (a) Upon receipt of a completed, signed, and dated  
 3254 application, the agency shall require background screening, in  
 3255 accordance with the level 2 standards for screening set forth in  
 3256 chapter 435, of the operator, and of the financial officer, or  
 3257 other similarly titled individual who is responsible for the  
 3258 financial operation of the center, including billings for  
 3259 patient care and services. The applicant must comply with the  
 3260 procedures for level 2 background screening as set forth in  
 3261 chapter 435, as well as the requirements of s. 435.03(3).

3262 (b) The agency may require background screening of any  
 3263 other individual who is an applicant if the agency has a  
 3264 reasonable basis for believing that he or she has been convicted  
 3265 of a crime or has committed any other offense prohibited under  
 3266 the level 2 standards for screening set forth in chapter 435.

3267 (c) Proof of compliance with the level 2 background  
 3268 screening requirements of chapter 435 which has been submitted  
 3269 within the previous 5 years in compliance with any other health  
 3270 care licensure requirements of this state is acceptable in  
 3271 fulfillment of the requirements of paragraph (a).

3272 (d) A provisional license may be granted to an applicant  
 3273 when each individual required by this section to undergo  
 3274 background screening has met the standards for the Department of  
 3275 Law Enforcement background check, but the agency has not yet  
 3276 received background screening results from the Federal Bureau of

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3277 Investigation, or a request for a disqualification exemption has  
 3278 been submitted to the agency as set forth in chapter 435, but a  
 3279 response has not yet been issued. A standard license may be  
 3280 granted to the applicant upon the agency's receipt of a report  
 3281 of the results of the Federal Bureau of Investigation background  
 3282 screening for each individual required by this section to  
 3283 undergo background screening which confirms that all standards  
 3284 have been met, or upon the granting of a disqualification  
 3285 exemption by the agency as set forth in chapter 435. Any other  
 3286 person who is required to undergo level 2 background screening  
 3287 may serve in his or her capacity pending the agency's receipt of  
 3288 the report from the Federal Bureau of Investigation. However,  
 3289 the person may not continue to serve if the report indicates any  
 3290 violation of background screening standards and a  
 3291 disqualification exemption has not been requested of and granted  
 3292 by the agency as set forth in chapter 435.

3293 (f) Each applicant must submit to the agency a description  
 3294 and explanation of any conviction of an offense prohibited under  
 3295 the level 2 standards of chapter 435 by a member of the board of  
 3296 directors of the applicant, its officers, or any individual  
 3297 owning 5 percent or more of the applicant. This requirement does  
 3298 not apply to a director of a not-for-profit corporation or  
 3299 organization if the director serves solely in a voluntary  
 3300 capacity for the corporation or organization, does not regularly  
 3301 take part in the day-to-day operational decisions of the  
 3302 corporation or organization, receives no remuneration for his or  
 3303 her services on the corporation or organization's board of  
 3304 directors, and has no financial interest and has no family  
 3305 members with a financial interest in the corporation or

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3306 organization, provided that the director and the not-for-profit  
 3307 corporation or organization include in the application a  
 3308 statement affirming that the director's relationship to the  
 3309 corporation satisfies the requirements of this paragraph.

3310 (g) A license may not be granted to an applicant if the  
 3311 applicant or managing employee has been found guilty of,  
 3312 regardless of adjudication, or has entered a plea of nolo  
 3313 contendere or guilty to, any offense prohibited under the level  
 3314 2 standards for screening set forth in chapter 435, unless an  
 3315 exemption from disqualification has been granted by the agency  
 3316 as set forth in chapter 435.

3317 Section 55. For the purpose of incorporating the amendment  
 3318 to section 435.04, Florida Statutes, in references thereto,  
 3319 paragraphs (a), (b), (c), (e), and (f) of subsection (5) of  
 3320 section 400.931, Florida Statutes, are reenacted to read:

3321 400.931 Application for license; fee; provisional license;  
 3322 temporary permit.--

3323 (5) Each applicant for licensure must comply with the  
 3324 following requirements:

3325 (a) Upon receipt of a completed, signed, and dated  
 3326 application, the agency shall require background screening of  
 3327 the applicant, in accordance with the level 2 standards for  
 3328 screening set forth in chapter 435. As used in this subsection,  
 3329 the term "applicant" means the general manager and the financial  
 3330 officer or similarly titled individual who is responsible for  
 3331 the financial operation of the licensed facility.

