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1 A bill to be entitled

2 An act relating to sexual misconduct; creating ss.
3 393.135, 394.4593, and 916.1075, F.S.; defining the terms
4 "employee," "sexual activity," and "sexual misconduct";
5 providing that it is a second degree felony for an
6 employee to engage in sexual misconduct with certain
7 developmentally disabled clients, certain mental health
8 patients, or certain forensic clients; providing certain
9 exceptions; prohibiting certain employment, and providing
10 for dismissal from employment, of a person who has engaged
11 in sexual misconduct with certain developmentally disabled
12 clients, certain mental health patients, or certain
13 forensic clients; requiring certain employees to report
14 sexual misconduct to the central abuse hotline of the
15 Department of Children and Family Services; providing for
16 notification to the inspector general of the Department of
17 Children and Family Services; providing that it is a first
18 degree misdemeanor to knowingly and willfully fail to make
19 a report as required, or to prevent another from doing so,
20 or to submit inaccurate or untruthful information;
21 providing that it is a third degree felony to coerce or
22 threaten another person to alter testimony or a report
23 with respect to an incident of sexual misconduct;
24 providing criminal penalties; amending s. 435.03, F.S.;
25 expanding level 1 screening standards to include criminal
26 offenses related to sexual misconduct with certain
27 developmentally disabled clients, mental health patients,
28 or forensic clients and the reporting of such sexual
29 misconduct; amending s. 435.04, F.S.; expanding level 2

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30 screening standards to include the offenses related to
31 sexual misconduct with certain developmentally disabled
32 clients, mental health patients, or forensic clients and
33 the reporting of such sexual misconduct; amending s.
34 943.0585, F.S., relating to court-ordered expunction of
35 criminal history records, for the purpose of incorporating
36 the amendment to s. 943.059, F.S., in a reference thereto;
37 providing that certain criminal history records relating
38 to sexual misconduct with developmentally disabled
39 clients, mental health patients, or forensic clients, or
40 the reporting of such sexual misconduct, shall not be
41 expunged; providing that the application for eligibility
42 for expunction certify that the criminal history record
43 does not relate to an offense involving sexual misconduct
44 with certain developmentally disabled clients, mental
45 health patients, or forensic clients, or the reporting of
46 such sexual misconduct; amending s. 943.059, F.S.,
47 relating to court-ordered sealing of criminal history
48 records, for the purpose of incorporating the amendment to
49 s. 943.0585, F.S., in a reference thereto; providing that
50 certain criminal history records relating to sexual
51 misconduct with developmentally disabled clients, mental
52 health patients, or forensic clients, or the reporting of
53 such sexual misconduct, shall not be sealed; providing
54 that the application for eligibility for sealing certify
55 that the criminal history record does not relate to an
56 offense involving sexual misconduct with certain
57 developmentally disabled clients, mental health patients,
58 or forensic clients, or the reporting of such sexual

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59 misconduct; amending s. 400.215, F.S., and reenacting
60 paragraphs (b) and (c) of subsection (2) and subsection
61 (3), relating to background screening requirements for
62 certain nursing home personnel, for the purpose of
63 incorporating the amendments to ss. 435.03 and 435.04,
64 F.S., in references thereto; correcting a cross reference;
65 amending s. 400.964, F.S., and reenacting subsections (1),
66 (2), and (7), relating to background screening
67 requirements for certain personnel employed by
68 intermediate care facilities for the developmentally
69 disabled, for the purpose of incorporating the amendments
70 to ss. 435.03 and 435.04, F.S., in references thereto;
71 correcting a cross reference; amending s. 435.045, F.S.,
72 and reenacting paragraph (a) of subsection (1), relating
73 to requirements for the placement of dependent children,
74 for the purpose of incorporating the amendment to s.
75 435.04, F.S., in a reference thereto; correcting a cross
76 reference; reenacting ss. 400.414(1)(f) and (g), 400.4174,
77 400.509(4)(a), (b), (c), (d), (f), and (g), 400.556(2)(c),
78 400.6065(1), (2), and (4), 400.980(4)(a), (b), (c), (d),
79 (f), and (g), 409.175(2)(k), 409.907(8)(d), 435.05(1) and
80 (3), 744.3135, and 985.04(2), F.S., relating to denial,
81 revocation, or suspension of license to operate an
82 assisted living facility; background screening
83 requirements for certain personnel employed by assisted
84 living facilities; registration of particular home health
85 care service providers; denial, suspension, or revocation
86 of license to operate adult day care centers; background
87 screening requirements for certain hospice personnel;

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88 background screening requirements for registrants of the
 89 health care service pools; the definition of "screening"
 90 in connection with the licensure of family foster homes,
 91 residential child-caring agencies, and child-placing
 92 agencies; background screening requirements of Medicaid
 93 providers; employment of persons in positions requiring
 94 background screening; credit and criminal investigations
 95 of guardians; oaths, records, and confidential information
 96 pertaining to juvenile offenders, respectively, for the
 97 purpose of incorporating the amendments to ss. 435.03 and
 98 435.04, F.S., in references thereto; reenacting ss.
 99 400.512, 400.619(4), 400.6194(1), 400.953, 409.912(32),
 100 435.07(4), 464.018(1)(e), 744.309(3), 744.474(12), and
 101 985.407(4), F.S., relating to background screening of home
 102 health agency personnel, nurse registry personnel,
 103 companions, and homemakers; application and renewal of
 104 adult family-care home provider licenses; relating to
 105 denial, revocation, or suspension of adult family-care
 106 home provider license; background screening of home
 107 medical equipment provider personnel, background screening
 108 requirements for certain persons responsible for managed
 109 care plans; exemptions from disqualification from
 110 employment; denial of nursing license and disciplinary
 111 actions against such licensees; disqualification of
 112 guardians; removal of guardians; background screening
 113 requirements for certain Department of Juvenile Justice
 114 personnel, respectively, for the purpose of incorporating
 115 the amendment to s. 435.03, F.S., in references thereto;
 116 reenacting ss. 39.001(2)(b), 39.821(1), 110.1127(3)(a) and

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117 (c), 112.0455(12)(a), 381.0059(1), (2), and (4),
 118 381.60225(1)(a), (b), (c), (d), (f), and (g),
 119 383.305(7)(a), (b), (c), (d), (f), and (g), 390.015(3)(a),
 120 (b), (c), (d), (f), and (g), 393.0655(1), 393.067(6)(a),
 121 (b), (c), (d), (f), and (g), 394.4572(1)(a),
 122 394.875(13)(a), (b), (c), (d), (f), and (g), 395.0055(1),
 123 (2), (3), (4), (6), and (8), 395.0199(4)(a), (b), (c),
 124 (d), (f), and (g), 397.451(1)(a), 400.071(4)(a), (b), (c),
 125 (d), and (f), 400.471(4)(a), (b), (c), (d), (f), and (g),
 126 400.506(2)(a), (b), (c), (d), (f), and (g), 400.5572,
 127 400.607(3)(a), 400.801(4)(a), (b), (c), (d), (f), and (g),
 128 400.805(3)(a), (b), (c), (d), (f), and (g), 400.906(5)(a),
 129 (b), (c), (d), (f), and (g), 400.931(5)(a), (b), (c), (e),
 130 and (f), 400.962(10)(a), (b), (c), (d), and (f),
 131 400.991(7)(b) and (d), 402.302(2)(e), 402.305(2)(a),
 132 402.3054(3), 483.30(2)(a), (b), (c), (d), (f), and (g),
 133 483.101(2)(a), (b), (c), (d), (f), and (g), 744.1085(5),
 134 984.01(2)(b), 985.01(2)(b), 1002.36(7)(a) and (b), F.S.,
 135 relating to background screening requirements for certain
 136 Department of Children and Family Services personnel;
 137 qualifications of guardians ad litem; security checks of
 138 certain public officers and employees; background
 139 screening requirements of certain laboratory personnel in
 140 connection with the Drug-Free Workplace Act; background
 141 screening requirements for school health services
 142 personnel; background screening of certain personnel of
 143 the public health system; background screening and
 144 licensure of birth center personnel; background screening
 145 and licensure of abortion clinic personnel; background

146 screening of direct service providers; background
 147 screening and licensure of personnel of intermediate care
 148 facilities for the developmentally disabled; background
 149 screening of mental health personnel; background screening
 150 and licensure of personnel of crisis stabilization units,
 151 residential treatment facilities, and residential
 152 treatment centers for children and adolescents; background
 153 screening and licensure of personnel of hospitals,
 154 ambulatory surgical centers, and mobile surgical
 155 facilities; background screening of certain personnel in
 156 connection with registration for private utilization
 157 reviews; background screening of certain service provider
 158 personnel; background screening and licensure of certain
 159 long-term care facility personnel; background screening
 160 and licensure of certain home health agency personnel;
 161 background screening and licensure of nurse registry
 162 applicants; background screening of certain adult day care
 163 center personnel; denial or revocation of hospice license;
 164 background screening and licensure of certain transitional
 165 living facility personnel; background screening and
 166 licensure of certain prescribed pediatric extended care
 167 center personnel; background screening and licensure of
 168 certain home medical equipment provider personnel;
 169 background screening and licensure of certain personnel of
 170 intermediate care facilities for the developmentally
 171 disabled; background screening and licensure of health
 172 care clinic personnel; the definition of "child care
 173 facility" in connection with background screening of
 174 operators; background screening requirements for personnel

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175 of child care facilities; background screening
 176 requirements for child enrichment service providers;
 177 background screening and licensure of certain personnel of
 178 multiphasic health testing centers; background screening
 179 and licensure of certain clinical laboratory personnel;
 180 regulation of professional guardians; background screening
 181 of certain Department of Juvenile Justice and Department
 182 of Children and Family Services personnel in connection
 183 with programs for children and families in need of
 184 services; background screening of certain Department of
 185 Juvenile Justice and Department of Children and Family
 186 Services personnel in connection with juvenile justice
 187 programs, background screening of personnel of the Florida
 188 School for the Deaf and the Blind, respectively, for the
 189 purposes of incorporating the amendment to s. 435.04,
 190 F.S., in references thereto; reenacting s. 943.0582(2)(a)
 191 and (6), F.S., relating to prearrest, postarrest, or teen
 192 court diversion program expunction for the purpose of
 193 incorporating the amendments to ss. 943.0585 and 943.059,
 194 F.S., in references thereto; reenacting s. 943.053(7),
 195 (8), and (9), F.S., relating to dissemination of criminal
 196 justice information, for the purpose of incorporating the
 197 amendment to s. 943.059, F.S., in references thereto;
 198 providing applicability; providing an effective date.

199
 200 Be It Enacted by the Legislature of the State of Florida:
 201

202 Section 1. Section 393.135, Florida Statutes, is created
 203 to read:

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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204 393.135 Sexual misconduct prohibited; reporting required;
 205 penalties.--

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

207 (a) "Employee" includes any person under contract with the
 208 agency or the department and any paid staff member, volunteer,
 209 or intern of the agency or the department or any person under
 210 contract with the agency or the department.

211 (b) "Sexual activity" means fondling the genital area,
 212 groin, inner thighs, buttocks, or breasts of a person; the oral,
 213 anal, or vaginal penetration by or union with the sexual organ
 214 of another; or the anal or vaginal penetration of another by any
 215 other object.

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

221 (2) An employee who engages in sexual misconduct with a
 222 client who:

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

224 (b) Resides in a residential facility, including any
 225 comprehensive transitional education program, developmental
 226 services institution, foster care facility, group home facility,
 227 intermediate care facility for the developmentally disabled, or
 228 residential habilitation center; or

229 (c) Receives services from a family care program

230
 231 commits a felony of the second degree, punishable as provided in
 232 s. 775.082, s. 775.083, or s. 775.084. An employee may be found

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233 guilty of violating this subsection without having committed the
 234 crime of sexual battery.

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

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

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

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

242 (5) Notwithstanding prosecution, any violation of this
 243 subsection, as determined by the Public Employees Relations
 244 Commission, constitutes sufficient cause under s. 110.227 for
 245 dismissal from employment, and such person may not again be
 246 employed in any capacity in connection with the developmental
 247 services system.

248 (6) An employee who witnesses sexual misconduct, or who
 249 otherwise knows or has reasonable cause to suspect that a person
 250 has engaged in sexual misconduct, shall immediately report the
 251 incident to the department's central abuse hotline. Such
 252 employee shall also prepare, date, and sign an independent
 253 report that specifically describes the nature of the sexual
 254 misconduct, the location and time of the incident, and the
 255 persons involved. The employee shall deliver the report to the
 256 supervisor or program director, who is responsible for providing
 257 copies to the department's inspector general. The inspector
 258 general shall immediately conduct an appropriate administrative
 259 investigation, and, if there is probable cause to believe that
 260 sexual misconduct has occurred, the inspector general shall

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261 notify the state attorney in the circuit in which the incident
 262 occurred.

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

268 (b) Any person who knowingly or willfully submits
 269 inaccurate, incomplete, or untruthful information with respect
 270 to a report required under this section commits a misdemeanor of
 271 the first degree, punishable as provided in s. 775.082 or s.
 272 775.083.

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

278 Section 2. Section 394.4593, Florida Statutes, is created
 279 to read:

280 394.4593 Sexual misconduct prohibited; reporting required;
 281 penalties.--

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

283 (a) "Employee" includes any person under contract with the
 284 department and any paid staff member, volunteer, or intern of
 285 the department or any person under contract with the department.

286 (b) "Sexual activity" means fondling the genital area,
 287 groin, inner thighs, buttocks, or breasts of a person; the oral,
 288 anal, or vaginal penetration by or union with the sexual organ

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289 of another; or the anal or vaginal penetration of another by any
 290 other object.

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

296 (2) An employee who engages in sexual misconduct with a
 297 patient who:

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

299 (b) Resides in a facility that provides for the
 300 evaluation, diagnosis, care, treatment, training, or
 301 hospitalization of persons who appear to have a mental illness
 302 or have been diagnosed as having a mental illness

303
 304 commits a felony of the second degree, punishable as provided in
 305 s. 775.082, s. 775.083, or s. 775.084. An employee may be found
 306 guilty of violating this subsection without having committed the
 307 crime of sexual battery.

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

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

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

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

315 (5) Notwithstanding prosecution, any violation of this
 316 subsection, as determined by the Public Employees Relations
 317 Commission, constitutes sufficient cause under s. 110.227 for

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318 dismissal from employment, and such person may not again be
319 employed in any capacity in connection with the mental health
320 services system.

321 (6) An employee who witnesses sexual misconduct, or who
322 otherwise knows or has reasonable cause to suspect that a person
323 has engaged in sexual misconduct, shall immediately report the
324 incident to the department's central abuse hotline. Such
325 employee shall also prepare, date, and sign an independent
326 report that specifically describes the nature of the sexual
327 misconduct, the location and time of the incident, and the
328 persons involved. The employee shall deliver the report to the
329 supervisor or program director, who is responsible for providing
330 copies to the department's inspector general. The inspector
331 general shall immediately conduct an appropriate administrative
332 investigation, and, if there is probable cause to believe that
333 sexual misconduct has occurred, the inspector general shall
334 notify the state attorney in the circuit in which the incident
335 occurred.

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

341 (b) Any person who knowingly or willfully submits
342 inaccurate, incomplete, or untruthful information with respect
343 to a report required under this section commits a misdemeanor of
344 the first degree, punishable as provided in s. 775.082 or s.
345 775.083.

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

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

353 916.1075 Sexual misconduct prohibited; reporting required;
 354 penalties.--

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

356 (a) "Employee" includes any person under contract with the
 357 department and any paid staff member, volunteer, or intern of
 358 the department or any person under contract with the department.

359 (b) "Sexual activity" means fondling the genital area,
 360 groin, inner thighs, buttocks, or breasts of a person; the oral,
 361 anal, or vaginal penetration by or union with the sexual organ
 362 of another; or the anal or vaginal penetration of another by any
 363 other object.

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

369 (2) An employee who engages in sexual misconduct with a
 370 client who resides in a civil or forensic facility commits a
 371 felony of the second degree, punishable as provided in s.
 372 775.082, s. 775.083, or s. 775.084. An employee may be found
 373 guilty of violating this subsection without having committed the
 374 crime of sexual battery.

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

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

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

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

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

388 (6) An employee who witnesses sexual misconduct, or who
389 otherwise knows or has reasonable cause to suspect that a person
390 has engaged in sexual misconduct, shall immediately report the
391 incident to the department's central abuse hotline. Such
392 employee shall also prepare, date, and sign an independent
393 report that specifically describes the nature of the sexual
394 misconduct, the location and time of the incident, and the
395 persons involved. The employee shall deliver the report to the
396 supervisor or program director, who is responsible for providing
397 copies to the department's inspector general. The inspector
398 general shall immediately conduct an appropriate administrative
399 investigation, and, if there is probable cause to believe that
400 sexual misconduct has occurred, the inspector general shall
401 notify the state attorney in the circuit in which the incident
402 occurred.

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

408 (b) Any person who knowingly or willfully submits
 409 inaccurate, incomplete, or untruthful information with respect
 410 to a report required under this section commits a misdemeanor of
 411 the first degree, punishable as provided in s. 775.082 or s.
 412 775.083.

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

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

420 435.03 Level 1 screening standards.--

421 (2) Any person for whom employment screening is required
 422 by statute must not have been found guilty of, regardless of
 423 adjudication, or entered a plea of nolo contendere or guilty to,
 424 any offense prohibited under any of the following provisions of
 425 the Florida Statutes or under any similar statute of another
 426 jurisdiction:

427 (a) Section 393.135, relating to sexual misconduct with
 428 certain developmentally disabled clients and reporting of such
 429 sexual misconduct.

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430 (b) Section 394.4593, relating to sexual misconduct with
 431 certain mental health patients and reporting of such sexual
 432 misconduct.

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

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

436 ~~(e)(e)~~ Section 782.07, relating to manslaughter,
 437 aggravated manslaughter of an elderly person or disabled adult,
 438 or aggravated manslaughter of a child.

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

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

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

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

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

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

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

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

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

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

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

454 ~~(q)(o)~~ Section 798.02, relating to lewd and lascivious
 455 behavior.

456 ~~(r)(p)~~ Chapter 800, relating to lewdness and indecent
 457 exposure.

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

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

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

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

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

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

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

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

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

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

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

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

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

483 (ff) Section 916.0175, relating to sexual misconduct with
 484 certain forensic clients and reporting of such sexual
 485 misconduct.

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

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488 435.04 Level 2 screening standards.--

489 (2) The security background investigations under this
 490 section must ensure that no persons subject to the provisions of
 491 this section have been found guilty of, regardless of
 492 adjudication, or entered a plea of nolo contendere or guilty to,
 493 any offense prohibited under any of the following provisions of
 494 the Florida Statutes or under any similar statute of another
 495 jurisdiction:

496 (a) Section 393.135, relating to sexual misconduct with
 497 certain developmentally disabled clients and reporting of such
 498 sexual misconduct.

499 (b) Section 394.4593, relating to sexual misconduct with
 500 certain mental health patients and reporting of such sexual
 501 misconduct.

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

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

505 (e)~~(e)~~ Section 782.07, relating to manslaughter,
 506 aggravated manslaughter of an elderly person or disabled adult,
 507 or aggravated manslaughter of a child.

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

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

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

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

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

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

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

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

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

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

524 (p)~~(n)~~ Section 787.04(3), relating to carrying a child
525 beyond the state lines with criminal intent to avoid producing a
526 child at a custody hearing or delivering the child to the
527 designated person.

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

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

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

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

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

537 (v)~~(t)~~ Section 798.02, relating to lewd and lascivious
538 behavior.

539 (w)~~(u)~~ Chapter 800, relating to lewdness and indecent
540 exposure.

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

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

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

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546 (aa)~~(y)~~ Section 825.102, relating to abuse, aggravated
 547 abuse, or neglect of an elderly person or disabled adult.
 548 (bb)~~(z)~~ Section 825.1025, relating to lewd or lascivious
 549 offenses committed upon or in the presence of an elderly person
 550 or disabled adult.
 551 (cc)~~(aa)~~ Section 825.103, relating to exploitation of an
 552 elderly person or disabled adult, if the offense was a felony.
 553 (dd)~~(bb)~~ Section 826.04, relating to incest.
 554 (ee)~~(ee)~~ Section 827.03, relating to child abuse,
 555 aggravated child abuse, or neglect of a child.
 556 (ff)~~(dd)~~ Section 827.04, relating to contributing to the
 557 delinquency or dependency of a child.
 558 (gg)~~(ee)~~ Former s. 827.05, relating to negligent treatment
 559 of children.
 560 (hh)~~(ff)~~ Section 827.071, relating to sexual performance
 561 by a child.
 562 (ii)~~(gg)~~ Section 843.01, relating to resisting arrest with
 563 violence.
 564 (jj)~~(hh)~~ Section 843.025, relating to depriving a law
 565 enforcement, correctional, or correctional probation officer
 566 means of protection or communication.
 567 (kk)~~(ii)~~ Section 843.12, relating to aiding in an escape.
 568 (ll)~~(jj)~~ Section 843.13, relating to aiding in the escape
 569 of juvenile inmates in correctional institutions.
 570 (mm)~~(kk)~~ Chapter 847, relating to obscene literature.
 571 (nn)~~(ll)~~ Section 874.05(1), relating to encouraging or
 572 recruiting another to join a criminal gang.

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

576 (pp) Section 916.0175, relating to sexual misconduct with
 577 certain forensic clients and reporting of such sexual
 578 misconduct.

