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586-02313-10

Proposed Committee Substitute by the Committee on Children,
Families, and Elder Affairs

1 A bill to be entitled
2 An act relating to background screening; amending s.
3 39.821, F.S.; revising background screening
4 requirements for the Guardian Ad Litem Program;
5 amending s. 215.5586, F.S.; removing reference to ch.
6 435, F.S., for background screening of hurricane
7 mitigation inspectors; amending s. 393.0655, F.S.;
8 adding additional disqualifying offenses for the
9 screening of direct service providers for persons with
10 developmental disabilities; amending s. 394.4572,
11 F.S.; revising background screening requirements for
12 mental health personnel; amending s. 400.215, F.S.;
13 revising background screening requirements for nursing
14 home personnel; amending s. 400.506, F.S.; conforming
15 provisions to changes made by the act; amending s.
16 400.512, F.S.; revising background screening
17 requirements for home health agency personnel, nurse
18 registry personnel, and companions and homemakers;
19 amending s. 400.6065, F.S.; revising background
20 screening requirements for hospice personnel; amending
21 s. 400.801, F.S.; revising background screening
22 requirements for personnel at homes for special
23 services; amending s. 400.805, F.S.; revising
24 background screening requirements for transitional
25 living facility personnel; creating s. 400.9065, F.S.;
26 providing background screening requirements for
27 prescribed pediatric extended care center personnel;



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28 amending s. 400.934, F.S.; revising minimum standards
29 for home medical equipment providers; amending s.
30 400.953, F.S.; revising background screening
31 requirements for home medical equipment provider
32 personnel; repealing s. 400.955, F.S., relating to the
33 procedures for screening of home medical equipment
34 provider personnel; amending s. 400.964, F.S.;
35 revising background screening requirements for
36 personnel at intermediate care facilities for
37 developmentally disabled persons; amending s. 400.980,
38 F.S.; revising background screening requirements for
39 personnel at health care services pools; amending s.
40 400.991, F.S.; revising background screening
41 requirements for applicants and personnel at health
42 care clinics; amending s. 408.806, F.S.; adding a
43 requirement for an affidavit relating to background
44 screening to the license application process under the
45 Agency for Health Care Administration; amending s.
46 408.808, F.S.; conforming provisions to changes made
47 by the act; amending s. 408.809, F.S.; revising
48 background screening requirements under the Agency for
49 Health Care Administration; requiring electronic
50 submission of fingerprints; amending s. 409.175, F.S.;
51 revising background screening requirements for
52 employees and volunteers in summer day camps and
53 summer 24-hour camps; amending s. 409.221, F.S.;
54 revising background screening requirements for persons
55 who render consumer-directed care; amending s.
56 409.907, F.S.; revising background screening



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57 requirements for Medicaid providers; amending s.
58 429.14, F.S.; revising administrative penalty
59 provisions relating to assisted living facilities;
60 amending s. 429.174, F.S.; revising background
61 screening requirements for assisted living facility
62 personnel; amending s. 429.67, F.S.; revising
63 licensure requirements for adult family-care home
64 personnel and household members; amending s. 429.69,
65 F.S.; revising background screening requirements for
66 adult family-care home personnel; amending s. 429.911,
67 F.S.; revising administrative penalty provisions
68 relating to adult day care centers; amending s.
69 429.919, F.S.; revising background screening
70 requirements for adult day care center personnel;
71 creating s. 430.60, F.S.; providing background
72 screening requirements for direct service providers
73 under the Department of Elderly Affairs; amending s.
74 435.01, F.S.; revising provisions related to the
75 applicability of ch. 435, F.S., statutory references
76 to the chapter, and rulemaking; providing construction
77 with respect to the doctrine of incorporation by
78 reference; amending s. 435.02, F.S.; revising and
79 adding definitions; amending s. 435.03, F.S.; revising
80 level 1 screening standards; adding disqualifying
81 offenses; amending s. 435.04, F.S.; revising level 2
82 screening standards; requiring electronic submission
83 of fingerprints after a certain date; authorizing
84 agencies to contract for electronic fingerprinting;
85 adding disqualifying offenses; amending s. 435.05,