3332 (b) The agency may require background screening for a  
 3333 member of the board of directors of the licensee or an officer  
 3334 or an individual owning 5 percent or more of the licensee if the

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3335 agency has probable cause to believe that such individual has  
 3336 been convicted of an offense prohibited under the level 2  
 3337 standards for screening set forth in chapter 435.

3338 (c) Proof of compliance with the level 2 background  
 3339 screening requirements of chapter 435 which has been submitted  
 3340 within the previous 5 years in compliance with any other health  
 3341 care licensure requirements of this state is acceptable in  
 3342 fulfillment of paragraph (a).

3343 (e) Each applicant must submit to the agency a description  
 3344 and explanation of any conviction of an offense prohibited under  
 3345 the level 2 standards of chapter 435 by a member of the board of  
 3346 directors of the applicant, its officers, or any individual  
 3347 owning 5 percent or more of the applicant. This requirement does  
 3348 not apply to a director of a not-for-profit corporation or  
 3349 organization if the director serves solely in a voluntary  
 3350 capacity for the corporation or organization, does not regularly  
 3351 take part in the day-to-day operational decisions of the  
 3352 corporation or organization, receives no remuneration for his or  
 3353 her services on the corporation's or organization's board of  
 3354 directors, and has no financial interest and has no family  
 3355 members with a financial interest in the corporation or  
 3356 organization, provided that the director and the not-for-profit  
 3357 corporation or organization include in the application a  
 3358 statement affirming that the director's relationship to the  
 3359 corporation satisfies the requirements of this provision.

3360 (f) A license may not be granted to any potential licensee  
 3361 if any applicant, administrator, or financial officer has been  
 3362 found guilty of, regardless of adjudication, or has entered a  
 3363 plea of nolo contendere or guilty to, any offense prohibited

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3364 under the level 2 standards for screening set forth in chapter  
 3365 435, unless an exemption from disqualification has been granted  
 3366 by the agency as set forth in chapter 435.

3367 Section 56. For the purpose of incorporating the amendment  
 3368 to section 435.04, Florida Statutes, in references thereto,  
 3369 paragraphs (a), (b), (c), (d), and (f) of subsection (10) of  
 3370 section 400.962, Florida Statutes, are reenacted to read:

3371 400.962 License required; license application.--

3372 (10)(a) Upon receipt of a completed, signed, and dated  
 3373 application, the agency shall require background screening of  
 3374 the applicant, in accordance with the level 2 standards for  
 3375 screening set forth in chapter 435. As used in this subsection,  
 3376 the term "applicant" means the facility administrator, or  
 3377 similarly titled individual who is responsible for the day-to-  
 3378 day operation of the licensed facility, and the facility  
 3379 financial officer, or similarly titled individual who is  
 3380 responsible for the financial operation of the licensed  
 3381 facility.

3382 (b) The agency may require background screening for a  
 3383 member of the board of directors of the licensee or an officer  
 3384 or an individual owning 5 percent or more of the licensee if the  
 3385 agency has probable cause to believe that such individual has  
 3386 been convicted of an offense prohibited under the level 2  
 3387 standards for screening set forth in chapter 435.

3388 (c) Proof of compliance with the level 2 background  
 3389 screening requirements of chapter 435 which has been submitted  
 3390 within the previous 5 years in compliance with any other  
 3391 licensure requirements under this chapter satisfies the  
 3392 requirements of paragraph (a). Proof of compliance with

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3393 background screening which has been submitted within the  
3394 previous 5 years to fulfill the requirements of the Financial  
3395 Services Commission and the Office of Insurance Regulation under  
3396 chapter 651 as part of an application for a certificate of  
3397 authority to operate a continuing care retirement community  
3398 satisfies the requirements for the Department of Law Enforcement  
3399 and Federal Bureau of Investigation background checks.