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

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

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

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

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

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

592 943.0585 Court-ordered expunction of criminal history
 593 records.--The courts of this state have jurisdiction over their
 594 own procedures, including the maintenance, expunction, and
 595 correction of judicial records containing criminal history
 596 information to the extent such procedures are not inconsistent
 597 with the conditions, responsibilities, and duties established by
 598 this section. Any court of competent jurisdiction may order a
 599 criminal justice agency to expunge the criminal history record
 600 of a minor or an adult who complies with the requirements of
 601 this section. The court shall not order a criminal justice

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602 agency to expunge a criminal history record until the person
603 seeking to expunge a criminal history record has applied for and
604 received a certificate of eligibility for expunction pursuant to
605 subsection (2). A criminal history record that relates to a
606 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
607 s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s. 827.071,
608 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,
609 s. 916.1075, or a violation enumerated in s. 907.041 may not be
610 expunged, without regard to whether adjudication was withheld,
611 if the defendant was found guilty of or pled guilty or nolo
612 contendere to the offense, or if the defendant, as a minor, was
613 found to have committed, or pled guilty or nolo contendere to
614 committing, the offense as a delinquent act. The court may only
615 order expunction of a criminal history record pertaining to one
616 arrest or one incident of alleged criminal activity, except as
617 provided in this section. The court may, at its sole discretion,
618 order the expunction of a criminal history record pertaining to
619 more than one arrest if the additional arrests directly relate
620 to the original arrest. If the court intends to order the
621 expunction of records pertaining to such additional arrests,
622 such intent must be specified in the order. A criminal justice
623 agency may not expunge any record pertaining to such additional
624 arrests if the order to expunge does not articulate the
625 intention of the court to expunge a record pertaining to more
626 than one arrest. This section does not prevent the court from
627 ordering the expunction of only a portion of a criminal history
628 record pertaining to one arrest or one incident of alleged
629 criminal activity. Notwithstanding any law to the contrary, a
630 criminal justice agency may comply with laws, court orders, and

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631 official requests of other jurisdictions relating to expunction,
 632 correction, or confidential handling of criminal history records
 633 or information derived therefrom. This section does not confer
 634 any right to the expunction of any criminal history record, and
 635 any request for expunction of a criminal history record may be
 636 denied at the sole discretion of the court.

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

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

642 (b) The petitioner's sworn statement attesting that the
 643 petitioner:

644 1. Has never, prior to the date on which the petition is
 645 filed, been adjudicated guilty of a criminal offense or
 646 comparable ordinance violation or adjudicated delinquent for
 647 committing a felony or a misdemeanor specified in s.
 648 943.051(3)(b).

649 2. Has not been adjudicated guilty of, or adjudicated
 650 delinquent for committing, any of the acts stemming from the
 651 arrest or alleged criminal activity to which the petition
 652 pertains.

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

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

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660
 661 Any person who knowingly provides false information on such
 662 sworn statement to the court commits a felony of the third
 663 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 664 775.084.

665 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.--Prior to
 666 petitioning the court to expunge a criminal history record, a
 667 person seeking to expunge a criminal history record shall apply
 668 to the department for a certificate of eligibility for
 669 expunction. The department shall, by rule adopted pursuant to
 670 chapter 120, establish procedures pertaining to the application
 671 for and issuance of certificates of eligibility for expunction.
 672 The department shall issue a certificate of eligibility for
 673 expunction to a person who is the subject of a criminal history
 674 record if that person:

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

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

680 2. That an indictment, information, or other charging
 681 document, if filed or issued in the case, was dismissed or nolle
 682 prosequi by the state attorney or statewide prosecutor, or was
 683 dismissed by a court of competent jurisdiction.

684 3. That the criminal history record does not relate to a
 685 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
 686 s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s. 827.071,
 687 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,
 688 s. 916.1075, or a violation enumerated in s. 907.041, where the

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689 defendant was found guilty of, or pled guilty or nolo contendere
 690 to any such offense, or that the defendant, as a minor, was
 691 found to have committed, or pled guilty or nolo contendere to
 692 committing, such an offense as a delinquent act, without regard
 693 to whether adjudication was withheld.

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

697 (c) Has submitted to the department a certified copy of
 698 the disposition of the charge to which the petition to expunge
 699 pertains.

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

705 (e) Has not been adjudicated guilty of, or adjudicated
 706 delinquent for committing, any of the acts stemming from the
 707 arrest or alleged criminal activity to which the petition to
 708 expunge pertains.

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

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

715 (h) Is not required to wait a minimum of 10 years prior to
 716 being eligible for an expunction of such records because all
 717 charges related to the arrest or criminal activity to which the

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718 petition to expunge pertains were dismissed prior to trial,
 719 adjudication, or the withholding of adjudication. Otherwise,
 720 such criminal history record must be sealed under this section,
 721 former s. 893.14, former s. 901.33, or former s. 943.058 for at
 722 least 10 years before such record is eligible for expunction.

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

724 (a) In judicial proceedings under this section, a copy of
 725 the completed petition to expunge shall be served upon the
 726 appropriate state attorney or the statewide prosecutor and upon
 727 the arresting agency; however, it is not necessary to make any
 728 agency other than the state a party. The appropriate state
 729 attorney or the statewide prosecutor and the arresting agency
 730 may respond to the court regarding the completed petition to
 731 expunge.

732 (b) If relief is granted by the court, the clerk of the
 733 court shall certify copies of the order to the appropriate state
 734 attorney or the statewide prosecutor and the arresting agency.
 735 The arresting agency is responsible for forwarding the order to
 736 any other agency to which the arresting agency disseminated the
 737 criminal history record information to which the order pertains.
 738 The department shall forward the order to expunge to the Federal
 739 Bureau of Investigation. The clerk of the court shall certify a
 740 copy of the order to any other agency which the records of the
 741 court reflect has received the criminal history record from the
 742 court.

743 (c) For an order to expunge entered by a court prior to
 744 July 1, 1992, the department shall notify the appropriate state
 745 attorney or statewide prosecutor of an order to expunge which is
 746 contrary to law because the person who is the subject of the

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747 record has previously been convicted of a crime or comparable
 748 ordinance violation or has had a prior criminal history record
 749 sealed or expunged. Upon receipt of such notice, the appropriate
 750 state attorney or statewide prosecutor shall take action, within
 751 60 days, to correct the record and petition the court to void
 752 the order to expunge. The department shall seal the record until
 753 such time as the order is voided by the court.

754 (d) On or after July 1, 1992, the department or any other
 755 criminal justice agency is not required to act on an order to
 756 expunge entered by a court when such order does not comply with
 757 the requirements of this section. Upon receipt of such an order,
 758 the department must notify the issuing court, the appropriate
 759 state attorney or statewide prosecutor, the petitioner or the
 760 petitioner's attorney, and the arresting agency of the reason
 761 for noncompliance. The appropriate state attorney or statewide
 762 prosecutor shall take action within 60 days to correct the
 763 record and petition the court to void the order. No cause of
 764 action, including contempt of court, shall arise against any
 765 criminal justice agency for failure to comply with an order to
 766 expunge when the petitioner for such order failed to obtain the
 767 certificate of eligibility as required by this section or such
 768 order does not otherwise comply with the requirements of this
 769 section.

770 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
 771 criminal history record of a minor or an adult which is ordered
 772 expunged by a court of competent jurisdiction pursuant to this
 773 section must be physically destroyed or obliterated by any
 774 criminal justice agency having custody of such record; except
 775 that any criminal history record in the custody of the

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776 department must be retained in all cases. A criminal history
 777 record ordered expunged that is retained by the department is
 778 confidential and exempt from the provisions of s. 119.07(1) and
 779 s. 24(a), Art. I of the State Constitution and not available to
 780 any person or entity except upon order of a court of competent
 781 jurisdiction. A criminal justice agency may retain a notation
 782 indicating compliance with an order to expunge.

783 (a) The person who is the subject of a criminal history
 784 record that is expunged under this section or under other
 785 provisions of law, including former s. 893.14, former s. 901.33,
 786 and former s. 943.058, may lawfully deny or fail to acknowledge
 787 the arrests covered by the expunged record, except when the
 788 subject of the record:

789 1. Is a candidate for employment with a criminal justice
 790 agency;

791 2. Is a defendant in a criminal prosecution;

792 3. Concurrently or subsequently petitions for relief under
 793 this section or s. 943.059;

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

795 5. Is seeking to be employed or licensed by or to contract
 796 with the Department of Children and Family Services or the
 797 Department of Juvenile Justice or to be employed or used by such
 798 contractor or licensee in a sensitive position having direct
 799 contact with children, the developmentally disabled, the aged,
 800 or the elderly as provided in s. 110.1127(3), s. 393.063(15), s.
 801 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.
 802 409.175(2)(i), s. 415.102(4), s. 916.106(10) and (13), s.
 803 985.407, or chapter 400; or

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804 6. Is seeking to be employed or licensed by the Office of
 805 Teacher Education, Certification, Staff Development, and
 806 Professional Practices of the Department of Education, any
 807 district school board, or any local governmental entity that
 808 licenses child care facilities.

809 (b) Subject to the exceptions in paragraph (a), a person
 810 who has been granted an expunction under this section, former s.
 811 893.14, former s. 901.33, or former s. 943.058 may not be held
 812 under any provision of law of this state to commit perjury or to
 813 be otherwise liable for giving a false statement by reason of
 814 such person's failure to recite or acknowledge an expunged
 815 criminal history record.

816 (c) Information relating to the existence of an expunged
 817 criminal history record which is provided in accordance with
 818 paragraph (a) is confidential and exempt from the provisions of
 819 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
 820 except that the department shall disclose the existence of a
 821 criminal history record ordered expunged to the entities set
 822 forth in subparagraphs (a)1., 4., 5., and 6. for their
 823 respective licensing and employment purposes, and to criminal
 824 justice agencies for their respective criminal justice purposes.
 825 It is unlawful for any employee of an entity set forth in
 826 subparagraph (a)1., subparagraph (a)4., subparagraph (a)5., or
 827 subparagraph (a)6. to disclose information relating to the
 828 existence of an expunged criminal history record of a person
 829 seeking employment or licensure with such entity or contractor,
 830 except to the person to whom the criminal history record relates
 831 or to persons having direct responsibility for employment or
 832 licensure decisions. Any person who violates this paragraph

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833 commits a misdemeanor of the first degree, punishable as
 834 provided in s. 775.082 or s. 775.083.

835 (5) STATUTORY REFERENCES.--Any reference to any other
 836 chapter, section, or subdivision of the Florida Statutes in this
 837 section constitutes a general reference under the doctrine of
 838 incorporation by reference.

839 Section 7. Section 943.059, Florida Statutes, is amended
 840 to read:

841 943.059 Court-ordered sealing of criminal history
 842 records.--The courts of this state shall continue to have
 843 jurisdiction over their own procedures, including the
 844 maintenance, sealing, and correction of judicial records
 845 containing criminal history information to the extent such
 846 procedures are not inconsistent with the conditions,
 847 responsibilities, and duties established by this section. Any
 848 court of competent jurisdiction may order a criminal justice
 849 agency to seal the criminal history record of a minor or an
 850 adult who complies with the requirements of this section. The
 851 court shall not order a criminal justice agency to seal a
 852 criminal history record until the person seeking to seal a
 853 criminal history record has applied for and received a
 854 certificate of eligibility for sealing pursuant to subsection
 855 (2). A criminal history record that relates to a violation of s.
 856 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
 857 800.04, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s.
 858 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s. 916.1075, or
 859 a violation enumerated in s. 907.041 may not be sealed, without
 860 regard to whether adjudication was withheld, if the defendant
 861 was found guilty of or pled guilty or nolo contendere to the

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862 offense, or if the defendant, as a minor, was found to have
 863 committed or pled guilty or nolo contendere to committing the
 864 offense as a delinquent act. The court may only order sealing of
 865 a criminal history record pertaining to one arrest or one
 866 incident of alleged criminal activity, except as provided in
 867 this section. The court may, at its sole discretion, order the
 868 sealing of a criminal history record pertaining to more than one
 869 arrest if the additional arrests directly relate to the original
 870 arrest. If the court intends to order the sealing of records
 871 pertaining to such additional arrests, such intent must be
 872 specified in the order. A criminal justice agency may not seal
 873 any record pertaining to such additional arrests if the order to
 874 seal does not articulate the intention of the court to seal
 875 records pertaining to more than one arrest. This section does
 876 not prevent the court from ordering the sealing of only a
 877 portion of a criminal history record pertaining to one arrest or
 878 one incident of alleged criminal activity. Notwithstanding any
 879 law to the contrary, a criminal justice agency may comply with
 880 laws, court orders, and official requests of other jurisdictions
 881 relating to sealing, correction, or confidential handling of
 882 criminal history records or information derived therefrom. This
 883 section does not confer any right to the sealing of any criminal
 884 history record, and any request for sealing a criminal history
 885 record may be denied at the sole discretion of the court.

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

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

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891 (b) The petitioner's sworn statement attesting that the
892 petitioner:

893 1. Has never, prior to the date on which the petition is
894 filed, been adjudicated guilty of a criminal offense or
895 comparable ordinance violation or adjudicated delinquent for
896 committing a felony or a misdemeanor specified in s.
897 943.051(3)(b).

898 2. Has not been adjudicated guilty of or adjudicated
899 delinquent for committing any of the acts stemming from the
900 arrest or alleged criminal activity to which the petition to
901 seal pertains.

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

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

909
910 Any person who knowingly provides false information on such
911 sworn statement to the court commits a felony of the third
912 degree, punishable as provided in s. 775.082, s. 775.083, or s.
913 775.084.

914 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.--Prior to
915 petitioning the court to seal a criminal history record, a
916 person seeking to seal a criminal history record shall apply to
917 the department for a certificate of eligibility for sealing. The
918 department shall, by rule adopted pursuant to chapter 120,
919 establish procedures pertaining to the application for and

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920 issuance of certificates of eligibility for sealing. The
 921 department shall issue a certificate of eligibility for sealing
 922 to a person who is the subject of a criminal history record
 923 provided that such person:

924 (a) Has submitted to the department a certified copy of
 925 the disposition of the charge to which the petition to seal
 926 pertains.

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

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

935 (d) Has not been adjudicated guilty of or adjudicated
 936 delinquent for committing any of the acts stemming from the
 937 arrest or alleged criminal activity to which the petition to
 938 seal pertains.

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

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

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

946 (a) In judicial proceedings under this section, a copy of
 947 the completed petition to seal shall be served upon the
 948 appropriate state attorney or the statewide prosecutor and upon

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949 the arresting agency; however, it is not necessary to make any
 950 agency other than the state a party. The appropriate state
 951 attorney or the statewide prosecutor and the arresting agency
 952 may respond to the court regarding the completed petition to
 953 seal.

954 (b) If relief is granted by the court, the clerk of the
 955 court shall certify copies of the order to the appropriate state
 956 attorney or the statewide prosecutor and to the arresting
 957 agency. The arresting agency is responsible for forwarding the
 958 order to any other agency to which the arresting agency
 959 disseminated the criminal history record information to which
 960 the order pertains. The department shall forward the order to
 961 seal to the Federal Bureau of Investigation. The clerk of the
 962 court shall certify a copy of the order to any other agency
 963 which the records of the court reflect has received the criminal
 964 history record from the court.

965 (c) For an order to seal entered by a court prior to July
 966 1, 1992, the department shall notify the appropriate state
 967 attorney or statewide prosecutor of any order to seal which is
 968 contrary to law because the person who is the subject of the
 969 record has previously been convicted of a crime or comparable
 970 ordinance violation or has had a prior criminal history record
 971 sealed or expunged. Upon receipt of such notice, the appropriate
 972 state attorney or statewide prosecutor shall take action, within
 973 60 days, to correct the record and petition the court to void
 974 the order to seal. The department shall seal the record until
 975 such time as the order is voided by the court.

976 (d) On or after July 1, 1992, the department or any other
 977 criminal justice agency is not required to act on an order to

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978 seal entered by a court when such order does not comply with the
 979 requirements of this section. Upon receipt of such an order, the
 980 department must notify the issuing court, the appropriate state
 981 attorney or statewide prosecutor, the petitioner or the
 982 petitioner's attorney, and the arresting agency of the reason
 983 for noncompliance. The appropriate state attorney or statewide
 984 prosecutor shall take action within 60 days to correct the
 985 record and petition the court to void the order. No cause of
 986 action, including contempt of court, shall arise against any
 987 criminal justice agency for failure to comply with an order to
 988 seal when the petitioner for such order failed to obtain the
 989 certificate of eligibility as required by this section or when
 990 such order does not comply with the requirements of this
 991 section.

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

996 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A criminal
 997 history record of a minor or an adult which is ordered sealed by
 998 a court of competent jurisdiction pursuant to this section is
 999 confidential and exempt from the provisions of s. 119.07(1) and
 1000 s. 24(a), Art. I of the State Constitution and is available only
 1001 to the person who is the subject of the record, to the subject's
 1002 attorney, to criminal justice agencies for their respective
 1003 criminal justice purposes, or to those entities set forth in
 1004 subparagraphs (a)1., 4., 5., and 6. for their respective
 1005 licensing and employment purposes.

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1006 (a) The subject of a criminal history record sealed under
 1007 this section or under other provisions of law, including former
 1008 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
 1009 deny or fail to acknowledge the arrests covered by the sealed
 1010 record, except when the subject of the record:

- 1011 1. Is a candidate for employment with a criminal justice
 1012 agency;
- 1013 2. Is a defendant in a criminal prosecution;
- 1014 3. Concurrently or subsequently petitions for relief under
 1015 this section or s. 943.0585;
- 1016 4. Is a candidate for admission to The Florida Bar;
- 1017 5. Is seeking to be employed or licensed by or to contract
 1018 with the Department of Children and Family Services or the
 1019 Department of Juvenile Justice or to be employed or used by such
 1020 contractor or licensee in a sensitive position having direct
 1021 contact with children, the developmentally disabled, the aged,
 1022 or the elderly as provided in s. 110.1127(3), s. 393.063(15), s.
 1023 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.
 1024 409.175(2)(i), s. 415.102(4), s. 415.103, s. 916.106(10) and
 1025 (13), s. 985.407, or chapter 400; or
- 1026 6. Is seeking to be employed or licensed by the Office of
 1027 Teacher Education, Certification, Staff Development, and
 1028 Professional Practices of the Department of Education, any
 1029 district school board, or any local governmental entity which
 1030 licenses child care facilities.

1031 (b) Subject to the exceptions in paragraph (a), a person
 1032 who has been granted a sealing under this section, former s.
 1033 893.14, former s. 901.33, or former s. 943.058 may not be held
 1034 under any provision of law of this state to commit perjury or to

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1035 be otherwise liable for giving a false statement by reason of
 1036 such person's failure to recite or acknowledge a sealed criminal
 1037 history record.

1038 (c) Information relating to the existence of a sealed
 1039 criminal record provided in accordance with the provisions of
 1040 paragraph (a) is confidential and exempt from the provisions of
 1041 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
 1042 except that the department shall disclose the sealed criminal
 1043 history record to the entities set forth in subparagraphs (a)1.,
 1044 4., 5., and 6. for their respective licensing and employment
 1045 purposes. It is unlawful for any employee of an entity set forth
 1046 in subparagraph (a)1., subparagraph (a)4., subparagraph (a)5.,
 1047 or subparagraph (a)6. to disclose information relating to the
 1048 existence of a sealed criminal history record of a person
 1049 seeking employment or licensure with such entity or contractor,
 1050 except to the person to whom the criminal history record relates
 1051 or to persons having direct responsibility for employment or
 1052 licensure decisions. Any person who violates the provisions of
 1053 this paragraph commits a misdemeanor of the first degree,
 1054 punishable as provided in s. 775.082 or s. 775.083.

1055 (5) STATUTORY REFERENCES.--Any reference to any other
 1056 chapter, section, or subdivision of the Florida Statutes in this
 1057 section constitutes a general reference under the doctrine of
 1058 incorporation by reference.

1059 Section 8. Paragraph (a) of subsection (2) of section
 1060 400.215, Florida Statutes, is amended, and paragraphs (b) and
 1061 (c) of subsection (2) and subsection (3) of said section are
 1062 reenacted for the purpose of incorporating the amendments to

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1063 sections 435.03 and 435.04, Florida Statutes, in references
 1064 thereto, to read:

1065 400.215 Personnel screening requirement.--

1066 (2) Employers and employees shall comply with the
 1067 requirements of s. 435.05.

1068 (a) Notwithstanding the provisions of s. 435.05(1),
 1069 facilities must have in their possession evidence that level 1
 1070 screening has been completed before allowing an employee to
 1071 begin working with patients as provided in subsection (1). All
 1072 information necessary for conducting background screening using
 1073 level 1 standards as specified in s. 435.03~~(1)~~ shall be
 1074 submitted by the nursing facility to the agency. Results of the
 1075 background screening shall be provided by the agency to the
 1076 requesting nursing facility.

1077 (b) Employees qualified under the provisions of paragraph
 1078 (a) who have not maintained continuous residency within the
 1079 state for the 5 years immediately preceding the date of request
 1080 for background screening must complete level 2 screening, as
 1081 provided in chapter 435. Such employees may work in a
 1082 conditional status up to 180 days pending the receipt of written
 1083 findings evidencing the completion of level 2 screening. Level 2
 1084 screening shall not be required of employees or prospective
 1085 employees who attest in writing under penalty of perjury that
 1086 they meet the residency requirement. Completion of level 2
 1087 screening shall require the employee or prospective employee to
 1088 furnish to the nursing facility a full set of fingerprints to
 1089 enable a criminal background investigation to be conducted. The
 1090 nursing facility shall submit the completed fingerprint card to
 1091 the agency. The agency shall establish a record of the request

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1092 in the database provided for in paragraph (c) and forward the
 1093 request to the Department of Law Enforcement, which is
 1094 authorized to submit the fingerprints to the Federal Bureau of
 1095 Investigation for a national criminal history records check. The
 1096 results of the national criminal history records check shall be
 1097 returned to the agency, which shall maintain the results in the
 1098 database provided for in paragraph (c). The agency shall notify
 1099 the administrator of the requesting nursing facility or the
 1100 administrator of any other facility licensed under chapter 393,
 1101 chapter 394, chapter 395, chapter 397, or this chapter, as
 1102 requested by such facility, as to whether or not the employee
 1103 has qualified under level 1 or level 2 screening. An employee or
 1104 prospective employee who has qualified under level 2 screening
 1105 and has maintained such continuous residency within the state
 1106 shall not be required to complete a subsequent level 2 screening
 1107 as a condition of employment at another facility.

1108 (c) The agency shall establish and maintain a database of
 1109 background screening information which shall include the results
 1110 of both level 1 and level 2 screening. The Department of Law
 1111 Enforcement shall timely provide to the agency, electronically,
 1112 the results of each statewide screening for incorporation into
 1113 the database. The agency shall, upon request from any facility,
 1114 agency, or program required by or authorized by law to screen
 1115 its employees or applicants, notify the administrator of the
 1116 facility, agency, or program of the qualifying or disqualifying
 1117 status of the employee or applicant named in the request.