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86 F.S.; revising background check requirements for
87 covered employees and employers; amending s. 435.06,
88 F.S.; revising provisions relating to exclusion from
89 employment; providing that an employer may not hire,
90 select, or otherwise allow an employee contact with
91 any vulnerable person until the screening process is
92 completed; requiring removal of an employee arrested
93 for disqualifying offenses from roles requiring
94 background screening until the employee's eligibility
95 for employment is determined; amending s. 435.07,
96 F.S.; revising provisions relating to exemptions from
97 disqualification; amending s. 435.08, F.S.; revising
98 provisions relating to the payment for processing of
99 fingerprints and criminal history records checks;
100 amending s. 464.203, F.S.; conforming provisions to
101 changes made by the act; amending s. 489.115, F.S.;
102 removing reference to ch. 435, F.S., for background
103 screening of construction contractors; amending s.
104 943.05, F.S.; revising provisions relating to the
105 Criminal Justice Information Program under the
106 Department of Law Enforcement; authorizing agencies to
107 request the retention of certain fingerprints by the
108 department; providing for rulemaking to require
109 employers to keep the agencies informed of any change
110 in the affiliation, employment, or contractual status
111 of each person whose fingerprints are retained in
112 certain circumstances; providing departmental duties
113 upon notification that a federal fingerprint retention
114 program is in effect; amending s. 943.053, F.S.;



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115 removing obsolete references relating to the
116 dissemination of criminal justice information;
117 amending s. 985.644, F.S.; revising background
118 screening requirements for the Department of Juvenile
119 Justice; authorizing rulemaking; amending ss.
120 381.60225, 409.912, 464.018, 468.3101, 744.309,
121 744.474, and 985.04, F.S.; conforming provisions to
122 changes made to ch. 435, F.S., by this act; providing
123 for prospective application of the act; providing an
124 effective date.

125

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

127

128 Section 1. Subsection (1) of section 39.821, Florida
129 Statutes, is amended to read:

130 39.821 Qualifications of guardians ad litem.—

131 (1) Because of the special trust or responsibility placed
132 in a guardian ad litem, the Guardian Ad Litem Program may use
133 any private funds collected by the program, or any state funds
134 so designated, to conduct a security background investigation
135 before certifying a volunteer to serve. A security background
136 investigation must include, but need not be limited to,
137 employment history checks, checks of references, local criminal
138 records checks through local law enforcement agencies, and
139 statewide criminal records checks through the Department of Law
140 Enforcement. Upon request, an employer shall furnish a copy of
141 the personnel record for the employee or former employee who is
142 the subject of a security background investigation conducted
143 under this section. The information contained in the personnel



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144 record may include, but need not be limited to, disciplinary
145 matters and the reason why the employee was terminated from
146 employment. An employer who releases a personnel record for
147 purposes of a security background investigation is presumed to
148 have acted in good faith and is not liable for information
149 contained in the record without a showing that the employer
150 maliciously falsified the record. A security background
151 investigation conducted under this section must ensure that a
152 person is not certified as a guardian ad litem if the person has
153 been convicted of, regardless of adjudication, or entered a plea
154 of nolo contendere or guilty to, any offense prohibited under
155 the provisions listed in s. 435.04. All applicants certified
156 after July 1, 2010, must undergo a level 2 background screening
157 pursuant to chapter 435 before being certified ~~the provisions of~~
158 ~~the Florida Statutes specified in s. 435.04(2) or under any~~
159 ~~similar law in another jurisdiction. Before certifying an~~
160 ~~applicant to serve as a guardian ad litem, the Guardian Ad Litem~~
161 ~~Program may request a federal criminal records check of the~~
162 ~~applicant through the Federal Bureau of Investigation. In~~
163 analyzing and evaluating the information obtained in the
164 security background investigation, the program must give
165 particular emphasis to past activities involving children,
166 including, but not limited to, child-related criminal offenses
167 or child abuse. The program has the sole discretion in
168 determining whether to certify a person based on his or her
169 security background investigation. The information collected
170 pursuant to the security background investigation is
171 confidential and exempt from s. 119.07(1).