3400 (d) A provisional license may be granted to an applicant  
3401 when each individual required by this section to undergo  
3402 background screening has met the standards for the Department of  
3403 Law Enforcement background check, but the agency has not yet  
3404 received background screening results from the Federal Bureau of  
3405 Investigation, or a request for a disqualification exemption has  
3406 been submitted to the agency as set forth in chapter 435, but a  
3407 response has not yet been issued. A license may be granted to  
3408 the applicant upon the agency's receipt of a report of the  
3409 results of the Federal Bureau of Investigation background  
3410 screening for each individual required by this section to  
3411 undergo background screening which confirms that all standards  
3412 have been met, or upon the granting of a disqualification  
3413 exemption by the agency as set forth in chapter 435. Any other  
3414 person who is required to undergo level 2 background screening  
3415 may serve in his or her capacity pending the agency's receipt of  
3416 the report from the Federal Bureau of Investigation; however,  
3417 the person may not continue to serve if the report indicates any  
3418 violation of background screening standards and a  
3419 disqualification exemption has not been granted by the agency as  
3420 set forth in chapter 435.

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3421 (f) Each applicant must submit to the agency a description  
 3422 and explanation of any conviction of an offense prohibited under  
 3423 the level 2 standards of chapter 435 by a member of the board of  
 3424 directors of the applicant, its officers, or any individual  
 3425 owning 5 percent or more of the applicant. This requirement does  
 3426 not apply to a director of a not-for-profit corporation or  
 3427 organization if the director serves solely in a voluntary  
 3428 capacity for the corporation or organization, does not regularly  
 3429 take part in the day-to-day operational decisions of the  
 3430 corporation or organization, receives no remuneration for his or  
 3431 her services on the corporation's or organization's board of  
 3432 directors, and has no financial interest and has no family  
 3433 members with a financial interest in the corporation or  
 3434 organization, provided that the director and the not-for-profit  
 3435 corporation or organization include in the application a  
 3436 statement affirming that the director's relationship to the  
 3437 corporation satisfies the requirements of this paragraph.

3438 Section 57. For the purpose of incorporating the amendment  
 3439 to section 435.04, Florida Statutes, in references thereto,  
 3440 paragraphs (b) and (d) of subsection (7) of section 400.991,  
 3441 Florida Statutes, are reenacted to read:

3442 400.991 License requirements; background screenings;  
 3443 prohibitions.--

3444 (7) Each applicant for licensure shall comply with the  
 3445 following requirements:

3446 (b) Upon receipt of a completed, signed, and dated  
 3447 application, the agency shall require background screening of  
 3448 the applicant, in accordance with the level 2 standards for  
 3449 screening set forth in chapter 435. Proof of compliance with the



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3450 level 2 background screening requirements of chapter 435 which  
 3451 has been submitted within the previous 5 years in compliance  
 3452 with any other health care licensure requirements of this state  
 3453 is acceptable in fulfillment of this paragraph.

3454 (d) A license may not be granted to a clinic if the  
 3455 applicant has been found guilty of, regardless of adjudication,  
 3456 or has entered a plea of nolo contendere or guilty to, any  
 3457 offense prohibited under the level 2 standards for screening set  
 3458 forth in chapter 435, or a violation of insurance fraud under s.  
 3459 817.234, within the past 5 years. If the applicant has been  
 3460 convicted of an offense prohibited under the level 2 standards  
 3461 or insurance fraud in any jurisdiction, the applicant must show  
 3462 that his or her civil rights have been restored prior to  
 3463 submitting an application.