1118 (3) The applicant is responsible for paying the fees
 1119 associated with obtaining the required screening. Payment for
 1120 the screening shall be submitted to the agency. The agency shall

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1121 establish a schedule of fees to cover the costs of level 1 and
 1122 level 2 screening. Facilities may reimburse employees for these
 1123 costs. The Department of Law Enforcement shall charge the agency
 1124 for a level 1 or level 2 screening a rate sufficient to cover
 1125 the costs of such screening pursuant to s. 943.053(3). The
 1126 agency shall, as allowable, reimburse nursing facilities for the
 1127 cost of conducting background screening as required by this
 1128 section. This reimbursement will not be subject to any rate
 1129 ceilings or payment targets in the Medicaid Reimbursement plan.

1130 Section 9. For the purpose of incorporating the amendments
 1131 to sections 435.03 and 435.04, Florida Statutes, in references
 1132 thereto, subsections (1) and (2) of section 400.964, Florida
 1133 Statutes, are reenacted, and subsection (7) of said section is
 1134 amended and reenacted, to read:

1135 400.964 Personnel screening requirement.--

1136 (1) The agency shall require level 2 background screening
 1137 as provided in chapter 435 for all employees or prospective
 1138 employees of facilities licensed under this part who are
 1139 expected to be, or whose responsibilities are such that they
 1140 would be considered to be, a direct service provider.

1141 (2) Employers and employees shall comply with the
 1142 requirements of chapter 435.

1143 (7) All employees must comply with the requirements of
 1144 this section by October 1, 2000. A person employed by a facility
 1145 licensed pursuant to this part as of the effective date of this
 1146 act is not required to submit to rescreening if the facility has
 1147 in its possession written evidence that the person has been
 1148 screened and qualified according to level 1 standards as
 1149 specified in s. 435.03~~(1)~~. Any current employee who meets the

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1150 level 1 requirement but does not meet the 5-year residency
 1151 requirement must provide to the employing facility written
 1152 attestation under penalty of perjury that the employee has not
 1153 been convicted of a disqualifying offense in another state or
 1154 jurisdiction. All applicants hired on or after October 1, 1999,
 1155 must comply with the requirements of this section.

1156 Section 10. For the purpose of incorporating the amendment
 1157 to section 435.04, Florida Statutes, in a reference thereto,
 1158 paragraph (a) of subsection (1) of section 435.045, Florida
 1159 Statutes, is amended and reenacted to read:

1160 435.045 Requirements for placement of dependent
 1161 children.--

1162 (1)(a) Unless an election provided for in subsection (2)
 1163 is made with respect to the state, the department is authorized
 1164 to conduct criminal records checks equivalent to the level 2
 1165 screening required in s. 435.04~~(1)~~ for any person being
 1166 considered by the department for placement of a child subject to
 1167 a placement decision pursuant to chapter 39. Approval shall not
 1168 be granted:

1169 1. In any case in which a record check reveals a felony
 1170 conviction for child abuse, abandonment, or neglect; for spousal
 1171 abuse; for a crime against children, including child
 1172 pornography, or for a crime involving violence, including rape,
 1173 sexual assault, or homicide but not including other physical
 1174 assault or battery, if the department finds that a court of
 1175 competent jurisdiction has determined that the felony was
 1176 committed at any time; and

1177 2. In any case in which a record check reveals a felony
 1178 conviction for physical assault, battery, or a drug-related

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1179 offense, if the department finds that a court of competent
 1180 jurisdiction has determined that the felony was committed within
 1181 the past 5 years.

1182 Section 11. For the purpose of incorporating the amendment
 1183 to sections 435.03 and 435.04, Florida Statutes, in references
 1184 thereto, paragraphs (f) and (g) of subsection (1) of section
 1185 400.414, Florida Statutes, are reenacted to read:

1186 400.414 Denial, revocation, or suspension of license;
 1187 imposition of administrative fine; grounds.--

1188 (1) The agency may deny, revoke, or suspend any license
 1189 issued under this part, or impose an administrative fine in the
 1190 manner provided in chapter 120, for any of the following actions
 1191 by an assisted living facility, for the actions of any person
 1192 subject to level 2 background screening under s. 400.4174, or
 1193 for the actions of any facility employee:

1194 (f) A determination that a person subject to level 2
 1195 background screening under s. 400.4174(1) does not meet the
 1196 screening standards of s. 435.04 or that the facility is
 1197 retaining an employee subject to level 1 background screening
 1198 standards under s. 400.4174(2) who does not meet the screening
 1199 standards of s. 435.03 and for whom exemptions from
 1200 disqualification have not been provided by the agency.

1201 (g) A determination that an employee, volunteer,
 1202 administrator, or owner, or person who otherwise has access to
 1203 the residents of a facility does not meet the criteria specified
 1204 in s. 435.03(2), and the owner or administrator has not taken
 1205 action to remove the person. Exemptions from disqualification
 1206 may be granted as set forth in s. 435.07. No administrative

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1207 action may be taken against the facility if the person is
 1208 granted an exemption.

1209
 1210 Administrative proceedings challenging agency action under this
 1211 subsection shall be reviewed on the basis of the facts and
 1212 conditions that resulted in the agency action.

1213 Section 12. For the purpose of incorporating the amendment
 1214 to sections 435.03 and 435.04, Florida Statutes, in references
 1215 thereto, section 400.4174, Florida Statutes, is reenacted to
 1216 read:

1217 400.4174 Background screening; exemptions.--

1218 (1)(a) Level 2 background screening must be conducted on
 1219 each of the following persons, who shall be considered employees
 1220 for the purposes of conducting screening under chapter 435:

1221 1. The facility owner if an individual, the administrator,
 1222 and the financial officer.

1223 2. An officer or board member if the facility owner is a
 1224 firm, corporation, partnership, or association, or any person
 1225 owning 5 percent or more of the facility if the agency has
 1226 probable cause to believe that such person has been convicted of
 1227 any offense prohibited by s. 435.04. For each officer, board
 1228 member, or person owning 5 percent or more who has been
 1229 convicted of any such offense, the facility shall submit to the
 1230 agency a description and explanation of the conviction at the
 1231 time of license application. This subparagraph does not apply to
 1232 a board member of a not-for-profit corporation or organization
 1233 if the board member serves solely in a voluntary capacity, does
 1234 not regularly take part in the day-to-day operational decisions
 1235 of the corporation or organization, receives no remuneration for

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1236 his or her services, and has no financial interest and has no
 1237 family members with a financial interest in the corporation or
 1238 organization, provided that the board member and facility submit
 1239 a statement affirming that the board member's relationship to
 1240 the facility satisfies the requirements of this subparagraph.

1241 (b) Proof of compliance with level 2 screening standards
 1242 which has been submitted within the previous 5 years to meet any
 1243 facility or professional licensure requirements of the agency or
 1244 the Department of Health satisfies the requirements of this
 1245 subsection, provided that such proof is accompanied, under
 1246 penalty of perjury, by an affidavit of compliance with the
 1247 provisions of chapter 435. Proof of compliance with the
 1248 background screening requirements of the Financial Services
 1249 Commission and the Office of Insurance Regulation for applicants
 1250 for a certificate of authority to operate a continuing care
 1251 retirement community under chapter 651, submitted within the
 1252 last 5 years, satisfies the Department of Law Enforcement and
 1253 Federal Bureau of Investigation portions of a level 2 background
 1254 check.

1255 (c) The agency may grant a provisional license to a
 1256 facility applying for an initial license when each individual
 1257 required by this subsection to undergo screening has completed
 1258 the Department of Law Enforcement background checks, but has not
 1259 yet received results from the Federal Bureau of Investigation,
 1260 or when a request for an exemption from disqualification has
 1261 been submitted to the agency pursuant to s. 435.07, but a
 1262 response has not been issued.

1263 (2) The owner or administrator of an assisted living
 1264 facility must conduct level 1 background screening, as set forth

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1265 in chapter 435, on all employees hired on or after October 1,
 1266 1998, who perform personal services as defined in s.
 1267 400.402(17). The agency may exempt an individual from employment
 1268 disqualification as set forth in chapter 435. Such persons shall
 1269 be considered as having met this requirement if:

1270 (a) Proof of compliance with level 1 screening
 1271 requirements obtained to meet any professional license
 1272 requirements in this state is provided and accompanied, under
 1273 penalty of perjury, by a copy of the person's current
 1274 professional license and an affidavit of current compliance with
 1275 the background screening requirements.

1276 (b) The person required to be screened has been
 1277 continuously employed in the same type of occupation for which
 1278 the person is seeking employment without a breach in service
 1279 which exceeds 180 days, and proof of compliance with the level 1
 1280 screening requirement which is no more than 2 years old is
 1281 provided. Proof of compliance shall be provided directly from
 1282 one employer or contractor to another, and not from the person
 1283 screened. Upon request, a copy of screening results shall be
 1284 provided by the employer retaining documentation of the
 1285 screening to the person screened.

1286 (c) The person required to be screened is employed by a
 1287 corporation or business entity or related corporation or
 1288 business entity that owns, operates, or manages more than one
 1289 facility or agency licensed under this chapter, and for whom a
 1290 level 1 screening was conducted by the corporation or business
 1291 entity as a condition of initial or continued employment.

1292 Section 13. For the purpose of incorporating the amendment
 1293 to sections 435.03 and 435.04, Florida Statutes, in references

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1294 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of
 1295 subsection (4) of section 400.509, Florida Statutes, are
 1296 reenacted to read:

1297 400.509 Registration of particular service providers
 1298 exempt from licensure; certificate of registration; regulation
 1299 of registrants.--

1300 (4) Each applicant for registration must comply with the
 1301 following requirements:

1302 (a) Upon receipt of a completed, signed, and dated
 1303 application, the agency shall require background screening, in
 1304 accordance with the level 1 standards for screening set forth in
 1305 chapter 435, of every individual who will have contact with the
 1306 client. The agency shall require background screening of the
 1307 managing employee or other similarly titled individual who is
 1308 responsible for the operation of the entity, and of the
 1309 financial officer or other similarly titled individual who is
 1310 responsible for the financial operation of the entity, including
 1311 billings for client services in accordance with the level 2
 1312 standards for background screening as set forth in chapter 435.

1313 (b) The agency may require background screening of any
 1314 other individual who is affiliated with the applicant if the
 1315 agency has a reasonable basis for believing that he or she has
 1316 been convicted of a crime or has committed any other offense
 1317 prohibited under the level 2 standards for screening set forth
 1318 in chapter 435.

1319 (c) Proof of compliance with the level 2 background
 1320 screening requirements of chapter 435 which has been submitted
 1321 within the previous 5 years in compliance with any other health

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1322 care or assisted living licensure requirements of this state is
 1323 acceptable in fulfillment of paragraph (a).

1324 (d) A provisional registration may be granted to an
 1325 applicant when each individual required by this section to
 1326 undergo background screening has met the standards for the
 1327 abuse-registry background check through the agency and the
 1328 Department of Law Enforcement background check, but the agency
 1329 has not yet received background screening results from the
 1330 Federal Bureau of Investigation. A standard registration may be
 1331 granted to the applicant upon the agency's receipt of a report
 1332 of the results of the Federal Bureau of Investigation background
 1333 screening for each individual required by this section to
 1334 undergo background screening which confirms that all standards
 1335 have been met, or upon the granting of a disqualification
 1336 exemption by the agency as set forth in chapter 435. Any other
 1337 person who is required to undergo level 2 background screening
 1338 may serve in his or her capacity pending the agency's receipt of
 1339 the report from the Federal Bureau of Investigation. However,
 1340 the person may not continue to serve if the report indicates any
 1341 violation of background screening standards and if a
 1342 disqualification exemption has not been requested of and granted
 1343 by the agency as set forth in chapter 435.

1344 (f) Each applicant must submit to the agency a description
 1345 and explanation of any conviction of an offense prohibited under
 1346 the level 2 standards of chapter 435 which was committed by a
 1347 member of the board of directors of the applicant, its officers,
 1348 or any individual owning 5 percent or more of the applicant.
 1349 This requirement does not apply to a director of a not-for-
 1350 profit corporation or organization who serves solely in a

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1351 voluntary capacity for the corporation or organization, does not
 1352 regularly take part in the day-to-day operational decisions of
 1353 the corporation or organization, receives no remuneration for
 1354 his or her services on the corporation's or organization's board
 1355 of directors, and has no financial interest and no family
 1356 members having a financial interest in the corporation or
 1357 organization, if the director and the not-for-profit corporation
 1358 or organization include in the application a statement affirming
 1359 that the director's relationship to the corporation satisfies
 1360 the requirements of this paragraph.

1361 (g) A registration may not be granted to an applicant if
 1362 the applicant or managing employee has been found guilty of,
 1363 regardless of adjudication, or has entered a plea of nolo
 1364 contendere or guilty to, any offense prohibited under the level
 1365 2 standards for screening set forth in chapter 435, unless an
 1366 exemption from disqualification has been granted by the agency
 1367 as set forth in chapter 435.

1368 Section 14. For the purpose of incorporating the amendment
 1369 to sections 435.03 and 435.04, Florida Statutes, in references
 1370 thereto, paragraph (c) of subsection (2) of section 400.556,
 1371 Florida Statutes, is reenacted to read:

1372 400.556 Denial, suspension, revocation of license;
 1373 administrative fines; investigations and inspections.--

1374 (2) Each of the following actions by the owner of an adult
 1375 day care center or by its operator or employee is a ground for
 1376 action by the agency against the owner of the center or its
 1377 operator or employee:

1378 (c) A failure of persons subject to level 2 background
 1379 screening under s. 400.4174(1) to meet the screening standards

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1380 of s. 435.04, or the retention by the center of an employee
 1381 subject to level 1 background screening standards under s.
 1382 400.4174(2) who does not meet the screening standards of s.
 1383 435.03 and for whom exemptions from disqualification have not
 1384 been provided by the agency.

1385 Section 15. For the purpose of incorporating the amendment
 1386 to sections 435.03 and 435.04, Florida Statutes, in references
 1387 thereto, subsections (1), (2), and (4) of section 400.6065,
 1388 Florida Statutes, are reenacted to read:

1389 400.6065 Background screening.--

1390 (1) Upon receipt of a completed application under s.
 1391 400.606, the agency shall require level 2 background screening
 1392 on each of the following persons, who shall be considered
 1393 employees for the purposes of conducting screening under chapter
 1394 435:

1395 (a) The hospice administrator and financial officer.

1396 (b) An officer or board member if the hospice is a firm,
 1397 corporation, partnership, or association, or any person owning 5
 1398 percent or more of the hospice if the agency has probable cause
 1399 to believe that such officer, board member, or owner has been
 1400 convicted of any offense prohibited by s. 435.04. For each
 1401 officer, board member, or person owning 5 percent or more who
 1402 has been convicted of any such offense, the hospice shall submit
 1403 to the agency a description and explanation of the conviction at
 1404 the time of license application. This paragraph does not apply
 1405 to a board member of a not-for-profit corporation or
 1406 organization if the board member serves solely in a voluntary
 1407 capacity, does not regularly take part in the day-to-day
 1408 operational decisions of the corporation or organization,

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1409 receives no remuneration for his or her services, and has no
 1410 financial interest and has no family members with a financial
 1411 interest in the corporation or organization, provided that the
 1412 board member and the corporation or organization submit a
 1413 statement affirming that the board member's relationship to the
 1414 corporation or organization satisfies the requirements of this
 1415 paragraph.

1416 (2) Proof of compliance with level 2 screening standards
 1417 which has been submitted within the previous 5 years to meet any
 1418 facility or professional licensure requirements of the agency or
 1419 the Department of Health satisfies the requirements of this
 1420 section.

1421 (4) The agency shall require employment or contractor
 1422 screening as provided in chapter 435, using the level 1
 1423 standards for screening set forth in that chapter, for hospice
 1424 personnel.

1425 Section 16. For the purpose of incorporating the amendment
 1426 to sections 435.03 and 435.04, Florida Statutes, in references
 1427 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of
 1428 subsection (4) of section 400.980, Florida Statutes, are
 1429 reenacted to read:

1430 400.980 Health care services pools.--

1431 (4) Each applicant for registration must comply with the
 1432 following requirements:

1433 (a) Upon receipt of a completed, signed, and dated
 1434 application, the agency shall require background screening, in
 1435 accordance with the level 1 standards for screening set forth in
 1436 chapter 435, of every individual who will have contact with
 1437 patients. The agency shall require background screening of the

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1438 managing employee or other similarly titled individual who is
 1439 responsible for the operation of the entity, and of the
 1440 financial officer or other similarly titled individual who is
 1441 responsible for the financial operation of the entity, including
 1442 billings for services in accordance with the level 2 standards
 1443 for background screening as set forth in chapter 435.

1444 (b) The agency may require background screening of any
 1445 other individual who is affiliated with the applicant if the
 1446 agency has a reasonable basis for believing that he or she has
 1447 been convicted of a crime or has committed any other offense
 1448 prohibited under the level 2 standards for screening set forth
 1449 in chapter 435.

1450 (c) Proof of compliance with the level 2 background
 1451 screening requirements of chapter 435 which has been submitted
 1452 within the previous 5 years in compliance with any other health
 1453 care or assisted living licensure requirements of this state is
 1454 acceptable in fulfillment of paragraph (a).

1455 (d) A provisional registration may be granted to an
 1456 applicant when each individual required by this section to
 1457 undergo background screening has met the standards for the
 1458 Department of Law Enforcement background check but the agency
 1459 has not yet received background screening results from the
 1460 Federal Bureau of Investigation. A standard registration may be
 1461 granted to the applicant upon the agency's receipt of a report
 1462 of the results of the Federal Bureau of Investigation background
 1463 screening for each individual required by this section to
 1464 undergo background screening which confirms that all standards
 1465 have been met, or upon the granting of a disqualification
 1466 exemption by the agency as set forth in chapter 435. Any other

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1467 person who is required to undergo level 2 background screening
 1468 may serve in his or her capacity pending the agency's receipt of
 1469 the report from the Federal Bureau of Investigation. However,
 1470 the person may not continue to serve if the report indicates any
 1471 violation of background screening standards and if a
 1472 disqualification exemption has not been requested of and granted
 1473 by the agency as set forth in chapter 435.

1474 (f) Each applicant must submit to the agency a description
 1475 and explanation of any conviction of an offense prohibited under
 1476 the level 2 standards of chapter 435 which was committed by a
 1477 member of the board of directors of the applicant, its officers,
 1478 or any individual owning 5 percent or more of the applicant.
 1479 This requirement does not apply to a director of a not-for-
 1480 profit corporation or organization who serves solely in a
 1481 voluntary capacity for the corporation or organization, does not
 1482 regularly take part in the day-to-day operational decisions of
 1483 the corporation or organization, receives no remuneration for
 1484 his or her services on the corporation's or organization's board
 1485 of directors, and has no financial interest and no family
 1486 members having a financial interest in the corporation or
 1487 organization, if the director and the not-for-profit corporation
 1488 or organization include in the application a statement affirming
 1489 that the director's relationship to the corporation satisfies
 1490 the requirements of this paragraph.

1491 (g) A registration may not be granted to an applicant if
 1492 the applicant or managing employee has been found guilty of,
 1493 regardless of adjudication, or has entered a plea of nolo
 1494 contendere or guilty to, any offense prohibited under the level
 1495 2 standards for screening set forth in chapter 435, unless an

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1496 exemption from disqualification has been granted by the agency
 1497 as set forth in chapter 435.

1498 Section 17. For the purpose of incorporating the amendment
 1499 to sections 435.03 and 435.04, Florida Statutes, in references
 1500 thereto, paragraph (k) of subsection (2) of section 409.175,
 1501 Florida Statutes, is reenacted to read:

1502 409.175 Licensure of family foster homes, residential
 1503 child-caring agencies, and child-placing agencies; public
 1504 records exemption.--

1505 (2) As used in this section, the term:

1506 (k) "Screening" means the act of assessing the background
 1507 of personnel and includes, but is not limited to, employment
 1508 history checks as provided in chapter 435, using the level 2
 1509 standards for screening set forth in that chapter. Screening for
 1510 employees and volunteers in summer day camps and summer 24-hour
 1511 camps and screening for all volunteers included under the
 1512 definition of "personnel" shall be conducted as provided in
 1513 chapter 435, using the level 1 standards set forth in that
 1514 chapter.

1515 Section 18. For the purpose of incorporating the amendment
 1516 to sections 435.03 and 435.04, Florida Statutes, in references
 1517 thereto, paragraph (d) of subsection (8) of section 409.907,
 1518 Florida Statutes, is reenacted to read:

1519 409.907 Medicaid provider agreements.--The agency may make
 1520 payments for medical assistance and related services rendered to
 1521 Medicaid recipients only to an individual or entity who has a
 1522 provider agreement in effect with the agency, who is performing
 1523 services or supplying goods in accordance with federal, state,
 1524 and local law, and who agrees that no person shall, on the

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1525 grounds of handicap, race, color, or national origin, or for any
 1526 other reason, be subjected to discrimination under any program
 1527 or activity for which the provider receives payment from the
 1528 agency.

1529 (8)

1530 (d) Proof of compliance with the requirements of level 2
 1531 screening under s. 435.04 conducted within 12 months prior to
 1532 the date that the Medicaid provider application is submitted to
 1533 the agency shall fulfill the requirements of this subsection.
 1534 Proof of compliance with the requirements of level 1 screening
 1535 under s. 435.03 conducted within 12 months prior to the date
 1536 that the Medicaid provider application is submitted to the
 1537 agency shall meet the requirement that the Department of Law
 1538 Enforcement conduct a state criminal history record check.

1539 Section 19. For the purpose of incorporating the amendment
 1540 to sections 435.03 and 435.04, Florida Statutes, in references
 1541 thereto, subsections (1) and (3) of section 435.05, Florida
 1542 Statutes, are reenacted to read:

1543 435.05 Requirements for covered employees.--Except as
 1544 otherwise provided by law, the following requirements shall
 1545 apply to covered employees:

1546 (1)(a) Every person employed in a position for which
 1547 employment screening is required must, within 5 working days
 1548 after starting to work, submit to the employer a complete set of
 1549 information necessary to conduct a screening under this section.

1550 (b) For level 1 screening, the employer must submit the
 1551 information necessary for screening to the Florida Department of
 1552 Law Enforcement within 5 working days after receiving it. The
 1553 Florida Department of Law Enforcement will conduct a search of

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1554 its records and will respond to the employer agency. The
 1555 employer will inform the employee whether screening has revealed
 1556 any disqualifying information.

1557 (c) For level 2 screening, the employer or licensing
 1558 agency must submit the information necessary for screening to
 1559 the Florida Department of Law Enforcement within 5 working days
 1560 after receiving it. The Florida Department of Law Enforcement
 1561 will conduct a search of its criminal and juvenile records and
 1562 will request that the Federal Bureau of Investigation conduct a
 1563 search of its records for each employee for whom the request is
 1564 made. The Florida Department of Law Enforcement will respond to
 1565 the employer or licensing agency, and the employer or licensing
 1566 agency will inform the employee whether screening has revealed
 1567 disqualifying information.

1568 (d) The person whose background is being checked must
 1569 supply any missing criminal or other necessary information to
 1570 the employer within 30 days after the employer makes a request
 1571 for the information or be subject to automatic disqualification.

1572 (3) Each employer required to conduct level 2 background
 1573 screening must sign an affidavit annually, under penalty of
 1574 perjury, stating that all covered employees have been screened
 1575 or are newly hired and are awaiting the results of the required
 1576 screening checks.

1577 Section 20. For the purpose of incorporating the amendment
 1578 to sections 435.03 and 435.04, Florida Statutes, in references
 1579 thereto, section 744.3135, Florida Statutes, as amended by
 1580 chapter 2003-402, Laws of Florida, is reenacted to read:

1581 744.3135 Credit and criminal investigation.—The court may
 1582 require a nonprofessional guardian and shall require a

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1583 professional or public guardian, and all employees of a
1584 professional guardian who have a fiduciary responsibility to a
1585 ward, to submit, at their own expense, to an investigation of
1586 the guardian's credit history and to undergo level 2 background
1587 screening as required under s. 435.04. The clerk of the court
1588 shall obtain fingerprint cards from the Federal Bureau of
1589 Investigation and make them available to guardians. Any guardian
1590 who is so required shall have his or her fingerprints taken and
1591 forward the proper fingerprint card along with the necessary fee
1592 to the Florida Department of Law Enforcement for processing. The
1593 professional guardian shall pay to the clerk of the court a fee
1594 of up to \$7.50 for handling and processing professional guardian
1595 files. The results of the fingerprint checks shall be forwarded
1596 to the clerk of court who shall maintain the results in a
1597 guardian file and shall make the results available to the court.
1598 If credit or criminal investigations are required, the court
1599 must consider the results of the investigations in appointing a
1600 guardian. Professional guardians and all employees of a
1601 professional guardian who have a fiduciary responsibility to a
1602 ward, so appointed, must resubmit, at their own expense, to an
1603 investigation of credit history, and undergo level 1 background
1604 screening as required under s. 435.03, at least every 2 years
1605 after the date of their appointment. At any time, the court may
1606 require guardians or their employees to submit to an
1607 investigation of credit history and undergo level 1 background
1608 screening as required under s. 435.03. The court must consider
1609 the results of these investigations in reappointing a guardian.
1610 This section shall not apply to a professional guardian, or to
1611 the employees of a professional guardian, that is a trust

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1612 company, a state banking corporation or state savings
 1613 association authorized and qualified to exercise fiduciary
 1614 powers in this state, or a national banking association or
 1615 federal savings and loan association authorized and qualified to
 1616 exercise fiduciary powers in this state

1617 Section 21. For the purpose of incorporating the amendment
 1618 to sections 435.03 and 435.04, Florida Statutes, in references
 1619 thereto, subsection (2) of section 985.04, Florida Statutes, is
 1620 reenacted to read:

1621 985.04 Oaths; records; confidential information.--

1622 (2) Records maintained by the Department of Juvenile
 1623 Justice, including copies of records maintained by the court,
 1624 which pertain to a child found to have committed a delinquent
 1625 act which, if committed by an adult, would be a crime specified
 1626 in ss. 435.03 and 435.04 may not be destroyed pursuant to this
 1627 section for a period of 25 years after the youth's final
 1628 referral to the department, except in cases of the death of the
 1629 child. Such records, however, shall be sealed by the court for
 1630 use only in meeting the screening requirements for personnel in
 1631 s. 402.3055 and the other sections cited above, or pursuant to
 1632 departmental rule; however, current criminal history information
 1633 must be obtained from the Department of Law Enforcement in
 1634 accordance with s. 943.053. The information shall be released to
 1635 those persons specified in the above cited sections for the
 1636 purposes of complying with those sections. The court may punish
 1637 by contempt any person who releases or uses the records for any
 1638 unauthorized purpose.

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1639 Section 22. For the purpose of incorporating the amendment
 1640 to section 435.03, Florida Statutes, in references thereto,
 1641 section 400.512, Florida Statutes, is reenacted to read:

1642 400.512 Screening of home health agency personnel; nurse
 1643 registry personnel; and companions and homemakers.--The agency
 1644 shall require employment or contractor screening as provided in
 1645 chapter 435, using the level 1 standards for screening set forth
 1646 in that chapter, for home health agency personnel; persons
 1647 referred for employment by nurse registries; and persons
 1648 employed by companion or homemaker services registered under s.
 1649 400.509.

1650 (1)(a) The Agency for Health Care Administration may, upon
 1651 request, grant exemptions from disqualification from employment
 1652 or contracting under this section as provided in s. 435.07,
 1653 except for health care practitioners licensed by the Department
 1654 of Health or a regulatory board within that department.

1655 (b) The appropriate regulatory board within the Department
 1656 of Health, or that department itself when there is no board,
 1657 may, upon request of the licensed health care practitioner,
 1658 grant exemptions from disqualification from employment or
 1659 contracting under this section as provided in s. 435.07.

1660 (2) The administrator of each home health agency, the
 1661 managing employee of each nurse registry, and the managing
 1662 employee of each companion or homemaker service registered under
 1663 s. 400.509 must sign an affidavit annually, under penalty of
 1664 perjury, stating that all personnel hired, contracted with, or
 1665 registered on or after October 1, 1994, who enter the home of a
 1666 patient or client in their service capacity have been screened

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1667 and that its remaining personnel have worked for the home health
 1668 agency or registrant continuously since before October 1, 1994.

1669 (3) As a prerequisite to operating as a home health
 1670 agency, nurse registry, or companion or homemaker service under
 1671 s. 400.509, the administrator or managing employee,
 1672 respectively, must submit to the agency his or her name and any
 1673 other information necessary to conduct a complete screening
 1674 according to this section. The agency shall submit the
 1675 information to the Department of Law Enforcement for state
 1676 processing. The agency shall review the record of the
 1677 administrator or manager with respect to the offenses specified
 1678 in this section and shall notify the owner of its findings. If
 1679 disposition information is missing on a criminal record, the
 1680 administrator or manager, upon request of the agency, must
 1681 obtain and supply within 30 days the missing disposition
 1682 information to the agency. Failure to supply missing information
 1683 within 30 days or to show reasonable efforts to obtain such
 1684 information will result in automatic disqualification.

1685 (4) Proof of compliance with the screening requirements of
 1686 chapter 435 shall be accepted in lieu of the requirements of
 1687 this section if the person has been continuously employed or
 1688 registered without a breach in service that exceeds 180 days,
 1689 the proof of compliance is not more than 2 years old, and the
 1690 person has been screened by the Department of Law Enforcement. A
 1691 home health agency, nurse registry, or companion or homemaker
 1692 service registered under s. 400.509 shall directly provide proof
 1693 of compliance to another home health agency, nurse registry, or
 1694 companion or homemaker service registered under s. 400.509. The
 1695 recipient home health agency, nurse registry, or companion or

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1696 homemaker service registered under s. 400.509 may not accept any
 1697 proof of compliance directly from the person who requires
 1698 screening. Proof of compliance with the screening requirements
 1699 of this section shall be provided upon request to the person
 1700 screened by the home health agencies; nurse registries; or
 1701 companion or homemaker services registered under s. 400.509.

1702 (5) There is no monetary liability on the part of, and no
 1703 cause of action for damages arises against, a licensed home
 1704 health agency, licensed nurse registry, or companion or
 1705 homemaker service registered under s. 400.509, that, upon notice
 1706 that the employee or contractor has been found guilty of,
 1707 regardless of adjudication, or entered a plea of nolo contendere
 1708 or guilty to, any offense prohibited under s. 435.03 or under
 1709 any similar statute of another jurisdiction, terminates the
 1710 employee or contractor, whether or not the employee or
 1711 contractor has filed for an exemption with the agency in
 1712 accordance with chapter 435 and whether or not the time for
 1713 filing has expired.

1714 (6) The costs of processing the statewide correspondence
 1715 criminal records checks must be borne by the home health agency;
 1716 the nurse registry; or the companion or homemaker service
 1717 registered under s. 400.509, or by the person being screened, at
 1718 the discretion of the home health agency, nurse registry, or s.
 1719 400.509 registrant.

1720 (7)(a) It is a misdemeanor of the first degree, punishable
 1721 under s. 775.082 or s. 775.083, for any person willfully,
 1722 knowingly, or intentionally to:

1723 1. Fail, by false statement, misrepresentation,
 1724 impersonation, or other fraudulent means, to disclose in any

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1725 application for voluntary or paid employment a material fact
 1726 used in making a determination as to such person's
 1727 qualifications to be an employee under this section;

1728 2. Operate or attempt to operate an entity licensed or
 1729 registered under this part with persons who do not meet the
 1730 minimum standards for good moral character as contained in this
 1731 section; or

1732 3. Use information from the criminal records obtained
 1733 under this section for any purpose other than screening that
 1734 person for employment as specified in this section or release
 1735 such information to any other person for any purpose other than
 1736 screening for employment under this section.

1737 (b) It is a felony of the third degree, punishable under
 1738 s. 775.082, s. 775.083, or s. 775.084, for any person willfully,
 1739 knowingly, or intentionally to use information from the juvenile
 1740 records of a person obtained under this section for any purpose
 1741 other than screening for employment under this section.

1742 Section 23. For the purpose of incorporating the amendment
 1743 to section 435.03, Florida Statutes, in references thereto,
 1744 subsection (4) of section 400.619, Florida Statutes, is
 1745 reenacted to read:

1746 400.619 Licensure application and renewal.--

1747 (4) Upon receipt of a completed license application or
 1748 license renewal, and the fee, the agency shall initiate a level
 1749 1 background screening as provided under chapter 435 on the
 1750 adult family-care home provider, the designated relief person,
 1751 all adult household members, and all staff members. The agency
 1752 shall conduct an onsite visit to the home that is to be
 1753 licensed.

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1754 (a) Proof of compliance with level 1 screening standards
 1755 which has been submitted within the previous 5 years to meet any
 1756 facility or professional licensure requirements of the agency or
 1757 the Department of Health satisfies the requirements of this
 1758 subsection. Such proof must be accompanied, under penalty of
 1759 perjury, by a copy of the person's current professional license
 1760 and an affidavit of current compliance with the background
 1761 screening requirements.

1762 (b) The person required to be screened must have been
 1763 continuously employed in the same type of occupation for which
 1764 the person is seeking employment without a breach in service
 1765 that exceeds 180 days, and proof of compliance with the level 1
 1766 screening requirement which is no more than 2 years old must be
 1767 provided. Proof of compliance shall be provided directly from
 1768 one employer or contractor to another, and not from the person
 1769 screened. Upon request, a copy of screening results shall be
 1770 provided to the person screened by the employer retaining
 1771 documentation of the screening.

1772 Section 24. For the purpose of incorporating the amendment
 1773 to section 435.03, Florida Statutes, in references thereto,
 1774 subsection (1) of section 400.6194, Florida Statutes, is
 1775 reenacted to read:

1776 400.6194 Denial, revocation, or suspension of a
 1777 license.--The agency may deny, suspend, or revoke a license for
 1778 any of the following reasons:

1779 (1) Failure of any of the persons required to undergo
 1780 background screening under s. 400.619 to meet the level 1
 1781 screening standards of s. 435.03, unless an exemption from
 1782 disqualification has been provided by the agency.

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1783 Section 25. For the purpose of incorporating the amendment
 1784 to section 435.03, Florida Statutes, in references thereto,
 1785 section 400.953, Florida Statutes, is reenacted to read:

1786 400.953 Background screening of home medical equipment
 1787 provider personnel.--The agency shall require employment
 1788 screening as provided in chapter 435, using the level 1
 1789 standards for screening set forth in that chapter, for home
 1790 medical equipment provider personnel.

1791 (1) The agency may grant exemptions from disqualification
 1792 from employment under this section as provided in s. 435.07.

1793 (2) The general manager of each home medical equipment
 1794 provider must sign an affidavit annually, under penalty of
 1795 perjury, stating that all home medical equipment provider
 1796 personnel hired on or after July 1, 1999, who enter the home of
 1797 a patient in the capacity of their employment have been screened
 1798 and that its remaining personnel have worked for the home
 1799 medical equipment provider continuously since before July 1,
 1800 1999.

1801 (3) Proof of compliance with the screening requirements of
 1802 s. 110.1127, s. 393.0655, s. 394.4572, s. 397.451, s. 402.305,
 1803 s. 402.313, s. 409.175, s. 464.008, or s. 985.407 or this part
 1804 must be accepted in lieu of the requirements of this section if
 1805 the person has been continuously employed in the same type of
 1806 occupation for which he or she is seeking employment without a
 1807 breach in service that exceeds 180 days, the proof of compliance
 1808 is not more than 2 years old, and the person has been screened
 1809 by the Department of Law Enforcement. An employer or contractor
 1810 shall directly provide proof of compliance to another employer
 1811 or contractor, and a potential employer or contractor may not

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1812 accept any proof of compliance directly from the person
 1813 requiring screening. Proof of compliance with the screening
 1814 requirements of this section shall be provided, upon request, to
 1815 the person screened by the home medical equipment provider.

1816 (4) There is no monetary liability on the part of, and no
 1817 cause of action for damages arising against, a licensed home
 1818 medical equipment provider that, upon notice that an employee
 1819 has been found guilty of, regardless of adjudication, or entered
 1820 a plea of nolo contendere or guilty to, any offense prohibited
 1821 under s. 435.03 or under any similar statute of another
 1822 jurisdiction, terminates the employee, whether or not the
 1823 employee has filed for an exemption with the agency and whether
 1824 or not the time for filing has expired.

1825 (5) The costs of processing the statewide correspondence
 1826 criminal records checks must be borne by the home medical
 1827 equipment provider or by the person being screened, at the
 1828 discretion of the home medical equipment provider.

1829 (6) Neither the agency nor the home medical equipment
 1830 provider may use the criminal records or juvenile records of a
 1831 person for any purpose other than determining whether that
 1832 person meets minimum standards of good moral character for home
 1833 medical equipment provider personnel.

1834 (7)(a) It is a misdemeanor of the first degree, punishable
 1835 as provided in s. 775.082 or s. 775.083, for any person
 1836 willfully, knowingly, or intentionally to:

1837 1. Fail, by false statement, misrepresentation,
 1838 impersonation, or other fraudulent means, to disclose in any
 1839 application for paid employment a material fact used in making a

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1840 determination as to the person's qualifications to be an
 1841 employee under this section;

1842 2. Operate or attempt to operate an entity licensed under
 1843 this part with persons who do not meet the minimum standards for
 1844 good moral character as contained in this section; or

1845 3. Use information from the criminal records obtained
 1846 under this section for any purpose other than screening that
 1847 person for employment as specified in this section, or release
 1848 such information to any other person for any purpose other than
 1849 screening for employment under this section.

1850 (b) It is a felony of the third degree, punishable as
 1851 provided in s. 775.082, s. 775.083, or s. 775.084, for any
 1852 person willfully, knowingly, or intentionally to use information
 1853 from the juvenile records of a person obtained under this
 1854 section for any purpose other than screening for employment
 1855 under this section.

1856 Section 26. For the purpose of incorporating the amendment
 1857 to section 435.03, Florida Statutes, in references thereto,
 1858 subsection (32) of section 409.912, Florida Statutes, is
 1859 reenacted to read:

1860 409.912 Cost-effective purchasing of health care.--The
 1861 agency shall purchase goods and services for Medicaid recipients
 1862 in the most cost-effective manner consistent with the delivery
 1863 of quality medical care. The agency shall maximize the use of
 1864 prepaid per capita and prepaid aggregate fixed-sum basis
 1865 services when appropriate and other alternative service delivery
 1866 and reimbursement methodologies, including competitive bidding
 1867 pursuant to s. 287.057, designed to facilitate the cost-
 1868 effective purchase of a case-managed continuum of care. The

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1869 agency shall also require providers to minimize the exposure of
 1870 recipients to the need for acute inpatient, custodial, and other
 1871 institutional care and the inappropriate or unnecessary use of
 1872 high-cost services. The agency may establish prior authorization
 1873 requirements for certain populations of Medicaid beneficiaries,
 1874 certain drug classes, or particular drugs to prevent fraud,
 1875 abuse, overuse, and possible dangerous drug interactions. The
 1876 Pharmaceutical and Therapeutics Committee shall make
 1877 recommendations to the agency on drugs for which prior
 1878 authorization is required. The agency shall inform the
 1879 Pharmaceutical and Therapeutics Committee of its decisions
 1880 regarding drugs subject to prior authorization.

1881 (32) Each managed care plan that is under contract with
 1882 the agency to provide health care services to Medicaid
 1883 recipients shall annually conduct a background check with the
 1884 Florida Department of Law Enforcement of all persons with
 1885 ownership interest of 5 percent or more or executive management
 1886 responsibility for the managed care plan and shall submit to the
 1887 agency information concerning any such person who has been found
 1888 guilty of, regardless of adjudication, or has entered a plea of
 1889 nolo contendere or guilty to, any of the offenses listed in s.
 1890 435.03.

1891 Section 27. For the purpose of incorporating the amendment
 1892 to section 435.03, Florida Statutes, in references thereto,
 1893 subsection (4) of section 435.07, Florida Statutes, is reenacted
 1894 to read:

1895 435.07 Exemptions from disqualification.--Unless otherwise
 1896 provided by law, the provisions of this section shall apply to
 1897 exemptions from disqualification.

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1898 (4) Disqualification from employment under subsection (1)
 1899 may not be removed from, nor may an exemption be granted to, any
 1900 personnel who is found guilty of, regardless of adjudication, or
 1901 who has entered a plea of nolo contendere or guilty to, any
 1902 felony covered by s. 435.03 solely by reason of any pardon,
 1903 executive clemency, or restoration of civil rights.

1904 Section 28. For the purpose of incorporating the amendment
 1905 to section 435.03, Florida Statutes, in references thereto,
 1906 paragraph (e) of subsection (1) of section 464.018, Florida
 1907 Statutes, is reenacted to read:

1908 464.018 Disciplinary actions.--

1909 (1) The following acts constitute grounds for denial of a
 1910 license or disciplinary action, as specified in s. 456.072(2):

1911 (e) Having been found guilty of, regardless of
 1912 adjudication, or entered a plea of nolo contendere or guilty to,
 1913 any offense prohibited under s. 435.03 or under any similar
 1914 statute of another jurisdiction; or having committed an act
 1915 which constitutes domestic violence as defined in s. 741.28.

1916 Section 29. For the purpose of incorporating the amendment
 1917 to section 435.03, Florida Statutes, in references thereto,
 1918 subsection (3) of section 744.309, Florida Statutes, is
 1919 reenacted to read:

1920 744.309 Who may be appointed guardian of a resident
 1921 ward.--

1922 (3) DISQUALIFIED PERSONS.--No person who has been
 1923 convicted of a felony or who, from any incapacity or illness, is
 1924 incapable of discharging the duties of a guardian, or who is
 1925 otherwise unsuitable to perform the duties of a guardian, shall
 1926 be appointed to act as guardian. Further, no person who has been

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1927 | judicially determined to have committed abuse, abandonment, or
 1928 | neglect against a child as defined in s. 39.01 or s. 984.03(1),
 1929 | (2), and (37), or who has been found guilty of, regardless of
 1930 | adjudication, or entered a plea of nolo contendere or guilty to,
 1931 | any offense prohibited under s. 435.03 or under any similar
 1932 | statute of another jurisdiction, shall be appointed to act as a
 1933 | guardian. Except as provided in subsection (5) or subsection
 1934 | (6), a person who provides substantial services to the proposed
 1935 | ward in a professional or business capacity, or a creditor of
 1936 | the proposed ward, may not be appointed guardian and retain that
 1937 | previous professional or business relationship. A person may not
 1938 | be appointed a guardian if he or she is in the employ of any
 1939 | person, agency, government, or corporation that provides service
 1940 | to the proposed ward in a professional or business capacity,
 1941 | except that a person so employed may be appointed if he or she
 1942 | is the spouse, adult child, parent, or sibling of the proposed
 1943 | ward or the court determines that the potential conflict of
 1944 | interest is insubstantial and that the appointment would clearly
 1945 | be in the proposed ward's best interest. The court may not
 1946 | appoint a guardian in any other circumstance in which a conflict
 1947 | of interest may occur.

1948 | Section 30. For the purpose of incorporating the amendment
 1949 | to section 435.03, Florida Statutes, in references thereto,
 1950 | subsection (12) of section 744.474, Florida Statutes, is
 1951 | reenacted to read:

1952 | 744.474 Reasons for removal of guardian.--A guardian may
 1953 | be removed for any of the following reasons, and the removal
 1954 | shall be in addition to any other penalties prescribed by law:

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1955 (12) Having been found guilty of, regardless of
 1956 adjudication, or entered a plea of nolo contendere or guilty to,
 1957 any offense prohibited under s. 435.03 or under any similar
 1958 statute of another jurisdiction.

1959 Section 31. For the purpose of incorporating the amendment
 1960 to section 435.03, Florida Statutes, in references thereto,
 1961 subsection (4) of section 985.407, Florida Statutes, is
 1962 reenacted to read:

1963 985.407 Departmental contracting powers; personnel
 1964 standards and screening.--

1965 (4) The department shall require employment screening
 1966 pursuant to chapter 435, using the level 1 standards for
 1967 screening set forth in that chapter, for personnel in
 1968 delinquency facilities, services, and programs.

1969 Section 32. For the purpose of incorporating the amendment
 1970 to section 435.04, Florida Statutes, in references thereto,
 1971 paragraph (b) of subsection (2) of section 39.001, Florida
 1972 Statutes, is reenacted to read:

1973 39.001 Purposes and intent; personnel standards and
 1974 screening.--

1975 (2) DEPARTMENT CONTRACTS.--The department may contract
 1976 with the Federal Government, other state departments and
 1977 agencies, county and municipal governments and agencies, public
 1978 and private agencies, and private individuals and corporations
 1979 in carrying out the purposes of, and the responsibilities
 1980 established in, this chapter.