3464 Section 58. For the purpose of incorporating the amendment  
 3465 to section 435.04, Florida Statutes, in references thereto,  
 3466 paragraph (e) of subsection (2) of section 402.302, Florida  
 3467 Statutes, is reenacted to read:

3468 402.302 Definitions.--

3469 (2) "Child care facility" includes any child care center  
 3470 or child care arrangement which provides child care for more  
 3471 than five children unrelated to the operator and which receives  
 3472 a payment, fee, or grant for any of the children receiving care,  
 3473 wherever operated, and whether or not operated for profit. The  
 3474 following are not included:

3475 (e) Operators of transient establishments, as defined in  
 3476 chapter 509, which provide child care services solely for the  
 3477 guests of their establishment or resort, provided that all child

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3478 care personnel of the establishment are screened according to  
 3479 the level 2 screening requirements of chapter 435.

3480 Section 59. For the purpose of incorporating the amendment  
 3481 to section 435.04, Florida Statutes, in references thereto,  
 3482 paragraph (a) of subsection (2) of section 402.305, Florida  
 3483 Statutes, is reenacted to read:

3484 402.305 Licensing standards; child care facilities.--

3485 (2) PERSONNEL.--Minimum standards for child care personnel  
 3486 shall include minimum requirements as to:

3487 (a) Good moral character based upon screening. This  
 3488 screening shall be conducted as provided in chapter 435, using  
 3489 the level 2 standards for screening set forth in that chapter.

3490 Section 60. For the purpose of incorporating the amendment  
 3491 to section 435.04, Florida Statutes, in references thereto,  
 3492 subsection (3) of section 402.3054, Florida Statutes, is  
 3493 reenacted to read:

3494 402.3054 Child enrichment service providers.--

3495 (3) A child enrichment service provider shall be of good  
 3496 moral character based upon screening. This screening shall be  
 3497 conducted as provided in chapter 435, using the level 2  
 3498 standards for screening set forth in that chapter. A child  
 3499 enrichment service provider must meet the screening requirements  
 3500 prior to providing services to a child in a child care facility.  
 3501 A child enrichment service provider who has met the screening  
 3502 standards shall not be required to be under the direct and  
 3503 constant supervision of child care personnel.

3504 Section 61. For the purpose of incorporating the amendment  
 3505 to section 435.04, Florida Statutes, in references thereto,

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3506 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (2) of  
 3507 section 483.30, Florida Statutes, are reenacted to read:

3508 483.30 Licensing of centers.--

3509 (2) Each applicant for licensure must comply with the  
 3510 following requirements:

3511 (a) Upon receipt of a completed, signed, and dated  
 3512 application, the agency shall require background screening, in  
 3513 accordance with the level 2 standards for screening set forth in  
 3514 chapter 435, of the managing employee, or other similarly titled  
 3515 individual who is responsible for the daily operation of the  
 3516 center, and of the financial officer, or other similarly titled  
 3517 individual who is responsible for the financial operation of the  
 3518 center, including billings for patient services. The applicant  
 3519 must comply with the procedures for level 2 background screening  
 3520 as set forth in chapter 435, as well as the requirements of s.  
 3521 435.03(3).

3522 (b) The agency may require background screening of any  
 3523 other individual who is an applicant if the agency has probable  
 3524 cause to believe that he or she has been convicted of a crime or  
 3525 has committed any other offense prohibited under the level 2  
 3526 standards for screening set forth in chapter 435.

3527 (c) Proof of compliance with the level 2 background  
 3528 screening requirements of chapter 435 which has been submitted  
 3529 within the previous 5 years in compliance with any other health  
 3530 care licensure requirements of this state is acceptable in  
 3531 fulfillment of the requirements of paragraph (a).

3532 (d) A provisional license may be granted to an applicant  
 3533 when each individual required by this section to undergo  
 3534 background screening has met the standards for the Department of

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3535 Law Enforcement background check, but the agency has not yet  
3536 received background screening results from the Federal Bureau of  
3537 Investigation, or a request for a disqualification exemption has  
3538 been submitted to the agency as set forth in chapter 435 but a  
3539 response has not yet been issued. A license may be granted to  
3540 the applicant upon the agency's receipt of a report of the  
3541 results of the Federal Bureau of Investigation background  
3542 screening for each individual required by this section to  
3543 undergo background screening which confirms that all standards  
3544 have been met, or upon the granting of a disqualification  
3545 exemption by the agency as set forth in chapter 435. Any other  
3546 person who is required to undergo level 2 background screening  
3547 may serve in his or her capacity pending the agency's receipt of  
3548 the report from the Federal Bureau of Investigation. However,  
3549 the person may not continue to serve if the report indicates any  
3550 violation of background screening standards and a  
3551 disqualification exemption has not been requested of and granted  
3552 by the agency as set forth in chapter 435.