1981 (b) The department shall require employment screening, and
 1982 rescreening no less frequently than once every 5 years, pursuant

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1983 to chapter 435, using the level 2 standards set forth in that
 1984 chapter for personnel in programs for children or youths.

1985 Section 33. For the purpose of incorporating the amendment
 1986 to section 435.04, Florida Statutes, in references thereto,
 1987 subsection (1) of section 39.821, Florida Statutes, is reenacted
 1988 to read:

1989 39.821 Qualifications of guardians ad litem.--

1990 (1) Because of the special trust or responsibility placed
 1991 in a guardian ad litem, the Guardian Ad Litem Program may use
 1992 any private funds collected by the program, or any state funds
 1993 so designated, to conduct a security background investigation
 1994 before certifying a volunteer to serve. A security background
 1995 investigation must include, but need not be limited to,
 1996 employment history checks, checks of references, local criminal
 1997 records checks through local law enforcement agencies, and
 1998 statewide criminal records checks through the Department of Law
 1999 Enforcement. Upon request, an employer shall furnish a copy of
 2000 the personnel record for the employee or former employee who is
 2001 the subject of a security background investigation conducted
 2002 under this section. The information contained in the personnel
 2003 record may include, but need not be limited to, disciplinary
 2004 matters and the reason why the employee was terminated from
 2005 employment. An employer who releases a personnel record for
 2006 purposes of a security background investigation is presumed to
 2007 have acted in good faith and is not liable for information
 2008 contained in the record without a showing that the employer
 2009 maliciously falsified the record. A security background
 2010 investigation conducted under this section must ensure that a
 2011 person is not certified as a guardian ad litem if the person has

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2012 | been convicted of, regardless of adjudication, or entered a plea
 2013 | of nolo contendere or guilty to, any offense prohibited under
 2014 | the provisions of the Florida Statutes specified in s. 435.04(2)
 2015 | or under any similar law in another jurisdiction. Before
 2016 | certifying an applicant to serve as a guardian ad litem, the
 2017 | chief judge of the circuit court may request a federal criminal
 2018 | records check of the applicant through the Federal Bureau of
 2019 | Investigation. In analyzing and evaluating the information
 2020 | obtained in the security background investigation, the program
 2021 | must give particular emphasis to past activities involving
 2022 | children, including, but not limited to, child-related criminal
 2023 | offenses or child abuse. The program has the sole discretion in
 2024 | determining whether to certify a person based on his or her
 2025 | security background investigation. The information collected
 2026 | pursuant to the security background investigation is
 2027 | confidential and exempt from s. 119.07(1).

2028 | Section 34. For the purpose of incorporating the amendment
 2029 | to section 435.04, Florida Statutes, in references thereto,
 2030 | paragraphs (a) and (c) of subsection (3) of section 110.1127,
 2031 | Florida Statutes, are reenacted to read:

2032 | 110.1127 Employee security checks.--

2033 | (3)(a) All positions in programs providing care to
 2034 | children, the developmentally disabled, or vulnerable adults for
 2035 | 15 hours or more per week; all permanent and temporary employee
 2036 | positions of the central abuse hotline; and all persons working
 2037 | under contract who have access to abuse records are deemed to be
 2038 | persons and positions of special trust or responsibility, and
 2039 | require employment screening pursuant to chapter 435, using the
 2040 | level 2 standards set forth in that chapter.

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2041 (c) All persons and employees in such positions of trust
 2042 or responsibility shall be required to undergo security
 2043 background investigations as a condition of employment and
 2044 continued employment. For the purposes of this subsection,
 2045 security background investigations shall be conducted as
 2046 provided in chapter 435, using the level 2 standards for
 2047 screening set forth in that chapter.

2048 Section 35. For the purpose of incorporating the amendment
 2049 to section 435.04, Florida Statutes, in references thereto,
 2050 paragraph (a) of subsection (12) of section 112.0455, Florida
 2051 Statutes, is reenacted to read:

2052 112.0455 Drug-Free Workplace Act.--

2053 (12) DRUG-TESTING STANDARDS; LABORATORIES.--

2054 (a) A laboratory may analyze initial or confirmation drug
 2055 specimens only if:

2056 1. The laboratory is licensed and approved by the Agency
 2057 for Health Care Administration using criteria established by the
 2058 United States Department of Health and Human Services as general
 2059 guidelines for modeling the state drug testing program. Each
 2060 applicant for licensure must comply with the following
 2061 requirements:

2062 a. Upon receipt of a completed, signed, and dated
 2063 application, the agency shall require background screening, in
 2064 accordance with the level 2 standards for screening set forth in
 2065 chapter 435, of the managing employee, or other similarly titled
 2066 individual responsible for the daily operation of the
 2067 laboratory, and of the financial officer, or other similarly
 2068 titled individual who is responsible for the financial operation
 2069 of the laboratory, including billings for services. The

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2070 applicant must comply with the procedures for level 2 background
 2071 screening as set forth in chapter 435, as well as the
 2072 requirements of s. 435.03(3).

2073 b. The agency may require background screening of any
 2074 other individual who is an applicant if the agency has probable
 2075 cause to believe that he or she has been convicted of an offense
 2076 prohibited under the level 2 standards for screening set forth
 2077 in chapter 435.

2078 c. Proof of compliance with the level 2 background
 2079 screening requirements of chapter 435 which has been submitted
 2080 within the previous 5 years in compliance with any other health
 2081 care licensure requirements of this state is acceptable in
 2082 fulfillment of screening requirements.

2083 d. A provisional license may be granted to an applicant
 2084 when each individual required by this section to undergo
 2085 background screening has met the standards for the Department of
 2086 Law Enforcement background check, but the agency has not yet
 2087 received background screening results from the Federal Bureau of
 2088 Investigation, or a request for a disqualification exemption has
 2089 been submitted to the agency as set forth in chapter 435, but a
 2090 response has not yet been issued. A license may be granted to
 2091 the applicant upon the agency's receipt of a report of the
 2092 results of the Federal Bureau of Investigation background
 2093 screening for each individual required by this section to
 2094 undergo background screening which confirms that all standards
 2095 have been met, or upon the granting of a disqualification
 2096 exemption by the agency as set forth in chapter 435. Any other
 2097 person who is required to undergo level 2 background screening
 2098 may serve in his or her capacity pending the agency's receipt of

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2099 the report from the Federal Bureau of Investigation. However,
 2100 the person may not continue to serve if the report indicates any
 2101 violation of background screening standards and a
 2102 disqualification exemption has not been requested of and granted
 2103 by the agency as set forth in chapter 435.

2104 e. Each applicant must submit to the agency, with its
 2105 application, a description and explanation of any exclusions,
 2106 permanent suspensions, or terminations of the applicant from the
 2107 Medicare or Medicaid programs. Proof of compliance with the
 2108 requirements for disclosure of ownership and control interests
 2109 under the Medicaid or Medicare programs shall be accepted in
 2110 lieu of this submission.

2111 f. Each applicant must submit to the agency a description
 2112 and explanation of any conviction of an offense prohibited under
 2113 the level 2 standards of chapter 435 by a member of the board of
 2114 directors of the applicant, its officers, or any individual
 2115 owning 5 percent or more of the applicant. This requirement does
 2116 not apply to a director of a not-for-profit corporation or
 2117 organization if the director serves solely in a voluntary
 2118 capacity for the corporation or organization, does not regularly
 2119 take part in the day-to-day operational decisions of the
 2120 corporation or organization, receives no remuneration for his or
 2121 her services on the corporation or organization's board of
 2122 directors, and has no financial interest and has no family
 2123 members with a financial interest in the corporation or
 2124 organization, provided that the director and the not-for-profit
 2125 corporation or organization include in the application a
 2126 statement affirming that the director's relationship to the
 2127 corporation satisfies the requirements of this sub-subparagraph.

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2128 g. A license may not be granted to any applicant if the
 2129 applicant or managing employee has been found guilty of,
 2130 regardless of adjudication, or has entered a plea of nolo
 2131 contendere or guilty to, any offense prohibited under the level
 2132 2 standards for screening set forth in chapter 435, unless an
 2133 exemption from disqualification has been granted by the agency
 2134 as set forth in chapter 435.

2135 h. The agency may deny or revoke licensure if the
 2136 applicant:

2137 (I) Has falsely represented a material fact in the
 2138 application required by sub-subparagraph e. or sub-subparagraph
 2139 f., or has omitted any material fact from the application
 2140 required by sub-subparagraph e. or sub-subparagraph f.; or

2141 (II) Has had prior action taken against the applicant
 2142 under the Medicaid or Medicare program as set forth in sub-
 2143 subparagraph e.

2144 i. An application for license renewal must contain the
 2145 information required under sub-subparagraphs e. and f.

2146 2. The laboratory has written procedures to ensure chain
 2147 of custody.

2148 3. The laboratory follows proper quality control
 2149 procedures, including, but not limited to:

2150 a. The use of internal quality controls including the use
 2151 of samples of known concentrations which are used to check the
 2152 performance and calibration of testing equipment, and periodic
 2153 use of blind samples for overall accuracy.

2154 b. An internal review and certification process for drug
 2155 test results, conducted by a person qualified to perform that
 2156 function in the testing laboratory.

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2157 c. Security measures implemented by the testing laboratory
 2158 to preclude adulteration of specimens and drug test results.

2159 d. Other necessary and proper actions taken to ensure
 2160 reliable and accurate drug test results.

2161 Section 36. For the purpose of incorporating the amendment
 2162 to section 435.04, Florida Statutes, in references thereto,
 2163 subsections (1), (2), and (4) of section 381.0059, Florida
 2164 Statutes, are reenacted to read:

2165 381.0059 Background screening requirements for school
 2166 health services personnel.--

2167 (1) Pursuant to the provisions of chapter 435, any person
 2168 who provides services under a school health services plan
 2169 pursuant to s. 381.0056 must meet level 2 screening requirements
 2170 as described in s. 435.04. A person may satisfy the requirements
 2171 of this subsection by submitting proof of compliance with the
 2172 requirements of level 2 screening conducted within 12 months
 2173 before the date that person initially provides services under a
 2174 school health services plan.

2175 (2) A person may provide services under a school health
 2176 services plan pursuant to s. 381.0056 prior to the completion of
 2177 level 2 screening. However, pending the results of the
 2178 screening, such person may not be alone with a minor.

2179 (4) Under penalty of perjury, each person who provides
 2180 services under a school health plan pursuant to s. 381.0056 must
 2181 attest to meeting the level 2 screening requirements for
 2182 participation under the plan and agree to inform his or her
 2183 employer immediately if convicted of any disqualifying offense
 2184 while providing services under a plan.

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2185 Section 37. For the purpose of incorporating the amendment
 2186 to section 435.04, Florida Statutes, in references thereto,
 2187 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (1) of
 2188 section 381.60225, Florida Statutes, are reenacted to read:

2189 381.60225 Background screening.--

2190 (1) Each applicant for certification must comply with the
 2191 following requirements:

2192 (a) Upon receipt of a completed, signed, and dated
 2193 application, the Agency for Health Care Administration shall
 2194 require background screening, in accordance with the level 2
 2195 standards for screening set forth in chapter 435, of the
 2196 managing employee, or other similarly titled individual
 2197 responsible for the daily operation of the organization, agency,
 2198 or entity, and financial officer, or other similarly titled
 2199 individual who is responsible for the financial operation of the
 2200 organization, agency, or entity, including billings for
 2201 services. The applicant must comply with the procedures for
 2202 level 2 background screening as set forth in chapter 435, as
 2203 well as the requirements of s. 435.03(3).

2204 (b) The Agency for Health Care Administration may require
 2205 background screening of any other individual who is an applicant
 2206 if the Agency for Health Care Administration has probable cause
 2207 to believe that he or she has been convicted of a crime or has
 2208 committed any other offense prohibited under the level 2
 2209 standards for screening set forth in chapter 435.

2210 (c) Proof of compliance with the level 2 background
 2211 screening requirements of chapter 435 which has been submitted
 2212 within the previous 5 years in compliance with any other health

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2213 care licensure requirements of this state is acceptable in
 2214 fulfillment of the requirements of paragraph (a).

2215 (d) A provisional certification may be granted to the
 2216 organization, agency, or entity when each individual required by
 2217 this section to undergo background screening has met the
 2218 standards for the Department of Law Enforcement background
 2219 check, but the agency has not yet received background screening
 2220 results from the Federal Bureau of Investigation, or a request
 2221 for a disqualification exemption has been submitted to the
 2222 agency as set forth in chapter 435, but a response has not yet
 2223 been issued. A standard certification may be granted to the
 2224 organization, agency, or entity upon the agency's receipt of a
 2225 report of the results of the Federal Bureau of Investigation
 2226 background screening for each individual required by this
 2227 section to undergo background screening which confirms that all
 2228 standards have been met, or upon the granting of a
 2229 disqualification exemption by the agency as set forth in chapter
 2230 435. Any other person who is required to undergo level 2
 2231 background screening may serve in his or her capacity pending
 2232 the agency's receipt of the report from the Federal Bureau of
 2233 Investigation. However, the person may not continue to serve if
 2234 the report indicates any violation of background screening
 2235 standards and a disqualification exemption has not been
 2236 requested of and granted by the agency as set forth in chapter
 2237 435.

2238 (f) Each applicant must submit to the agency a description
 2239 and explanation of any conviction of an offense prohibited under
 2240 the level 2 standards of chapter 435 by a member of the board of
 2241 directors of the applicant, its officers, or any individual

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2242 owning 5 percent or more of the applicant. This requirement does
 2243 not apply to a director of a not-for-profit corporation or
 2244 organization if the director serves solely in a voluntary
 2245 capacity for the corporation or organization, does not regularly
 2246 take part in the day-to-day operational decisions of the
 2247 corporation or organization, receives no remuneration for his or
 2248 her services on the corporation or organization's board of
 2249 directors, and has no financial interest and has no family
 2250 members with a financial interest in the corporation or
 2251 organization, provided that the director and the not-for-profit
 2252 corporation or organization include in the application a
 2253 statement affirming that the director's relationship to the
 2254 corporation satisfies the requirements of this paragraph.

2255 (g) The agency may not certify any organization, agency,
 2256 or entity if any applicant or managing employee has been found
 2257 guilty of, regardless of adjudication, or has entered a plea of
 2258 nolo contendere or guilty to, any offense prohibited under the
 2259 level 2 standards for screening set forth in chapter 435, unless
 2260 an exemption from disqualification has been granted by the
 2261 agency as set forth in chapter 435.

2262 Section 38. For the purpose of incorporating the amendment
 2263 to section 435.04, Florida Statutes, in references thereto,
 2264 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (7) of
 2265 section 383.305, Florida Statutes, are reenacted to read:

2266 383.305 Licensure; issuance, renewal, denial, suspension,
 2267 revocation; fees; background screening.--

2268 (7) Each applicant for licensure must comply with the
 2269 following requirements:

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2270 (a) Upon receipt of a completed, signed, and dated
 2271 application, the agency shall require background screening, in
 2272 accordance with the level 2 standards for screening set forth in
 2273 chapter 435, of the managing employee, or other similarly titled
 2274 individual who is responsible for the daily operation of the
 2275 center, and of the financial officer, or other similarly titled
 2276 individual who is responsible for the financial operation of the
 2277 center, including billings for patient care and services. The
 2278 applicant must comply with the procedures for level 2 background
 2279 screening as set forth in chapter 435 as well as the
 2280 requirements of s. 435.03(3).

2281 (b) The agency may require background screening of any
 2282 other individual who is an applicant if the agency has probable
 2283 cause to believe that he or she has been convicted of a crime or
 2284 has committed any other offense prohibited under the level 2
 2285 standards for screening set forth in chapter 435.

2286 (c) Proof of compliance with the level 2 background
 2287 screening requirements of chapter 435 which has been submitted
 2288 within the previous 5 years in compliance with any other health
 2289 care licensure requirements of this state is acceptable in
 2290 fulfillment of the requirements of paragraph (a).

2291 (d) A provisional license may be granted to an applicant
 2292 when each individual required by this section to undergo
 2293 background screening has met the standards for the Department of
 2294 Law Enforcement background check, but the agency has not yet
 2295 received background screening results from the Federal Bureau of
 2296 Investigation, or a request for a disqualification exemption has
 2297 been submitted to the agency as set forth in chapter 435 but a
 2298 response has not yet been issued. A standard license may be

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2299 granted to the applicant upon the agency's receipt of a report
 2300 of the results of the Federal Bureau of Investigation background
 2301 screening for each individual required by this section to
 2302 undergo background screening which confirms that all standards
 2303 have been met, or upon the granting of a disqualification
 2304 exemption by the agency as set forth in chapter 435. Any other
 2305 person who is required to undergo level 2 background screening
 2306 may serve in his or her capacity pending the agency's receipt of
 2307 the report from the Federal Bureau of Investigation. However,
 2308 the person may not continue to serve if the report indicates any
 2309 violation of background screening standards and a
 2310 disqualification exemption has not been requested of and granted
 2311 by the agency as set forth in chapter 435.

2312 (f) Each applicant must submit to the agency a description
 2313 and explanation of any conviction of an offense prohibited under
 2314 the level 2 standards of chapter 435 by a member of the board of
 2315 directors of the applicant, its officers, or any individual
 2316 owning 5 percent or more of the applicant. This requirement does
 2317 not apply to a director of a not-for-profit corporation or
 2318 organization if the director serves solely in a voluntary
 2319 capacity for the corporation or organization, does not regularly
 2320 take part in the day-to-day operational decisions of the
 2321 corporation or organization, receives no remuneration for his or
 2322 her services on the corporation or organization's board of
 2323 directors, and has no financial interest and has no family
 2324 members with a financial interest in the corporation or
 2325 organization, provided that the director and the not-for-profit
 2326 corporation or organization include in the application a

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2327 statement affirming that the director's relationship to the
 2328 corporation satisfies the requirements of this paragraph.

2329 (g) A license may not be granted to an applicant if the
 2330 applicant or managing employee has been found guilty of,
 2331 regardless of adjudication, or has entered a plea of nolo
 2332 contendere or guilty to, any offense prohibited under the level
 2333 2 standards for screening set forth in chapter 435, unless an
 2334 exemption from disqualification has been granted by the agency
 2335 as set forth in chapter 435.

2336 Section 39. For the purpose of incorporating the amendment
 2337 to section 435.04, Florida Statutes, in references thereto,
 2338 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (3) of
 2339 section 390.015, Florida Statutes, are reenacted to read:

2340 390.015 Application for license.--

2341 (3) Each applicant for licensure must comply with the
 2342 following requirements:

2343 (a) Upon receipt of a completed, signed, and dated
 2344 application, the agency shall require background screening, in
 2345 accordance with the level 2 standards for screening set forth in
 2346 chapter 435, of the managing employee, or other similarly titled
 2347 individual who is responsible for the daily operation of the
 2348 clinic, and financial officer, or other similarly titled
 2349 individual who is responsible for the financial operation of the
 2350 clinic, including billings for patient care and services. The
 2351 applicant must comply with the procedures for level 2 background
 2352 screening as set forth in chapter 435, as well as the
 2353 requirements of s. 435.03(3).

2354 (b) The agency may require background screening of any
 2355 other individual who is an applicant if the agency has probable

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2356 cause to believe that he or she has been convicted of a crime or
 2357 has committed any other offense prohibited under the level 2
 2358 standards for screening set forth in chapter 435.

2359 (c) Proof of compliance with the level 2 background
 2360 screening requirements of chapter 435 which has been submitted
 2361 within the previous 5 years in compliance with any other health
 2362 care licensure requirements of this state is acceptable in
 2363 fulfillment of the requirements of paragraph (a).

2364 (d) A provisional license may be granted to an applicant
 2365 when each individual required by this section to undergo
 2366 background screening has met the standards for the Department of
 2367 Law Enforcement background check, but the agency has not yet
 2368 received background screening results from the Federal Bureau of
 2369 Investigation, or a request for a disqualification exemption has
 2370 been submitted to the agency as set forth in chapter 435 but a
 2371 response has not yet been issued. A standard license may be
 2372 granted to the applicant upon the agency's receipt of a report
 2373 of the results of the Federal Bureau of Investigation background
 2374 screening for each individual required by this section to
 2375 undergo background screening which confirms that all standards
 2376 have been met, or upon the granting of a disqualification
 2377 exemption by the agency as set forth in chapter 435. Any other
 2378 person who is required to undergo level 2 background screening
 2379 may serve in his or her capacity pending the agency's receipt of
 2380 the report from the Federal Bureau of Investigation. However,
 2381 the person may not continue to serve if the report indicates any
 2382 violation of background screening standards and a
 2383 disqualification exemption has not been requested of and granted
 2384 by the agency as set forth in chapter 435.

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2385 (f) Each applicant must submit to the agency a description
 2386 and explanation of any conviction of an offense prohibited under
 2387 the level 2 standards of chapter 435 by a member of the board of
 2388 directors of the applicant, its officers, or any individual
 2389 owning 5 percent or more of the applicant. This requirement does
 2390 not apply to a director of a not-for-profit corporation or
 2391 organization if the director serves solely in a voluntary
 2392 capacity for the corporation or organization, does not regularly
 2393 take part in the day-to-day operational decisions of the
 2394 corporation or organization, receives no remuneration for his or
 2395 her services on the corporation or organization's board of
 2396 directors, and has no financial interest and has no family
 2397 members with a financial interest in the corporation or
 2398 organization, provided that the director and the not-for-profit
 2399 corporation or organization include in the application a
 2400 statement affirming that the director's relationship to the
 2401 corporation satisfies the requirements of this paragraph.

2402 (g) A license may not be granted to an applicant if the
 2403 applicant or managing employee has been found guilty of,
 2404 regardless of adjudication, or has entered a plea of nolo
 2405 contendere or guilty to, any offense prohibited under the level
 2406 2 standards for screening set forth in chapter 435, unless an
 2407 exemption from disqualification has been granted by the agency
 2408 as set forth in chapter 435.

2409 Section 40. For the purpose of incorporating the amendment
 2410 to section 435.04, Florida Statutes, in references thereto,
 2411 subsection (1) of section 393.0655, Florida Statutes, is
 2412 reenacted to read:

2413 393.0655 Screening of direct service providers.--

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2414 (1) MINIMUM STANDARDS.--The department shall require
 2415 employment screening pursuant to chapter 435, using the level 2
 2416 standards for screening set forth in that chapter, for direct
 2417 service providers who are unrelated to their clients.

2418 Section 41. For the purpose of incorporating the amendment
 2419 to section 435.04, Florida Statutes, in references thereto,
 2420 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (6) of
 2421 section 393.067, Florida Statutes, are reenacted to read:

2422 393.067 Licensure of residential facilities and
 2423 comprehensive transitional education programs.--

2424 (6) Each applicant for licensure as an intermediate care
 2425 facility for the developmentally disabled must comply with the
 2426 following requirements:

2427 (a) Upon receipt of a completed, signed, and dated
 2428 application, the agency shall require background screening, in
 2429 accordance with the level 2 standards for screening set forth in
 2430 chapter 435, of the managing employee, or other similarly titled
 2431 individual who is responsible for the daily operation of the
 2432 facility, and of the financial officer, or other similarly
 2433 titled individual who is responsible for the financial operation
 2434 of the center, including billings for resident care and
 2435 services. The applicant must comply with the procedures for
 2436 level 2 background screening as set forth in chapter 435, as
 2437 well as the requirements of s. 435.03(3).

2438 (b) The agency may require background screening of any
 2439 other individual who is an applicant if the agency has probable
 2440 cause to believe that he or she has been convicted of a crime or
 2441 has committed any other offense prohibited under the level 2
 2442 standards for screening set forth in chapter 435.

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2443 (c) Proof of compliance with the level 2 background
 2444 screening requirements of chapter 435 which has been submitted
 2445 within the previous 5 years in compliance with any other health
 2446 care licensure requirements of this state is acceptable in
 2447 fulfillment of the requirements of paragraph (a).

2448 (d) A provisional license may be granted to an applicant
 2449 when each individual required by this section to undergo
 2450 background screening has met the standards for the Department of
 2451 Law Enforcement background check, but the agency has not yet
 2452 received background screening results from the Federal Bureau of
 2453 Investigation, or a request for a disqualification exemption has
 2454 been submitted to the agency as set forth in chapter 435, but a
 2455 response has not yet been issued. A standard license may be
 2456 granted to the applicant upon the agency's receipt of a report
 2457 of the results of the Federal Bureau of Investigation background
 2458 screening for each individual required by this section to
 2459 undergo background screening which confirms that all standards
 2460 have been met, or upon the granting of a disqualification
 2461 exemption by the agency as set forth in chapter 435. Any other
 2462 person who is required to undergo level 2 background screening
 2463 may serve in his or her capacity pending the agency's receipt of
 2464 the report from the Federal Bureau of Investigation. However,
 2465 the person may not continue to serve if the report indicates any
 2466 violation of background screening standards and a
 2467 disqualification exemption has not been requested of and granted
 2468 by the agency as set forth in chapter 435.

2469 (f) Each applicant must submit to the agency a description
 2470 and explanation of any conviction of an offense prohibited under
 2471 the level 2 standards of chapter 435 by a member of the board of

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2472 directors of the applicant, its officers, or any individual
 2473 owning 5 percent or more of the applicant. This requirement does
 2474 not apply to a director of a not-for-profit corporation or
 2475 organization if the director serves solely in a voluntary
 2476 capacity for the corporation or organization, does not regularly
 2477 take part in the day-to-day operational decisions of the
 2478 corporation or organization, receives no remuneration for his or
 2479 her services on the corporation or organization's board of
 2480 directors, and has no financial interest and has no family
 2481 members with a financial interest in the corporation or
 2482 organization, provided that the director and the not-for-profit
 2483 corporation or organization include in the application a
 2484 statement affirming that the director's relationship to the
 2485 corporation satisfies the requirements of this paragraph.

2486 (g) A license may not be granted to an applicant if the
 2487 applicant or managing employee has been found guilty of,
 2488 regardless of adjudication, or has entered a plea of nolo
 2489 contendere or guilty to, any offense prohibited under the level
 2490 2 standards for screening set forth in chapter 435, unless an
 2491 exemption from disqualification has been granted by the agency
 2492 as set forth in chapter 435.

2493 Section 42. For the purpose of incorporating the amendment
 2494 to section 435.04, Florida Statutes, in references thereto,
 2495 paragraph (a) of subsection (1) of section 394.4572, Florida
 2496 Statutes, is reenacted to read:

2497 394.4572 Screening of mental health personnel.--

2498 (1)(a) The department and the Agency for Health Care
 2499 Administration shall require employment screening for mental
 2500 health personnel using the standards for level 2 screening set

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2501 forth in chapter 435. "Mental health personnel" includes all
 2502 program directors, professional clinicians, staff members, and
 2503 volunteers working in public or private mental health programs
 2504 and facilities who have direct contact with unmarried patients
 2505 under the age of 18 years.

2506 Section 43. For the purpose of incorporating the amendment
 2507 to section 435.04, Florida Statutes, in references thereto,
 2508 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (13)
 2509 of section 394.875, Florida Statutes, are reenacted to read:

2510 394.875 Crisis stabilization units, residential treatment
 2511 facilities, and residential treatment centers for children and
 2512 adolescents; authorized services; license required; penalties.--

2513 (13) Each applicant for licensure must comply with the
 2514 following requirements:

2515 (a) Upon receipt of a completed, signed, and dated
 2516 application, the agency shall require background screening, in
 2517 accordance with the level 2 standards for screening set forth in
 2518 chapter 435, of the managing employee and financial officer, or
 2519 other similarly titled individual who is responsible for the
 2520 financial operation of the facility, including billings for
 2521 client care and services. The applicant must comply with the
 2522 procedures for level 2 background screening as set forth in
 2523 chapter 435, as well as the requirements of s. 435.03(3).

2524 (b) The agency may require background screening of any
 2525 other individual who is an applicant if the agency has probable
 2526 cause to believe that he or she has been convicted of a crime or
 2527 has committed any other offense prohibited under the level 2
 2528 standards for screening set forth in chapter 435.

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2529 (c) Proof of compliance with the level 2 background
2530 screening requirements of chapter 435 which has been submitted
2531 within the previous 5 years in compliance with any other health
2532 care licensure requirements of this state is acceptable in
2533 fulfillment of the requirements of paragraph (a).

2534 (d) A provisional license may be granted to an applicant
2535 when each individual required by this section to undergo
2536 background screening has met the standards for the Department of
2537 Law Enforcement background check, but the agency has not yet
2538 received background screening results from the Federal Bureau of
2539 Investigation, or a request for a disqualification exemption has
2540 been submitted to the agency as set forth in chapter 435, but a
2541 response has not yet been issued. A standard license may be
2542 granted to the applicant upon the agency's receipt of a report
2543 of the results of the Federal Bureau of Investigation background
2544 screening for each individual required by this section to
2545 undergo background screening which confirms that all standards
2546 have been met, or upon the granting of a disqualification
2547 exemption by the agency as set forth in chapter 435. Any other
2548 person who is required to undergo level 2 background screening
2549 may serve in his or her capacity pending the agency's receipt of
2550 the report from the Federal Bureau of Investigation. However,
2551 the person may not continue to serve if the report indicates any
2552 violation of background screening standards and a
2553 disqualification exemption has not been requested of and granted
2554 by the agency as set forth in chapter 435.

2555 (f) Each applicant must submit to the agency a description
2556 and explanation of any conviction of an offense prohibited under
2557 the level 2 standards of chapter 435 by a member of the board of

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2558 directors of the applicant, its officers, or any individual
 2559 owning 5 percent or more of the applicant. This requirement does
 2560 not apply to a director of a not-for-profit corporation or
 2561 organization if the director serves solely in a voluntary
 2562 capacity for the corporation or organization, does not regularly
 2563 take part in the day-to-day operational decisions of the
 2564 corporation or organization, receives no remuneration for his or
 2565 her services on the corporation or organization's board of
 2566 directors, and has no financial interest and has no family
 2567 members with a financial interest in the corporation or
 2568 organization, provided that the director and the not-for-profit
 2569 corporation or organization include in the application a
 2570 statement affirming that the director's relationship to the
 2571 corporation satisfies the requirements of this paragraph.

2572 (g) A license may not be granted to an applicant if the
 2573 applicant or managing employee has been found guilty of,
 2574 regardless of adjudication, or has entered a plea of nolo
 2575 contendere or guilty to, any offense prohibited under the level
 2576 2 standards for screening set forth in chapter 435, unless an
 2577 exemption from disqualification has been granted by the agency
 2578 as set forth in chapter 435.

2579 Section 44. For the purpose of incorporating the amendment
 2580 to section 435.04, Florida Statutes, in references thereto,
 2581 subsections (1), (2), (3), (4), (6), and (8) of section
 2582 395.0055, Florida Statutes, are reenacted to read:

2583 395.0055 Background screening.--Each applicant for
 2584 licensure must comply with the following requirements:

2585 (1) Upon receipt of a completed, signed, and dated
 2586 application, the agency shall require background screening of

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2587 the managing employee in accordance with the level 2 standards
 2588 for screening set forth in chapter 435, as well as the
 2589 requirements of s. 435.03(3).

2590 (2) The agency may require background screening for a
 2591 member of the board of directors of the licensee, or an officer
 2592 or an individual owning 5 percent or more of the licensee, if
 2593 the agency has probable cause to believe that such individual
 2594 has been convicted of an offense prohibited under the level 2
 2595 standards for screening set forth in chapter 435.

2596 (3) Proof of compliance with the level 2 background
 2597 screening requirements of chapter 435 which has been submitted
 2598 within the previous 5 years in compliance with any other health
 2599 care licensure requirements of this state is acceptable in
 2600 fulfillment of subsection (1).

2601 (4) A provisional license may be granted to an applicant
 2602 when each individual required by this section to undergo
 2603 background screening has met the standards for the Department of
 2604 Law Enforcement background check, but the agency has not yet
 2605 received background screening results from the Federal Bureau of
 2606 Investigation, or a request for a disqualification exemption has
 2607 been submitted to the agency as set forth in chapter 435 but a
 2608 response has not yet been issued. A standard license may be
 2609 granted to the applicant upon the agency's receipt of a report
 2610 of the results of the Federal Bureau of Investigation background
 2611 screening for each individual required by this section to
 2612 undergo background screening which confirms that all standards
 2613 have been met, or upon the granting of a disqualification
 2614 exemption by the agency as set forth in chapter 435. Any other
 2615 person who is required to undergo level 2 background screening

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2616 may serve in his or her capacity pending the agency's receipt of
 2617 the report from the Federal Bureau of Investigation; however,
 2618 the person may not continue to serve if the report indicates any
 2619 violation of background screening standards and a
 2620 disqualification exemption has not been requested of and granted
 2621 by the agency as set forth in chapter 435.

2622 (6) Each applicant must submit to the agency a description
 2623 and explanation of any conviction of an offense prohibited under
 2624 the level 2 standards of chapter 435 by a member of the board of
 2625 directors of the applicant, its officers, or any individual
 2626 owning 5 percent or more of the applicant.

2627 (8) A license may not be granted to an applicant if the
 2628 applicant or managing employee has been found guilty of,
 2629 regardless of adjudication, or has entered a plea of nolo
 2630 contendere or guilty to, any offense prohibited under the level
 2631 2 standards for screening set forth in chapter 435, unless an
 2632 exemption from disqualification has been granted by the agency
 2633 as set forth in chapter 435.

2634 Section 45. For the purpose of incorporating the amendment
 2635 to section 435.04, Florida Statutes, in references thereto,
 2636 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (4) of
 2637 section 395.0199, Florida Statutes, are reenacted to read:

2638 395.0199 Private utilization review.--

2639 (4) Each applicant for registration must comply with the
 2640 following requirements:

2641 (a) Upon receipt of a completed, signed, and dated
 2642 application, the agency shall require background screening, in
 2643 accordance with the level 2 standards for screening set forth in
 2644 chapter 435, of the managing employee or other similarly titled

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2645 individual who is responsible for the operation of the entity.
 2646 The applicant must comply with the procedures for level 2
 2647 background screening as set forth in chapter 435, as well as the
 2648 requirements of s. 435.03(3).

2649 (b) The agency may require background screening of any
 2650 other individual who is an applicant, if the agency has probable
 2651 cause to believe that he or she has been convicted of a crime or
 2652 has committed any other offense prohibited under the level 2
 2653 standards for screening set forth in chapter 435.

2654 (c) Proof of compliance with the level 2 background
 2655 screening requirements of chapter 435 which has been submitted
 2656 within the previous 5 years in compliance with any other health
 2657 care licensure requirements of this state is acceptable in
 2658 fulfillment of the requirements of paragraph (a).

2659 (d) A provisional registration may be granted to an
 2660 applicant when each individual required by this section to
 2661 undergo background screening has met the standards for the
 2662 Department of Law Enforcement background check, but the agency
 2663 has not yet received background screening results from the
 2664 Federal Bureau of Investigation, or a request for a
 2665 disqualification exemption has been submitted to the agency as
 2666 set forth in chapter 435 but a response has not yet been issued.
 2667 A standard registration may be granted to the applicant upon the
 2668 agency's receipt of a report of the results of the Federal
 2669 Bureau of Investigation background screening for each individual
 2670 required by this section to undergo background screening which
 2671 confirms that all standards have been met, or upon the granting
 2672 of a disqualification exemption by the agency as set forth in
 2673 chapter 435. Any other person who is required to undergo level 2

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2674 background screening may serve in his or her capacity pending
2675 the agency's receipt of the report from the Federal Bureau of
2676 Investigation. However, the person may not continue to serve if
2677 the report indicates any violation of background screening
2678 standards and a disqualification exemption has not been
2679 requested of and granted by the agency as set forth in chapter
2680 435.

2681 (f) Each applicant must submit to the agency a description
2682 and explanation of any conviction of an offense prohibited under
2683 the level 2 standards of chapter 435 by a member of the board of
2684 directors of the applicant, its officers, or any individual
2685 owning 5 percent or more of the applicant. This requirement does
2686 not apply to a director of a not-for-profit corporation or
2687 organization if the director serves solely in a voluntary
2688 capacity for the corporation or organization, does not regularly
2689 take part in the day-to-day operational decisions of the
2690 corporation or organization, receives no remuneration for his or
2691 her services on the corporation or organization's board of
2692 directors, and has no financial interest and has no family
2693 members with a financial interest in the corporation or
2694 organization, provided that the director and the not-for-profit
2695 corporation or organization include in the application a
2696 statement affirming that the director's relationship to the
2697 corporation satisfies the requirements of this paragraph.

2698 (g) A registration may not be granted to an applicant if
2699 the applicant or managing employee has been found guilty of,
2700 regardless of adjudication, or has entered a plea of nolo
2701 contendere or guilty to, any offense prohibited under the level
2702 2 standards for screening set forth in chapter 435, unless an

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2703 exemption from disqualification has been granted by the agency
 2704 as set forth in chapter 435.

2705 Section 46. For the purpose of incorporating the amendment
 2706 to section 435.04, Florida Statutes, in references thereto,
 2707 paragraph (a) of subsection (1) of section 397.451, Florida
 2708 Statutes, is reenacted to read:

2709 397.451 Background checks of service provider personnel.--

2710 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND
 2711 EXCEPTIONS.--

2712 (a) Background checks shall apply as follows:

2713 1. All owners, directors, and chief financial officers of
 2714 service providers are subject to level 2 background screening as
 2715 provided under chapter 435.

2716 2. All service provider personnel who have direct contact
 2717 with children receiving services or with adults who are
 2718 developmentally disabled receiving services are subject to level
 2719 2 background screening as provided under chapter 435.

2720 Section 47. For the purpose of incorporating the amendment
 2721 to section 435.04, Florida Statutes, in references thereto,
 2722 paragraphs (a), (b), (c), (d), and (f) of subsection (4) of
 2723 section 400.071, Florida Statutes, are reenacted to read:

2724 400.071 Application for license.--

2725 (4) Each applicant for licensure must comply with the
 2726 following requirements:

2727 (a) Upon receipt of a completed, signed, and dated
 2728 application, the agency shall require background screening of
 2729 the applicant, in accordance with the level 2 standards for
 2730 screening set forth in chapter 435. As used in this subsection,
 2731 the term "applicant" means the facility administrator, or

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2732 similarly titled individual who is responsible for the day-to-
 2733 day operation of the licensed facility, and the facility
 2734 financial officer, or similarly titled individual who is
 2735 responsible for the financial operation of the licensed
 2736 facility.

2737 (b) The agency may require background screening for a
 2738 member of the board of directors of the licensee or an officer
 2739 or an individual owning 5 percent or more of the licensee if the
 2740 agency has probable cause to believe that such individual has
 2741 been convicted of an offense prohibited under the level 2
 2742 standards for screening set forth in chapter 435.

2743 (c) Proof of compliance with the level 2 background
 2744 screening requirements of chapter 435 which has been submitted
 2745 within the previous 5 years in compliance with any other health
 2746 care or assisted living licensure requirements of this state is
 2747 acceptable in fulfillment of paragraph (a). Proof of compliance
 2748 with background screening which has been submitted within the
 2749 previous 5 years to fulfill the requirements of the Financial
 2750 Services Commission and the Office of Insurance Regulation
 2751 pursuant to chapter 651 as part of an application for a
 2752 certificate of authority to operate a continuing care retirement
 2753 community is acceptable in fulfillment of the Department of Law
 2754 Enforcement and Federal Bureau of Investigation background
 2755 check.

2756 (d) A provisional license may be granted to an applicant
 2757 when each individual required by this section to undergo
 2758 background screening has met the standards for the Department of
 2759 Law Enforcement background check, but the agency has not yet
 2760 received background screening results from the Federal Bureau of

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2761 Investigation, or a request for a disqualification exemption has
 2762 been submitted to the agency as set forth in chapter 435, but a
 2763 response has not yet been issued. A license may be granted to
 2764 the applicant upon the agency's receipt of a report of the
 2765 results of the Federal Bureau of Investigation background
 2766 screening for each individual required by this section to
 2767 undergo background screening which confirms that all standards
 2768 have been met, or upon the granting of a disqualification
 2769 exemption by the agency as set forth in chapter 435. Any other
 2770 person who is required to undergo level 2 background screening
 2771 may serve in his or her capacity pending the agency's receipt of
 2772 the report from the Federal Bureau of Investigation; however,
 2773 the person may not continue to serve if the report indicates any
 2774 violation of background screening standards and a
 2775 disqualification exemption has not been requested of and granted
 2776 by the agency as set forth in chapter 435.

2777 (f) Each applicant must submit to the agency a description
 2778 and explanation of any conviction of an offense prohibited under
 2779 the level 2 standards of chapter 435 by a member of the board of
 2780 directors of the applicant, its officers, or any individual
 2781 owning 5 percent or more of the applicant. This requirement
 2782 shall not apply to a director of a not-for-profit corporation or
 2783 organization if the director serves solely in a voluntary
 2784 capacity for the corporation or organization, does not regularly
 2785 take part in the day-to-day operational decisions of the
 2786 corporation or organization, receives no remuneration for his or
 2787 her services on the corporation or organization's board of
 2788 directors, and has no financial interest and has no family
 2789 members with a financial interest in the corporation or

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2790 organization, provided that the director and the not-for-profit
 2791 corporation or organization include in the application a
 2792 statement affirming that the director's relationship to the
 2793 corporation satisfies the requirements of this paragraph.

2794 Section 48. For the purpose of incorporating the amendment
 2795 to section 435.04, Florida Statutes, in references thereto,
 2796 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (4) of
 2797 section 400.471, Florida Statutes, are reenacted to read:

2798 400.471 Application for license; fee; provisional license;
 2799 temporary permit.--

2800 (4) Each applicant for licensure must comply with the
 2801 following requirements:

2802 (a) Upon receipt of a completed, signed, and dated
 2803 application, the agency shall require background screening of
 2804 the applicant, in accordance with the level 2 standards for
 2805 screening set forth in chapter 435. As used in this subsection,
 2806 the term "applicant" means the administrator, or a similarly
 2807 titled person who is responsible for the day-to-day operation of
 2808 the licensed home health agency, and the financial officer, or
 2809 similarly titled individual who is responsible for the financial
 2810 operation of the licensed home health agency.

2811 (b) The agency may require background screening for a
 2812 member of the board of directors of the licensee or an officer
 2813 or an individual owning 5 percent or more of the licensee if the
 2814 agency reasonably suspects that such individual has been
 2815 convicted of an offense prohibited under the level 2 standards
 2816 for screening set forth in chapter 435.

2817 (c) Proof of compliance with the level 2 background
 2818 screening requirements of chapter 435 which has been submitted

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

2830 (d) A provisional license may be granted to an applicant
 2831 when each individual required by this section to undergo
 2832 background screening has met the standards for the Department of
 2833 Law Enforcement background check, but the agency has not yet
 2834 received background screening results from the Federal Bureau of
 2835 Investigation. A standard license may be granted to the licensee
 2836 upon the agency's receipt of a report of the results of the
 2837 Federal Bureau of Investigation background screening for each
 2838 individual required by this section to undergo background
 2839 screening which confirms that all standards have been met, or
 2840 upon the granting of a disqualification exemption by the agency
 2841 as set forth in chapter 435. Any other person who is required to
 2842 undergo level 2 background screening may serve in his or her
 2843 capacity pending the agency's receipt of the report from the
 2844 Federal Bureau of Investigation. However, the person may not
 2845 continue to serve if the report indicates any violation of
 2846 background screening standards and a disqualification exemption

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2847 has not been requested of and granted by the agency as set forth
 2848 in chapter 435.

2849 (f) Each applicant must submit to the agency a description
 2850 and explanation of any conviction of an offense prohibited under
 2851 the level 2 standards of chapter 435 by a member of the board of
 2852 directors of the applicant, its officers, or any individual
 2853 owning 5 percent or more of the applicant. This requirement does
 2854 not apply to a director of a not-for-profit corporation or
 2855 organization if the director serves solely in a voluntary
 2856 capacity for the corporation or organization, does not regularly
 2857 take part in the day-to-day operational decisions of the
 2858 corporation or organization, receives no remuneration for his or
 2859 her services on the corporation or organization's board of
 2860 directors, and has no financial interest and has no family
 2861 members with a financial interest in the corporation or
 2862 organization, provided that the director and the not-for-profit
 2863 corporation or organization include in the application a
 2864 statement affirming that the director's relationship to the
 2865 corporation satisfies the requirements of this paragraph.

2866 (g) A license may not be granted to an applicant if the
 2867 applicant, administrator, or financial officer has been found
 2868 guilty of, regardless of adjudication, or has entered a plea of
 2869 nolo contendere or guilty to, any offense prohibited under the
 2870 level 2 standards for screening set forth in chapter 435, unless
 2871 an exemption from disqualification has been granted by the
 2872 agency as set forth in chapter 435.