3553 (f) Each applicant must submit to the agency a description  
3554 and explanation of any conviction of an offense prohibited under  
3555 the level 2 standards of chapter 435 by a member of the board of  
3556 directors of the applicant, its officers, or any individual  
3557 owning 5 percent or more of the applicant. This requirement does  
3558 not apply to a director of a not-for-profit corporation or  
3559 organization if the director serves solely in a voluntary  
3560 capacity for the corporation or organization, does not regularly  
3561 take part in the day-to-day operational decisions of the  
3562 corporation or organization, receives no remuneration for his or  
3563 her services on the corporation or organization's board of

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3564 directors, and has no financial interest and has no family  
 3565 members with a financial interest in the corporation or  
 3566 organization, provided that the director and the not-for-profit  
 3567 corporation or organization include in the application a  
 3568 statement affirming that the director's relationship to the  
 3569 corporation satisfies the requirements of this paragraph.

3570 (g) A license may not be granted to an applicant if the  
 3571 applicant or managing employee has been found guilty of,  
 3572 regardless of adjudication, or has entered a plea of nolo  
 3573 contendere or guilty to, any offense prohibited under the level  
 3574 2 standards for screening set forth in chapter 435, unless an  
 3575 exemption from disqualification has been granted by the agency  
 3576 as set forth in chapter 435.

3577 Section 62. For the purpose of incorporating the amendment  
 3578 to section 435.04, Florida Statutes, in references thereto,  
 3579 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (2) of  
 3580 section 483.101, Florida Statutes, are reenacted to read:

3581 483.101 Application for clinical laboratory license.--

3582 (2) Each applicant for licensure must comply with the  
 3583 following requirements:

3584 (a) Upon receipt of a completed, signed, and dated  
 3585 application, the agency shall require background screening, in  
 3586 accordance with the level 2 standards for screening set forth in  
 3587 chapter 435, of the managing director or other similarly titled  
 3588 individual who is responsible for the daily operation of the  
 3589 laboratory and of the financial officer, or other similarly  
 3590 titled individual who is responsible for the financial operation  
 3591 of the laboratory, including billings for patient services. The  
 3592 applicant must comply with the procedures for level 2 background

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3593 screening as set forth in chapter 435, as well as the  
3594 requirements of s. 435.03(3).

3595 (b) The agency may require background screening of any  
3596 other individual who is an applicant if the agency has probable  
3597 cause to believe that he or she has been convicted of a crime or  
3598 has committed any other offense prohibited under the level 2  
3599 standards for screening set forth in chapter 435.

3600 (c) Proof of compliance with the level 2 background  
3601 screening requirements of chapter 435 which has been submitted  
3602 within the previous 5 years in compliance with any other health  
3603 care licensure requirements of this state is acceptable in  
3604 fulfillment of the requirements of paragraph (a).

3605 (d) A provisional license may be granted to an applicant  
3606 when each individual required by this section to undergo  
3607 background screening has met the standards for the Department of  
3608 Law Enforcement background check but the agency has not yet  
3609 received background screening results from the Federal Bureau of  
3610 Investigation, or a request for a disqualification exemption has  
3611 been submitted to the agency as set forth in chapter 435 but a  
3612 response has not yet been issued. A license may be granted to  
3613 the applicant upon the agency's receipt of a report of the  
3614 results of the Federal Bureau of Investigation background  
3615 screening for each individual required by this section to  
3616 undergo background screening which confirms that all standards  
3617 have been met, or upon the granting of a disqualification  
3618 exemption by the agency as set forth in chapter 435. Any other  
3619 person who is required to undergo level 2 background screening  
3620 may serve in his or her capacity pending the agency's receipt of  
3621 the report from the Federal Bureau of Investigation. However,

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3622 the person may not continue to serve if the report indicates any  
 3623 violation of background screening standards and a  
 3624 disqualification exemption has not been requested of and granted  
 3625 by the agency as set forth in chapter 435.