2873 Section 49. For the purpose of incorporating the amendment
 2874 to section 435.04, Florida Statutes, in references thereto,

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2875 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (2) of
 2876 section 400.506, Florida Statutes, are reenacted to read:

2877 400.506 Licensure of nurse registries; requirements;
 2878 penalties.--

2879 (2) Each applicant for licensure must comply with the
 2880 following requirements:

2881 (a) Upon receipt of a completed, signed, and dated
 2882 application, the agency shall require background screening, in
 2883 accordance with the level 2 standards for screening set forth in
 2884 chapter 435, of the managing employee, or other similarly titled
 2885 individual who is responsible for the daily operation of the
 2886 nurse registry, and of the financial officer, or other similarly
 2887 titled individual who is responsible for the financial operation
 2888 of the registry, including billings for patient care and
 2889 services. The applicant shall comply with the procedures for
 2890 level 2 background screening as set forth in chapter 435.

2891 (b) The agency may require background screening of any
 2892 other individual who is an applicant if the agency has probable
 2893 cause to believe that he or she has been convicted of a crime or
 2894 has committed any other offense prohibited under the level 2
 2895 standards for screening set forth in chapter 435.

2896 (c) Proof of compliance with the level 2 background
 2897 screening requirements of chapter 435 which has been submitted
 2898 within the previous 5 years in compliance with any other health
 2899 care or assisted living licensure requirements of this state is
 2900 acceptable in fulfillment of the requirements of paragraph (a).

2901 (d) A provisional license may be granted to an applicant
 2902 when each individual required by this section to undergo
 2903 background screening has met the standards for the Department of

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2904 Law Enforcement background check but the agency has not yet
 2905 received background screening results from the Federal Bureau of
 2906 Investigation. A standard license may be granted to the
 2907 applicant upon the agency's receipt of a report of the results
 2908 of the Federal Bureau of Investigation background screening for
 2909 each individual required by this section to undergo background
 2910 screening which confirms that all standards have been met, or
 2911 upon the granting of a disqualification exemption by the agency
 2912 as set forth in chapter 435. Any other person who is required to
 2913 undergo level 2 background screening may serve in his or her
 2914 capacity pending the agency's receipt of the report from the
 2915 Federal Bureau of Investigation. However, the person may not
 2916 continue to serve if the report indicates any violation of
 2917 background screening standards and a disqualification exemption
 2918 has not been requested of and granted by the agency as set forth
 2919 in chapter 435.

2920 (f) Each applicant must submit to the agency a description
 2921 and explanation of any conviction of an offense prohibited under
 2922 the level 2 standards of chapter 435 by a member of the board of
 2923 directors of the applicant, its officers, or any individual
 2924 owning 5 percent or more of the applicant. This requirement does
 2925 not apply to a director of a not-for-profit corporation or
 2926 organization if the director serves solely in a voluntary
 2927 capacity for the corporation or organization, does not regularly
 2928 take part in the day-to-day operational decisions of the
 2929 corporation or organization, receives no remuneration for his or
 2930 her services on the corporation or organization's board of
 2931 directors, and has no financial interest and has no family
 2932 members with a financial interest in the corporation or

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2933 organization, provided that the director and the not-for-profit
 2934 corporation or organization include in the application a
 2935 statement affirming that the director's relationship to the
 2936 corporation satisfies the requirements of this paragraph.

2937 (g) A license may not be granted to an applicant if the
 2938 applicant or managing employee has been found guilty of,
 2939 regardless of adjudication, or has entered a plea of nolo
 2940 contendere or guilty to, any offense prohibited under the level
 2941 2 standards for screening set forth in chapter 435, unless an
 2942 exemption from disqualification has been granted by the agency
 2943 as set forth in chapter 435.

2944 Section 50. For the purpose of incorporating the amendment
 2945 to section 435.04, Florida Statutes, in references thereto,
 2946 section 400.5572, Florida Statutes, is reenacted to read:

2947 400.5572 Background screening.--

2948 (1)(a) Level 2 background screening must be conducted on
 2949 each of the following persons, who shall be considered employees
 2950 for the purposes of conducting screening under chapter 435:

2951 1. The adult day care center owner if an individual, the
 2952 operator, and the financial officer.

2953 2. An officer or board member if the owner of the adult
 2954 day care center is a firm, corporation, partnership, or
 2955 association, or any person owning 5 percent or more of the
 2956 facility, if the agency has probable cause to believe that such
 2957 person has been convicted of any offense prohibited by s.
 2958 435.04. For each officer, board member, or person owning 5
 2959 percent or more who has been convicted of any such offense, the
 2960 facility shall submit to the agency a description and
 2961 explanation of the conviction at the time of license

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2962 application. This subparagraph does not apply to a board member
 2963 of a not-for-profit corporation or organization if the board
 2964 member serves solely in a voluntary capacity, does not regularly
 2965 take part in the day-to-day operational decisions of the
 2966 corporation or organization, receives no remuneration for his or
 2967 her services, and has no financial interest and has no family
 2968 members with a financial interest in the corporation or
 2969 organization, provided that the board member and facility submit
 2970 a statement affirming that the board member's relationship to
 2971 the facility satisfies the requirements of this subparagraph.

2972 (b) Proof of compliance with level 2 screening standards
 2973 which has been submitted within the previous 5 years to meet any
 2974 facility or professional licensure requirements of the agency or
 2975 the Department of Health satisfies the requirements of this
 2976 subsection.

2977 (c) The agency may grant a provisional license to an adult
 2978 day care center applying for an initial license when each
 2979 individual required by this subsection to undergo screening has
 2980 completed the Department of Law Enforcement background check,
 2981 but has not yet received results from the Federal Bureau of
 2982 Investigation, or when a request for an exemption from
 2983 disqualification has been submitted to the agency pursuant to s.
 2984 435.07, but a response has not been issued.

2985 (2) The owner or administrator of an adult day care center
 2986 must conduct level 1 background screening as set forth in
 2987 chapter 435 on all employees hired on or after October 1, 1998,
 2988 who provide basic services or supportive and optional services
 2989 to the participants. Such persons satisfy this requirement if:

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2990 (a) Proof of compliance with level 1 screening
 2991 requirements obtained to meet any professional license
 2992 requirements in this state is provided and accompanied, under
 2993 penalty of perjury, by a copy of the person's current
 2994 professional license and an affidavit of current compliance with
 2995 the background screening requirements.

2996 (b) The person required to be screened has been
 2997 continuously employed, without a breach in service that exceeds
 2998 180 days, in the same type of occupation for which the person is
 2999 seeking employment and provides proof of compliance with the
 3000 level 1 screening requirement which is no more than 2 years old.
 3001 Proof of compliance must be provided directly from one employer
 3002 or contractor to another, and not from the person screened. Upon
 3003 request, a copy of screening results shall be provided to the
 3004 person screened by the employer retaining documentation of the
 3005 screening.

3006 (c) The person required to be screened is employed by a
 3007 corporation or business entity or related corporation or
 3008 business entity that owns, operates, or manages more than one
 3009 facility or agency licensed under this chapter, and for whom a
 3010 level 1 screening was conducted by the corporation or business
 3011 entity as a condition of initial or continued employment.

3012 Section 51. For the purpose of incorporating the amendment
 3013 to section 435.04, Florida Statutes, in references thereto,
 3014 paragraph (a) of subsection (3) of section 400.607, Florida
 3015 Statutes, is reenacted to read:

3016 400.607 Denial, suspension, or revocation of license;
 3017 imposition of administrative fine; grounds; injunctions.--

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3018 (3) The agency may deny or revoke a license upon a
 3019 determination that:

3020 (a) Persons subject to level 2 background screening under
 3021 s. 400.6065 do not meet the screening standards of s. 435.04,
 3022 and exemptions from disqualification have not been provided by
 3023 the agency.

3024 Section 52. For the purpose of incorporating the amendment
 3025 to section 435.04, Florida Statutes, in references thereto,
 3026 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (4) of
 3027 section 400.801, Florida Statutes, are reenacted to read:

3028 400.801 Homes for special services.--

3029 (4) Each applicant for licensure must comply with the
 3030 following requirements:

3031 (a) Upon receipt of a completed, signed, and dated
 3032 application, the agency shall require background screening, in
 3033 accordance with the level 2 standards for screening set forth in
 3034 chapter 435, of the managing employee, or other similarly titled
 3035 individual who is responsible for the daily operation of the
 3036 facility, and of the financial officer, or other similarly
 3037 titled individual who is responsible for the financial operation
 3038 of the facility, including billings for client care and
 3039 services, in accordance with the level 2 standards for screening
 3040 set forth in chapter 435. The applicant must comply with the
 3041 procedures for level 2 background screening as set forth in
 3042 chapter 435.

3043 (b) The agency may require background screening of any
 3044 other individual who is an applicant if the agency has probable
 3045 cause to believe that he or she has been convicted of a crime or

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3046 has committed any other offense prohibited under the level 2
3047 standards for screening set forth in chapter 435.

3048 (c) Proof of compliance with the level 2 background
3049 screening requirements of chapter 435 which has been submitted
3050 within the previous 5 years in compliance with any other health
3051 care or assisted living licensure requirements of this state is
3052 acceptable in fulfillment of the requirements of paragraph (a).

3053 (d) A provisional license may be granted to an applicant
3054 when each individual required by this section to undergo
3055 background screening has met the standards for the Department of
3056 Law Enforcement background check, but the agency has not yet
3057 received background screening results from the Federal Bureau of
3058 Investigation, or a request for a disqualification exemption has
3059 been submitted to the agency as set forth in chapter 435, but a
3060 response has not yet been issued. A standard license may be
3061 granted to the applicant upon the agency's receipt of a report
3062 of the results of the Federal Bureau of Investigation background
3063 screening for each individual required by this section to
3064 undergo background screening which confirms that all standards
3065 have been met, or upon the granting of a disqualification
3066 exemption by the agency as set forth in chapter 435. Any other
3067 person who is required to undergo level 2 background screening
3068 may serve in his or her capacity pending the agency's receipt of
3069 the report from the Federal Bureau of Investigation. However,
3070 the person may not continue to serve if the report indicates any
3071 violation of background screening standards and a
3072 disqualification exemption has not been requested of and granted
3073 by the agency as set forth in chapter 435.

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3074 (f) Each applicant must submit to the agency a description
 3075 and explanation of any conviction of an offense prohibited under
 3076 the level 2 standards of chapter 435 by a member of the board of
 3077 directors of the applicant, its officers, or any individual
 3078 owning 5 percent or more of the applicant. This requirement does
 3079 not apply to a director of a not-for-profit corporation or
 3080 organization if the director serves solely in a voluntary
 3081 capacity for the corporation or organization, does not regularly
 3082 take part in the day-to-day operational decisions of the
 3083 corporation or organization, receives no remuneration for his or
 3084 her services on the corporation or organization's board of
 3085 directors, and has no financial interest and has no family
 3086 members with a financial interest in the corporation or
 3087 organization, provided that the director and the not-for-profit
 3088 corporation or organization include in the application a
 3089 statement affirming that the director's relationship to the
 3090 corporation satisfies the requirements of this paragraph.

3091 (g) A license may not be granted to an applicant if the
 3092 applicant or managing employee has been found guilty of,
 3093 regardless of adjudication, or has entered a plea of nolo
 3094 contendere or guilty to, any offense prohibited under the level
 3095 2 standards for screening set forth in chapter 435, unless an
 3096 exemption from disqualification has been granted by the agency
 3097 as set forth in chapter 435.

3098 Section 53. For the purpose of incorporating the amendment
 3099 to section 435.04, Florida Statutes, in references thereto,
 3100 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (3) of
 3101 section 400.805, Florida Statutes, are reenacted to read:

3102 400.805 Transitional living facilities.--

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3103 (3) Each applicant for licensure must comply with the
3104 following requirements:

3105 (a) Upon receipt of a completed, signed, and dated
3106 application, the agency shall require background screening, in
3107 accordance with the level 2 standards for screening set forth in
3108 chapter 435, of the managing employee, or other similarly titled
3109 individual who is responsible for the daily operation of the
3110 facility, and of the financial officer, or other similarly
3111 titled individual who is responsible for the financial operation
3112 of the facility, including billings for client care and
3113 services. The applicant must comply with the procedures for
3114 level 2 background screening as set forth in chapter 435.

3115 (b) The agency may require background screening of any
3116 other individual who is an applicant if the agency has probable
3117 cause to believe that he or she has been convicted of a crime or
3118 has committed any other offense prohibited under the level 2
3119 standards for screening set forth in chapter 435.

3120 (c) Proof of compliance with the level 2 background
3121 screening requirements of chapter 435 which has been submitted
3122 within the previous 5 years in compliance with any other health
3123 care or assisted living licensure requirements of this state is
3124 acceptable in fulfillment of the requirements of paragraph (a).

3125 (d) A provisional license may be granted to an applicant
3126 when each individual required by this section to undergo
3127 background screening has met the standards for the Department of
3128 Law Enforcement background check, but the agency has not yet
3129 received background screening results from the Federal Bureau of
3130 Investigation, or a request for a disqualification exemption has
3131 been submitted to the agency as set forth in chapter 435, but a

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3132 response has not yet been issued. A standard license may be
3133 granted to the applicant upon the agency's receipt of a report
3134 of the results of the Federal Bureau of Investigation background
3135 screening for each individual required by this section to
3136 undergo background screening which confirms that all standards
3137 have been met, or upon the granting of a disqualification
3138 exemption by the agency as set forth in chapter 435. Any other
3139 person who is required to undergo level 2 background screening
3140 may serve in his or her capacity pending the agency's receipt of
3141 the report from the Federal Bureau of Investigation. However,
3142 the person may not continue to serve if the report indicates any
3143 violation of background screening standards and a
3144 disqualification exemption has not been requested of and granted
3145 by the agency as set forth in chapter 435.

3146 (f) Each applicant must submit to the agency a description
3147 and explanation of any conviction of an offense prohibited under
3148 the level 2 standards of chapter 435 by a member of the board of
3149 directors of the applicant, its officers, or any individual
3150 owning 5 percent or more of the applicant. This requirement does
3151 not apply to a director of a not-for-profit corporation or
3152 organization if the director serves solely in a voluntary
3153 capacity for the corporation or organization, does not regularly
3154 take part in the day-to-day operational decisions of the
3155 corporation or organization, receives no remuneration for his or
3156 her services on the corporation or organization's board of
3157 directors, and has no financial interest and has no family
3158 members with a financial interest in the corporation or
3159 organization, provided that the director and the not-for-profit
3160 corporation or organization include in the application a

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3161 statement affirming that the director's relationship to the
 3162 corporation satisfies the requirements of this paragraph.

3163 (g) A license may not be granted to an applicant if the
 3164 applicant or managing employee has been found guilty of,
 3165 regardless of adjudication, or has entered a plea of nolo
 3166 contendere or guilty to, any offense prohibited under the level
 3167 2 standards for screening set forth in chapter 435, unless an
 3168 exemption from disqualification has been granted by the agency
 3169 as set forth in chapter 435.

3170 Section 54. For the purpose of incorporating the amendment
 3171 to section 435.04, Florida Statutes, in references thereto,
 3172 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (5) of
 3173 section 400.906, Florida Statutes, are reenacted to read:

3174 400.906 Initial application for license.--

3175 (5) Each applicant for licensure must comply with the
 3176 following requirements:

3177 (a) Upon receipt of a completed, signed, and dated
 3178 application, the agency shall require background screening, in
 3179 accordance with the level 2 standards for screening set forth in
 3180 chapter 435, of the operator, and of the financial officer, or
 3181 other similarly titled individual who is responsible for the
 3182 financial operation of the center, including billings for
 3183 patient care and services. The applicant must comply with the
 3184 procedures for level 2 background screening as set forth in
 3185 chapter 435, as well as the requirements of s. 435.03(3).

3186 (b) The agency may require background screening of any
 3187 other individual who is an applicant if the agency has a
 3188 reasonable basis for believing that he or she has been convicted

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3189 of a crime or has committed any other offense prohibited under
 3190 the level 2 standards for screening set forth in chapter 435.

3191 (c) Proof of compliance with the level 2 background
 3192 screening requirements of chapter 435 which has been submitted
 3193 within the previous 5 years in compliance with any other health
 3194 care licensure requirements of this state is acceptable in
 3195 fulfillment of the requirements of paragraph (a).

3196 (d) A provisional license may be granted to an applicant
 3197 when each individual required by this section to undergo
 3198 background screening has met the standards for the Department of
 3199 Law Enforcement background check, but the agency has not yet
 3200 received background screening results from the Federal Bureau of
 3201 Investigation, or a request for a disqualification exemption has
 3202 been submitted to the agency as set forth in chapter 435, but a
 3203 response has not yet been issued. A standard license may be
 3204 granted to the applicant upon the agency's receipt of a report
 3205 of the results of the Federal Bureau of Investigation background
 3206 screening for each individual required by this section to
 3207 undergo background screening which confirms that all standards
 3208 have been met, or upon the granting of a disqualification
 3209 exemption by the agency as set forth in chapter 435. Any other
 3210 person who is required to undergo level 2 background screening
 3211 may serve in his or her capacity pending the agency's receipt of
 3212 the report from the Federal Bureau of Investigation. However,
 3213 the person may not continue to serve if the report indicates any
 3214 violation of background screening standards and a
 3215 disqualification exemption has not been requested of and granted
 3216 by the agency as set forth in chapter 435.

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3217 (f) Each applicant must submit to the agency a description
 3218 and explanation of any conviction of an offense prohibited under
 3219 the level 2 standards of chapter 435 by a member of the board of
 3220 directors of the applicant, its officers, or any individual
 3221 owning 5 percent or more of the applicant. This requirement does
 3222 not apply to a director of a not-for-profit corporation or
 3223 organization if the director serves solely in a voluntary
 3224 capacity for the corporation or organization, does not regularly
 3225 take part in the day-to-day operational decisions of the
 3226 corporation or organization, receives no remuneration for his or
 3227 her services on the corporation or organization's board of
 3228 directors, and has no financial interest and has no family
 3229 members with a financial interest in the corporation or
 3230 organization, provided that the director and the not-for-profit
 3231 corporation or organization include in the application a
 3232 statement affirming that the director's relationship to the
 3233 corporation satisfies the requirements of this paragraph.

3234 (g) A license may not be granted to an applicant if the
 3235 applicant or managing employee has been found guilty of,
 3236 regardless of adjudication, or has entered a plea of nolo
 3237 contendere or guilty to, any offense prohibited under the level
 3238 2 standards for screening set forth in chapter 435, unless an
 3239 exemption from disqualification has been granted by the agency
 3240 as set forth in chapter 435.

3241 Section 55. For the purpose of incorporating the amendment
 3242 to section 435.04, Florida Statutes, in references thereto,
 3243 paragraphs (a), (b), (c), (e), and (f) of subsection (5) of
 3244 section 400.931, Florida Statutes, are reenacted to read:

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3245 400.931 Application for license; fee; provisional license;
 3246 temporary permit.--

3247 (5) Each applicant for licensure must comply with the
 3248 following requirements:

3249 (a) Upon receipt of a completed, signed, and dated
 3250 application, the agency shall require background screening of
 3251 the applicant, in accordance with the level 2 standards for
 3252 screening set forth in chapter 435. As used in this subsection,
 3253 the term "applicant" means the general manager and the financial
 3254 officer or similarly titled individual who is responsible for
 3255 the financial operation of the licensed facility.

3256 (b) The agency may require background screening for a
 3257 member of the board of directors of the licensee or an officer
 3258 or an individual owning 5 percent or more of the licensee if the
 3259 agency has probable cause to believe that such individual has
 3260 been convicted of an offense prohibited under the level 2
 3261 standards for screening set forth in chapter 435.

3262 (c) Proof of compliance with the level 2 background
 3263 screening requirements of chapter 435 which has been submitted
 3264 within the previous 5 years in compliance with any other health
 3265 care licensure requirements of this state is acceptable in
 3266 fulfillment of paragraph (a).

3267 (e) Each applicant must submit to the agency a description
 3268 and explanation of any conviction of an offense prohibited under
 3269 the level 2 standards of chapter 435 by a member of the board of
 3270 directors of the applicant, its officers, or any individual
 3271 owning 5 percent or more of the applicant. This requirement does
 3272 not apply to a director of a not-for-profit corporation or
 3273 organization if the director serves solely in a voluntary

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3274 capacity for the corporation or organization, does not regularly
 3275 take part in the day-to-day operational decisions of the
 3276 corporation or organization, receives no remuneration for his or
 3277 her services on the corporation's or organization's board of
 3278 directors, and has no financial interest and has no family
 3279 members with a financial interest in the corporation or
 3280 organization, provided that the director and the not-for-profit
 3281 corporation or organization include in the application a
 3282 statement affirming that the director's relationship to the
 3283 corporation satisfies the requirements of this provision.

3284 (f) A license may not be granted to any potential licensee
 3285 if any applicant, administrator, or financial officer has been
 3286 found guilty of, regardless of adjudication, or has entered a
 3287 plea of nolo contendere or guilty to, any offense prohibited
 3288 under the level 2 standards for screening set forth in chapter
 3289 435, unless an exemption from disqualification has been granted
 3290 by the agency as set forth in chapter 435.

3291 Section 56. For the purpose of incorporating the amendment
 3292 to section 435.04, Florida Statutes, in references thereto,
 3293 paragraphs (a), (b), (c), (d), and (f) of subsection (10) of
 3294 section 400.962, Florida Statutes, are reenacted to read:

3295 400.962 License required; license application.--

3296 (10)(a) Upon receipt of a completed, signed, and dated
 3297 application, the agency shall require background screening of
 3298 the applicant, in accordance with the level 2 standards for
 3299 screening set forth in chapter 435. As used in this subsection,
 3300 the term "applicant" means the facility administrator, or
 3301 similarly titled individual who is responsible for the day-to-
 3302 day operation of the licensed facility, and the facility

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3303 financial officer, or similarly titled individual who is
 3304 responsible for the financial operation of the licensed
 3305 facility.

3306 (b) The agency may require background screening for a
 3307 member of the board of directors of the licensee or an officer
 3308 or an individual owning 5 percent or more of the licensee if the
 3309 agency has probable cause to believe that such individual has
 3310 been convicted of an offense prohibited under the level 2
 3311 standards for screening set forth in chapter 435.