3626 (f) Each applicant must submit to the agency a description  
 3627 and explanation of any conviction of an offense prohibited under  
 3628 the level 2 standards of chapter 435 by a member of the board of  
 3629 directors of the applicant, its officers, or any individual  
 3630 owning 5 percent or more of the applicant. This requirement does  
 3631 not apply to a director of a not-for-profit corporation or  
 3632 organization if the director serves solely in a voluntary  
 3633 capacity for the corporation or organization, does not regularly  
 3634 take part in the day-to-day operational decisions of the  
 3635 corporation or organization, receives no remuneration for his or  
 3636 her services on the corporation or organization's board of  
 3637 directors, and has no financial interest and has no family  
 3638 members with a financial interest in the corporation or  
 3639 organization, provided that the director and the not-for-profit  
 3640 corporation or organization include in the application a  
 3641 statement affirming that the director's relationship to the  
 3642 corporation satisfies the requirements of this paragraph.

3643 (g) A license may not be granted to an applicant if the  
 3644 applicant or managing employee has been found guilty of,  
 3645 regardless of adjudication, or has entered a plea of nolo  
 3646 contendere or guilty to, any offense prohibited under the level  
 3647 2 standards for screening set forth in chapter 435, unless an  
 3648 exemption from disqualification has been granted by the agency  
 3649 as set forth in chapter 435.

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3650 Section 63. For the purpose of incorporating the amendment  
 3651 to section 435.04, Florida Statutes, in references thereto,  
 3652 subsection (5) of section 744.1085, Florida Statutes, is  
 3653 reenacted to read:

3654 744.1085 Regulation of professional guardians;  
 3655 application; bond required; educational requirements.--

3656 (5) As required in s. 744.3135, each professional guardian  
 3657 shall allow a level 2 background screening of the guardian and  
 3658 employees of the guardian in accordance with the provisions of  
 3659 s. 435.04.

3660 Section 64. For the purpose of incorporating the amendment  
 3661 to section 435.04, Florida Statutes, in references thereto,  
 3662 paragraph (b) of subsection (2) of section 984.01, Florida  
 3663 Statutes, is reenacted to read:

3664 984.01 Purposes and intent; personnel standards and  
 3665 screening.--

3666 (2) The Department of Juvenile Justice or the Department  
 3667 of Children and Family Services, as appropriate, may contract  
 3668 with the Federal Government, other state departments and  
 3669 agencies, county and municipal governments and agencies, public  
 3670 and private agencies, and private individuals and corporations  
 3671 in carrying out the purposes of, and the responsibilities  
 3672 established in, this chapter.

3673 (b) The Department of Juvenile Justice and the Department  
 3674 of Children and Family Services shall require employment  
 3675 screening pursuant to chapter 435, using the level 2 standards  
 3676 set forth in that chapter for personnel in programs for children  
 3677 or youths.



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3678 Section 65. For the purpose of incorporating the amendment  
 3679 to section 435.04, Florida Statutes, in references thereto,  
 3680 paragraph (b) of subsection (2) of section 985.01, Florida  
 3681 Statutes, is reenacted to read:

3682 985.01 Purposes and intent; personnel standards and  
 3683 screening.--

3684 (2) The Department of Juvenile Justice or the Department  
 3685 of Children and Family Services, as appropriate, may contract  
 3686 with the Federal Government, other state departments and  
 3687 agencies, county and municipal governments and agencies, public  
 3688 and private agencies, and private individuals and corporations  
 3689 in carrying out the purposes of, and the responsibilities  
 3690 established in, this chapter.

3691 (b) The Department of Juvenile Justice and the Department  
 3692 of Children and Family Services shall require employment  
 3693 screening pursuant to chapter 435, using the level 2 standards  
 3694 set forth in that chapter for personnel in programs for children  
 3695 or youths.

3696 Section 66. For the purpose of incorporating the amendment  
 3697 to section 435.04, Florida Statutes, in references thereto,  
 3698 paragraphs (a) and (b) of subsection (7) of section 1002.36,  
 3699 Florida Statutes, are reenacted to read:

3700 1002.36 Florida School for the Deaf and the Blind.--

3701 (7) PERSONNEL SCREENING.--

3702 (a) The Board of Trustees of the Florida School for the  
 3703 Deaf and the Blind shall, because of the special trust or  
 3704 responsibility of employees of the school, require all employees  
 3705 and applicants for employment to undergo personnel screening and  
 3706 security background investigations as provided in chapter 435,

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3707 using the level 2 standards for screening set forth in that  
 3708 chapter, as a condition of employment and continued employment.  
 3709 The cost of a personnel screening and security background  
 3710 investigation for an employee of the school shall be paid by the  
 3711 school. The cost of such a screening and investigation for an  
 3712 applicant for employment may be paid by the school.

3713 (b) As a prerequisite for initial and continuing  
 3714 employment at the Florida School for the Deaf and the Blind:

3715 1. The applicant or employee shall submit to the Florida  
 3716 School for the Deaf and the Blind a complete set of fingerprints  
 3717 taken by an authorized law enforcement agency or an employee of  
 3718 the Florida School for the Deaf and the Blind who is trained to  
 3719 take fingerprints. The Florida School for the Deaf and the Blind  
 3720 shall submit the fingerprints to the Department of Law  
 3721 Enforcement for state processing and the Federal Bureau of  
 3722 Investigation for federal processing.

3723 2.a. The applicant or employee shall attest to the minimum  
 3724 standards for good moral character as contained in chapter 435,  
 3725 using the level 2 standards set forth in that chapter under  
 3726 penalty of perjury.

3727 b. New personnel shall be on a probationary status pending  
 3728 a determination of compliance with such minimum standards for  
 3729 good moral character. This paragraph is in addition to any  
 3730 probationary status provided for by Florida law or Florida  
 3731 School for the Deaf and the Blind rules or collective bargaining  
 3732 contracts.

3733 3. The Florida School for the Deaf and the Blind shall  
 3734 review the record of the applicant or employee with respect to  
 3735 the crimes contained in s. 435.04 and shall notify the applicant

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3736 or employee of its findings. When disposition information is  
 3737 missing on a criminal record, it shall be the responsibility of  
 3738 the applicant or employee, upon request of the Florida School  
 3739 for the Deaf and the Blind, to obtain and supply within 30 days  
 3740 the missing disposition information to the Florida School for  
 3741 the Deaf and the Blind. Failure to supply missing information  
 3742 within 30 days or to show reasonable efforts to obtain such  
 3743 information shall result in automatic disqualification of an  
 3744 applicant and automatic termination of an employee.

3745 4. After an initial personnel screening and security  
 3746 background investigation, written notification shall be given to  
 3747 the affected employee within a reasonable time prior to any  
 3748 subsequent screening and investigation.

3749 Section 67. For the purpose of incorporating the  
 3750 amendments to sections 943.0585 and 943.059, Florida Statutes,  
 3751 in references thereto, paragraph (a) of subsection (2) and  
 3752 subsection (6) of section 943.0582, Florida Statutes, are  
 3753 reenacted to read:

3754 943.0582 Prearrest, postarrest, or teen court diversion  
 3755 program expunction.--

3756 (2)(a) As used in this section, the term "expunction" has  
 3757 the same meaning ascribed in and effect as s. 943.0585, except  
 3758 that:

3759 1. The provisions of s. 943.0585(4)(a) do not apply,  
 3760 except that the criminal history record of a person whose record  
 3761 is expunged pursuant to this section shall be made available  
 3762 only to criminal justice agencies for the purpose of determining  
 3763 eligibility for prearrest, postarrest, or teen court diversion  
 3764 programs; when the record is sought as part of a criminal

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3765 investigation; or when the subject of the record is a candidate  
 3766 for employment with a criminal justice agency. For all other  
 3767 purposes, a person whose record is expunged under this section  
 3768 may lawfully deny or fail to acknowledge the arrest and the  
 3769 charge covered by the expunged record.