3312 (c) Proof of compliance with the level 2 background
 3313 screening requirements of chapter 435 which has been submitted
 3314 within the previous 5 years in compliance with any other
 3315 licensure requirements under this chapter satisfies the
 3316 requirements of paragraph (a). Proof of compliance with
 3317 background screening which has been submitted within the
 3318 previous 5 years to fulfill the requirements of the Financial
 3319 Services Commission and the Office of Insurance Regulation under
 3320 chapter 651 as part of an application for a certificate of
 3321 authority to operate a continuing care retirement community
 3322 satisfies the requirements for the Department of Law Enforcement
 3323 and Federal Bureau of Investigation background checks.

3324 (d) A provisional license may be granted to an applicant
 3325 when each individual required by this section to undergo
 3326 background screening has met the standards for the Department of
 3327 Law Enforcement background check, but the agency has not yet
 3328 received background screening results from the Federal Bureau of
 3329 Investigation, or a request for a disqualification exemption has
 3330 been submitted to the agency as set forth in chapter 435, but a
 3331 response has not yet been issued. A license may be granted to

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3332 the applicant upon the agency's receipt of a report of the
 3333 results of the Federal Bureau of Investigation background
 3334 screening for each individual required by this section to
 3335 undergo background screening which confirms that all standards
 3336 have been met, or upon the granting of a disqualification
 3337 exemption by the agency as set forth in chapter 435. Any other
 3338 person who is required to undergo level 2 background screening
 3339 may serve in his or her capacity pending the agency's receipt of
 3340 the report from the Federal Bureau of Investigation; however,
 3341 the person may not continue to serve if the report indicates any
 3342 violation of background screening standards and a
 3343 disqualification exemption has not been granted by the agency as
 3344 set forth in chapter 435.

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

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3360 statement affirming that the director's relationship to the
 3361 corporation satisfies the requirements of this paragraph.

3362 Section 57. For the purpose of incorporating the amendment
 3363 to section 435.04, Florida Statutes, in references thereto,
 3364 paragraphs (b) and (d) of subsection (7) of section 400.991,
 3365 Florida Statutes, are reenacted to read:

3366 400.991 License requirements; background screenings;
 3367 prohibitions.--

3368 (7) Each applicant for licensure shall comply with the
 3369 following requirements:

3370 (b) Upon receipt of a completed, signed, and dated
 3371 application, the agency shall require background screening of
 3372 the applicant, in accordance with the level 2 standards for
 3373 screening set forth in chapter 435. Proof of compliance with the
 3374 level 2 background screening requirements of chapter 435 which
 3375 has been submitted within the previous 5 years in compliance
 3376 with any other health care licensure requirements of this state
 3377 is acceptable in fulfillment of this paragraph.

3378 (d) A license may not be granted to a clinic if the
 3379 applicant has been found guilty of, regardless of adjudication,
 3380 or has entered a plea of nolo contendere or guilty to, any
 3381 offense prohibited under the level 2 standards for screening set
 3382 forth in chapter 435, or a violation of insurance fraud under s.
 3383 817.234, within the past 5 years. If the applicant has been
 3384 convicted of an offense prohibited under the level 2 standards
 3385 or insurance fraud in any jurisdiction, the applicant must show
 3386 that his or her civil rights have been restored prior to
 3387 submitting an application.

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3388 Section 58. For the purpose of incorporating the amendment
 3389 to section 435.04, Florida Statutes, in references thereto,
 3390 paragraph (e) of subsection (2) of section 402.302, Florida
 3391 Statutes, is reenacted to read:

3392 402.302 Definitions.--

3393 (2) "Child care facility" includes any child care center
 3394 or child care arrangement which provides child care for more
 3395 than five children unrelated to the operator and which receives
 3396 a payment, fee, or grant for any of the children receiving care,
 3397 wherever operated, and whether or not operated for profit. The
 3398 following are not included:

3399 (e) Operators of transient establishments, as defined in
 3400 chapter 509, which provide child care services solely for the
 3401 guests of their establishment or resort, provided that all child
 3402 care personnel of the establishment are screened according to
 3403 the level 2 screening requirements of chapter 435.

3404 Section 59. For the purpose of incorporating the amendment
 3405 to section 435.04, Florida Statutes, in references thereto,
 3406 paragraph (a) of subsection (2) of section 402.305, Florida
 3407 Statutes, is reenacted to read:

3408 402.305 Licensing standards; child care facilities.--

3409 (2) PERSONNEL.--Minimum standards for child care personnel
 3410 shall include minimum requirements as to:

3411 (a) Good moral character based upon screening. This
 3412 screening shall be conducted as provided in chapter 435, using
 3413 the level 2 standards for screening set forth in that chapter.

3414 Section 60. For the purpose of incorporating the amendment
 3415 to section 435.04, Florida Statutes, in references thereto,

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3416 subsection (3) of section 402.3054, Florida Statutes, is
 3417 reenacted to read:

3418 402.3054 Child enrichment service providers.--

3419 (3) A child enrichment service provider shall be of good
 3420 moral character based upon screening. This screening shall be
 3421 conducted as provided in chapter 435, using the level 2
 3422 standards for screening set forth in that chapter. A child
 3423 enrichment service provider must meet the screening requirements
 3424 prior to providing services to a child in a child care facility.
 3425 A child enrichment service provider who has met the screening
 3426 standards shall not be required to be under the direct and
 3427 constant supervision of child care personnel.

3428 Section 61. For the purpose of incorporating the amendment
 3429 to section 435.04, Florida Statutes, in references thereto,
 3430 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (2) of
 3431 section 483.30, Florida Statutes, are reenacted to read:

3432 483.30 Licensing of centers.--

3433 (2) Each applicant for licensure must comply with the
 3434 following requirements:

3435 (a) Upon receipt of a completed, signed, and dated
 3436 application, the agency shall require background screening, in
 3437 accordance with the level 2 standards for screening set forth in
 3438 chapter 435, of the managing employee, or other similarly titled
 3439 individual who is responsible for the daily operation of the
 3440 center, and of the financial officer, or other similarly titled
 3441 individual who is responsible for the financial operation of the
 3442 center, including billings for patient services. The applicant
 3443 must comply with the procedures for level 2 background screening

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3444 as set forth in chapter 435, as well as the requirements of s.
 3445 435.03(3).

3446 (b) The agency may require background screening of any
 3447 other individual who is an applicant if the agency has probable
 3448 cause to believe that he or she has been convicted of a crime or
 3449 has committed any other offense prohibited under the level 2
 3450 standards for screening set forth in chapter 435.

3451 (c) Proof of compliance with the level 2 background
 3452 screening requirements of chapter 435 which has been submitted
 3453 within the previous 5 years in compliance with any other health
 3454 care licensure requirements of this state is acceptable in
 3455 fulfillment of the requirements of paragraph (a).

3456 (d) A provisional license may be granted to an applicant
 3457 when each individual required by this section to undergo
 3458 background screening has met the standards for the Department of
 3459 Law Enforcement background check, but the agency has not yet
 3460 received background screening results from the Federal Bureau of
 3461 Investigation, or a request for a disqualification exemption has
 3462 been submitted to the agency as set forth in chapter 435 but a
 3463 response has not yet been issued. A license may be granted to
 3464 the applicant upon the agency's receipt of a report of the
 3465 results of the Federal Bureau of Investigation background
 3466 screening for each individual required by this section to
 3467 undergo background screening which confirms that all standards
 3468 have been met, or upon the granting of a disqualification
 3469 exemption by the agency as set forth in chapter 435. Any other
 3470 person who is required to undergo level 2 background screening
 3471 may serve in his or her capacity pending the agency's receipt of
 3472 the report from the Federal Bureau of Investigation. However,

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3473 the person may not continue to serve if the report indicates any
 3474 violation of background screening standards and a
 3475 disqualification exemption has not been requested of and granted
 3476 by the agency as set forth in chapter 435.

3477 (f) Each applicant must submit to the agency a description
 3478 and explanation of any conviction of an offense prohibited under
 3479 the level 2 standards of chapter 435 by a member of the board of
 3480 directors of the applicant, its officers, or any individual
 3481 owning 5 percent or more of the applicant. This requirement does
 3482 not apply to a director of a not-for-profit corporation or
 3483 organization if the director serves solely in a voluntary
 3484 capacity for the corporation or organization, does not regularly
 3485 take part in the day-to-day operational decisions of the
 3486 corporation or organization, receives no remuneration for his or
 3487 her services on the corporation or organization's board of
 3488 directors, and has no financial interest and has no family
 3489 members with a financial interest in the corporation or
 3490 organization, provided that the director and the not-for-profit
 3491 corporation or organization include in the application a
 3492 statement affirming that the director's relationship to the
 3493 corporation satisfies the requirements of this paragraph.

3494 (g) A license may not be granted to an applicant if the
 3495 applicant or managing employee has been found guilty of,
 3496 regardless of adjudication, or has entered a plea of nolo
 3497 contendere or guilty to, any offense prohibited under the level
 3498 2 standards for screening set forth in chapter 435, unless an
 3499 exemption from disqualification has been granted by the agency
 3500 as set forth in chapter 435.

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3501 Section 62. For the purpose of incorporating the amendment
3502 to section 435.04, Florida Statutes, in references thereto,
3503 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (2) of
3504 section 483.101, Florida Statutes, are reenacted to read:

3505 483.101 Application for clinical laboratory license.--

3506 (2) Each applicant for licensure must comply with the
3507 following requirements:

3508 (a) Upon receipt of a completed, signed, and dated
3509 application, the agency shall require background screening, in
3510 accordance with the level 2 standards for screening set forth in
3511 chapter 435, of the managing director or other similarly titled
3512 individual who is responsible for the daily operation of the
3513 laboratory and of the financial officer, or other similarly
3514 titled individual who is responsible for the financial operation
3515 of the laboratory, including billings for patient services. The
3516 applicant must comply with the procedures for level 2 background
3517 screening as set forth in chapter 435, as well as the
3518 requirements of s. 435.03(3).

3519 (b) The agency may require background screening of any
3520 other individual who is an applicant if the agency has probable
3521 cause to believe that he or she has been convicted of a crime or
3522 has committed any other offense prohibited under the level 2
3523 standards for screening set forth in chapter 435.

3524 (c) Proof of compliance with the level 2 background
3525 screening requirements of chapter 435 which has been submitted
3526 within the previous 5 years in compliance with any other health
3527 care licensure requirements of this state is acceptable in
3528 fulfillment of the requirements of paragraph (a).

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3529 (d) A provisional license may be granted to an applicant
 3530 when each individual required by this section to undergo
 3531 background screening has met the standards for the Department of
 3532 Law Enforcement background check but the agency has not yet
 3533 received background screening results from the Federal Bureau of
 3534 Investigation, or a request for a disqualification exemption has
 3535 been submitted to the agency as set forth in chapter 435 but a
 3536 response has not yet been issued. A license may be granted to
 3537 the applicant upon the agency's receipt of a report of the
 3538 results of the Federal Bureau of Investigation background
 3539 screening for each individual required by this section to
 3540 undergo background screening which confirms that all standards
 3541 have been met, or upon the granting of a disqualification
 3542 exemption by the agency as set forth in chapter 435. Any other
 3543 person who is required to undergo level 2 background screening
 3544 may serve in his or her capacity pending the agency's receipt of
 3545 the report from the Federal Bureau of Investigation. However,
 3546 the person may not continue to serve if the report indicates any
 3547 violation of background screening standards and a
 3548 disqualification exemption has not been requested of and granted
 3549 by the agency as set forth in chapter 435.

3550 (f) Each applicant must submit to the agency a description
 3551 and explanation of any conviction of an offense prohibited under
 3552 the level 2 standards of chapter 435 by a member of the board of
 3553 directors of the applicant, its officers, or any individual
 3554 owning 5 percent or more of the applicant. This requirement does
 3555 not apply to a director of a not-for-profit corporation or
 3556 organization if the director serves solely in a voluntary
 3557 capacity for the corporation or organization, does not regularly

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3558 take part in the day-to-day operational decisions of the
 3559 corporation or organization, receives no remuneration for his or
 3560 her services on the corporation or organization's board of
 3561 directors, and has no financial interest and has no family
 3562 members with a financial interest in the corporation or
 3563 organization, provided that the director and the not-for-profit
 3564 corporation or organization include in the application a
 3565 statement affirming that the director's relationship to the
 3566 corporation satisfies the requirements of this paragraph.

3567 (g) A license may not be granted to an applicant if the
 3568 applicant or managing employee has been found guilty of,
 3569 regardless of adjudication, or has entered a plea of nolo
 3570 contendere or guilty to, any offense prohibited under the level
 3571 2 standards for screening set forth in chapter 435, unless an
 3572 exemption from disqualification has been granted by the agency
 3573 as set forth in chapter 435.

3574 Section 63. For the purpose of incorporating the amendment
 3575 to section 435.04, Florida Statutes, in references thereto,
 3576 subsection (5) of section 744.1085, Florida Statutes, is
 3577 reenacted to read:

3578 744.1085 Regulation of professional guardians;
 3579 application; bond required; educational requirements.--

3580 (5) As required in s. 744.3135, each professional guardian
 3581 shall allow a level 2 background screening of the guardian and
 3582 employees of the guardian in accordance with the provisions of
 3583 s. 435.04.

3584 Section 64. For the purpose of incorporating the amendment
 3585 to section 435.04, Florida Statutes, in references thereto,

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3586 paragraph (b) of subsection (2) of section 984.01, Florida
 3587 Statutes, is reenacted to read:

3588 984.01 Purposes and intent; personnel standards and
 3589 screening.--

3590 (2) The Department of Juvenile Justice or the Department
 3591 of Children and Family Services, as appropriate, may contract
 3592 with the Federal Government, other state departments and
 3593 agencies, county and municipal governments and agencies, public
 3594 and private agencies, and private individuals and corporations
 3595 in carrying out the purposes of, and the responsibilities
 3596 established in, this chapter.

3597 (b) The Department of Juvenile Justice and the Department
 3598 of Children and Family Services shall require employment
 3599 screening pursuant to chapter 435, using the level 2 standards
 3600 set forth in that chapter for personnel in programs for children
 3601 or youths.

3602 Section 65. For the purpose of incorporating the amendment
 3603 to section 435.04, Florida Statutes, in references thereto,
 3604 paragraph (b) of subsection (2) of section 985.01, Florida
 3605 Statutes, is reenacted to read:

3606 985.01 Purposes and intent; personnel standards and
 3607 screening.--

3608 (2) The Department of Juvenile Justice or the Department
 3609 of Children and Family Services, as appropriate, may contract
 3610 with the Federal Government, other state departments and
 3611 agencies, county and municipal governments and agencies, public
 3612 and private agencies, and private individuals and corporations
 3613 in carrying out the purposes of, and the responsibilities
 3614 established in, this chapter.

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3615 (b) The Department of Juvenile Justice and the Department
 3616 of Children and Family Services shall require employment
 3617 screening pursuant to chapter 435, using the level 2 standards
 3618 set forth in that chapter for personnel in programs for children
 3619 or youths.

3620 Section 66. For the purpose of incorporating the amendment
 3621 to section 435.04, Florida Statutes, in references thereto,
 3622 paragraphs (a) and (b) of subsection (7) of section 1002.36,
 3623 Florida Statutes, are reenacted to read:

3624 1002.36 Florida School for the Deaf and the Blind.--

3625 (7) PERSONNEL SCREENING.--

3626 (a) The Board of Trustees of the Florida School for the
 3627 Deaf and the Blind shall, because of the special trust or
 3628 responsibility of employees of the school, require all employees
 3629 and applicants for employment to undergo personnel screening and
 3630 security background investigations as provided in chapter 435,
 3631 using the level 2 standards for screening set forth in that
 3632 chapter, as a condition of employment and continued employment.
 3633 The cost of a personnel screening and security background
 3634 investigation for an employee of the school shall be paid by the
 3635 school. The cost of such a screening and investigation for an
 3636 applicant for employment may be paid by the school.

3637 (b) As a prerequisite for initial and continuing
 3638 employment at the Florida School for the Deaf and the Blind:

3639 1. The applicant or employee shall submit to the Florida
 3640 School for the Deaf and the Blind a complete set of fingerprints
 3641 taken by an authorized law enforcement agency or an employee of
 3642 the Florida School for the Deaf and the Blind who is trained to
 3643 take fingerprints. The Florida School for the Deaf and the Blind

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3644 shall submit the fingerprints to the Department of Law
 3645 Enforcement for state processing and the Federal Bureau of
 3646 Investigation for federal processing.

3647 2.a. The applicant or employee shall attest to the minimum
 3648 standards for good moral character as contained in chapter 435,
 3649 using the level 2 standards set forth in that chapter under
 3650 penalty of perjury.

3651 b. New personnel shall be on a probationary status pending
 3652 a determination of compliance with such minimum standards for
 3653 good moral character. This paragraph is in addition to any
 3654 probationary status provided for by Florida law or Florida
 3655 School for the Deaf and the Blind rules or collective bargaining
 3656 contracts.

3657 3. The Florida School for the Deaf and the Blind shall
 3658 review the record of the applicant or employee with respect to
 3659 the crimes contained in s. 435.04 and shall notify the applicant
 3660 or employee of its findings. When disposition information is
 3661 missing on a criminal record, it shall be the responsibility of
 3662 the applicant or employee, upon request of the Florida School
 3663 for the Deaf and the Blind, to obtain and supply within 30 days
 3664 the missing disposition information to the Florida School for
 3665 the Deaf and the Blind. Failure to supply missing information
 3666 within 30 days or to show reasonable efforts to obtain such
 3667 information shall result in automatic disqualification of an
 3668 applicant and automatic termination of an employee.

3669 4. After an initial personnel screening and security
 3670 background investigation, written notification shall be given to
 3671 the affected employee within a reasonable time prior to any
 3672 subsequent screening and investigation.

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3673 Section 67. For the purpose of incorporating the
 3674 amendments to sections 943.0585 and 943.059, Florida Statutes,
 3675 in references thereto, paragraph (a) of subsection (2) and
 3676 subsection (6) of section 943.0582, Florida Statutes, are
 3677 reenacted to read:

3678 943.0582 Prearrest, postarrest, or teen court diversion
 3679 program expunction.--

3680 (2)(a) As used in this section, the term "expunction" has
 3681 the same meaning ascribed in and effect as s. 943.0585, except
 3682 that:

3683 1. The provisions of s. 943.0585(4)(a) do not apply,
 3684 except that the criminal history record of a person whose record
 3685 is expunged pursuant to this section shall be made available
 3686 only to criminal justice agencies for the purpose of determining
 3687 eligibility for prearrest, postarrest, or teen court diversion
 3688 programs; when the record is sought as part of a criminal
 3689 investigation; or when the subject of the record is a candidate
 3690 for employment with a criminal justice agency. For all other
 3691 purposes, a person whose record is expunged under this section
 3692 may lawfully deny or fail to acknowledge the arrest and the
 3693 charge covered by the expunged record.

3694 2. Records maintained by local criminal justice agencies
 3695 in the county in which the arrest occurred that are eligible for
 3696 expunction pursuant to this section shall be sealed as the term
 3697 is used in s. 943.059.

3698 (6) Expunction or sealing granted under this section does
 3699 not prevent the minor who receives such relief from petitioning
 3700 for the expunction or sealing of a later criminal history record

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3701 as provided for in ss. 943.0585 and 943.059, if the minor is
 3702 otherwise eligible under those sections.

3703 Section 68. For the purpose of incorporating the amendment
 3704 to section 943.059, Florida Statutes, in references thereto,
 3705 subsections (7), (8), and (9) of section 943.053, Florida
 3706 Statutes, are reenacted to read:

3707 943.053 Dissemination of criminal justice information;
 3708 fees.--

3709 (7) Notwithstanding the provisions of s. 943.0525, and any
 3710 user agreements adopted pursuant thereto, and notwithstanding
 3711 the confidentiality of sealed records as provided for in s.
 3712 943.059, the sheriff of any county that has contracted with a
 3713 private entity to operate a county detention facility pursuant
 3714 to the provisions of s. 951.062 shall provide that private
 3715 entity, in a timely manner, copies of the Florida criminal
 3716 history records for its inmates. The sheriff may assess a charge
 3717 for the Florida criminal history records pursuant to the
 3718 provisions of chapter 119. Sealed records received by the
 3719 private entity under this section remain confidential and exempt
 3720 from the provisions of s. 119.07(1).

3721 (8) Notwithstanding the provisions of s. 943.0525, and any
 3722 user agreements adopted pursuant thereto, and notwithstanding
 3723 the confidentiality of sealed records as provided for in s.
 3724 943.059, the Department of Corrections shall provide, in a
 3725 timely manner, copies of the Florida criminal history records
 3726 for inmates housed in a private state correctional facility to
 3727 the private entity under contract to operate the facility
 3728 pursuant to the provisions of s. 944.105 or s. 957.03. The
 3729 department may assess a charge for the Florida criminal history

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3730 records pursuant to the provisions of chapter 119. Sealed
 3731 records received by the private entity under this section remain
 3732 confidential and exempt from the provisions of s. 119.07(1).

3733 (9) Notwithstanding the provisions of s. 943.0525 and any
 3734 user agreements adopted pursuant thereto, and notwithstanding
 3735 the confidentiality of sealed records as provided for in s.
 3736 943.059, the Department of Juvenile Justice or any other state
 3737 or local criminal justice agency may provide copies of the
 3738 Florida criminal history records for juvenile offenders
 3739 currently or formerly detained or housed in a contracted
 3740 juvenile assessment center or detention facility or serviced in
 3741 a contracted treatment program and for employees or other
 3742 individuals who will have access to these facilities, only to
 3743 the entity under direct contract with the Department of Juvenile
 3744 Justice to operate these facilities or programs pursuant to the
 3745 provisions of s. 985.411. The criminal justice agency providing
 3746 such data may assess a charge for the Florida criminal history
 3747 records pursuant to the provisions of chapter 119. Sealed
 3748 records received by the private entity under this section remain
 3749 confidential and exempt from the provisions of s. 119.07(1).
 3750 Information provided under this section shall be used only for
 3751 the criminal justice purpose for which it was requested and may
 3752 not be further disseminated.

3753 Section 69. The creation of sections 393.135, 394.4593,
 3754 and 916.1075, Florida Statutes, by this act shall apply to
 3755 offenses committed on or after the effective date of this act.

3756 Section 70. This act shall take effect July 1, 2004.