3770         2. Records maintained by local criminal justice agencies  
 3771 in the county in which the arrest occurred that are eligible for  
 3772 expunction pursuant to this section shall be sealed as the term  
 3773 is used in s. 943.059.

3774         (6) Expunction or sealing granted under this section does  
 3775 not prevent the minor who receives such relief from petitioning  
 3776 for the expunction or sealing of a later criminal history record  
 3777 as provided for in ss. 943.0585 and 943.059, if the minor is  
 3778 otherwise eligible under those sections.

3779         Section 68. For the purpose of incorporating the amendment  
 3780 to section 943.059, Florida Statutes, in references thereto,  
 3781 subsections (7), (8), and (9) of section 943.053, Florida  
 3782 Statutes, are reenacted to read:

3783         943.053 Dissemination of criminal justice information;  
 3784 fees.--

3785         (7) Notwithstanding the provisions of s. 943.0525, and any  
 3786 user agreements adopted pursuant thereto, and notwithstanding  
 3787 the confidentiality of sealed records as provided for in s.  
 3788 943.059, the sheriff of any county that has contracted with a  
 3789 private entity to operate a county detention facility pursuant  
 3790 to the provisions of s. 951.062 shall provide that private  
 3791 entity, in a timely manner, copies of the Florida criminal  
 3792 history records for its inmates. The sheriff may assess a charge  
 3793 for the Florida criminal history records pursuant to the

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3794 provisions of chapter 119. Sealed records received by the  
 3795 private entity under this section remain confidential and exempt  
 3796 from the provisions of s. 119.07(1).

3797 (8) Notwithstanding the provisions of s. 943.0525, and any  
 3798 user agreements adopted pursuant thereto, and notwithstanding  
 3799 the confidentiality of sealed records as provided for in s.  
 3800 943.059, the Department of Corrections shall provide, in a  
 3801 timely manner, copies of the Florida criminal history records  
 3802 for inmates housed in a private state correctional facility to  
 3803 the private entity under contract to operate the facility  
 3804 pursuant to the provisions of s. 944.105 or s. 957.03. The  
 3805 department may assess a charge for the Florida criminal history  
 3806 records pursuant to the provisions of chapter 119. Sealed  
 3807 records received by the private entity under this section remain  
 3808 confidential and exempt from the provisions of s. 119.07(1).

3809 (9) Notwithstanding the provisions of s. 943.0525 and any  
 3810 user agreements adopted pursuant thereto, and notwithstanding  
 3811 the confidentiality of sealed records as provided for in s.  
 3812 943.059, the Department of Juvenile Justice or any other state  
 3813 or local criminal justice agency may provide copies of the  
 3814 Florida criminal history records for juvenile offenders  
 3815 currently or formerly detained or housed in a contracted  
 3816 juvenile assessment center or detention facility or serviced in  
 3817 a contracted treatment program and for employees or other  
 3818 individuals who will have access to these facilities, only to  
 3819 the entity under direct contract with the Department of Juvenile  
 3820 Justice to operate these facilities or programs pursuant to the  
 3821 provisions of s. 985.411. The criminal justice agency providing  
 3822 such data may assess a charge for the Florida criminal history

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3823 records pursuant to the provisions of chapter 119. Sealed  
 3824 records received by the private entity under this section remain  
 3825 confidential and exempt from the provisions of s. 119.07(1).  
 3826 Information provided under this section shall be used only for  
 3827 the criminal justice purpose for which it was requested and may  
 3828 not be further disseminated.

3829       Section 69. The creation of sections 393.135, 394.4593,  
 3830 and 916.1075, Florida Statutes, by this act shall apply to  
 3831 offenses committed on or after the effective date of this act.

3832       Section 70. This act shall take effect July 1, 2004.