172 Section 2. Paragraph (b) of subsection (1) of section



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173 215.5586, Florida Statutes, is amended to read:

174 215.5586 My Safe Florida Home Program.—There is established
175 within the Department of Financial Services the My Safe Florida
176 Home Program. The department shall provide fiscal
177 accountability, contract management, and strategic leadership
178 for the program, consistent with this section. This section does
179 not create an entitlement for property owners or obligate the
180 state in any way to fund the inspection or retrofitting of
181 residential property in this state. Implementation of this
182 program is subject to annual legislative appropriations. It is
183 the intent of the Legislature that the My Safe Florida Home
184 Program provide trained and certified inspectors to perform
185 inspections for owners of site-built, single-family, residential
186 properties and grants to eligible applicants as funding allows.
187 The program shall develop and implement a comprehensive and
188 coordinated approach for hurricane damage mitigation that may
189 include the following:

190 (1) HURRICANE MITIGATION INSPECTIONS.—

191 (b) To qualify for selection by the department as a wind
192 certification entity to provide hurricane mitigation
193 inspections, the entity shall, at a minimum, meet the following
194 requirements:

195 1. Use hurricane mitigation inspectors who:

196 a. Are certified as a building inspector under s. 468.607;

197 b. Are licensed as a general or residential contractor
198 under s. 489.111;

199 c. Are licensed as a professional engineer under s. 471.015
200 and who have passed the appropriate equivalency test of the
201 building code training program as required by s. 553.841;



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202 d. Are licensed as a professional architect under s.
203 481.213; or

204 e. Have at least 2 years of experience in residential
205 construction or residential building inspection and have
206 received specialized training in hurricane mitigation
207 procedures. Such training may be provided by a class offered
208 online or in person.

209 2. Use hurricane mitigation inspectors who also:

210 a. Have undergone drug testing and a level 2 background
211 screening checks pursuant to ~~s. 435.04~~. The department may
212 conduct criminal record checks of inspectors used by wind
213 certification entities. Inspectors must submit a set of the
214 fingerprints to the department for state and national criminal
215 history checks and must pay the fingerprint processing fee set
216 forth in s. 624.501. The fingerprints shall be sent by the
217 department to the Department of Law Enforcement and forwarded to
218 the Federal Bureau of Investigation for processing. The results
219 shall be returned to the department for screening. The
220 fingerprints shall be taken by a law enforcement agency,
221 designated examination center, or other department-approved
222 entity; and

223 b. Have been certified, in a manner satisfactory to the
224 department, to conduct the inspections.

225 3. Provide a quality assurance program including a
226 reinspection component.

227 Section 3. Subsection (5) is added to section 393.0655,
228 Florida Statutes, to read:

229 393.0655 Screening of direct service providers.-

230 (5) DISQUALIFYING OFFENSES.-The background screening



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231 conducted under this section must ensure that, in addition to
232 the disqualifying offenses listed in s. 435.04, no person
233 subject to the provisions of this section has been found guilty
234 of, regardless of adjudication, or entered a plea of nolo
235 contendere or guilty to, any offense prohibited under any of the
236 following provisions of the Florida Statutes or under any
237 similar statute of another jurisdiction:

238 (a) Any authorizing statutes, if the offense was a felony.

239 (b) This chapter, if the offense was a felony.

240 (c) Section 409.920, relating to Medicaid provider fraud.

241 (d) Section 409.9201, relating to Medicaid fraud.

242 (e) Section 817.034, relating to fraudulent acts through
243 mail, wire, radio, electromagnetic, photoelectronic, or
244 photooptical systems.

245 (f) Section 817.234, relating to false and fraudulent
246 insurance claims.

247 (g) Section 817.505, relating to patient brokering.

248 (h) Section 817.568, relating to criminal use of personal
249 identification information.

250 (i) Section 817.60, relating to obtaining a credit card
251 through fraudulent means.

252 (j) Section 817.61, relating to fraudulent use of credit
253 cards, if the offense was a felony.

254 (k) Section 831.01, relating to forgery.

255 (l) Section 831.02, relating to uttering forged
256 instruments.

257 (m) Section 831.07, relating to forging bank bills, checks,
258 drafts, or promissory notes.

259 (n) Section 831.09, relating to uttering forged bank bills,



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260 checks, drafts, or promissory notes.

261 Section 4. Section 394.4572, Florida Statutes, is amended
262 to read:

263 394.4572 Screening of mental health personnel.—

264 (1) (a) The department and the Agency for Health Care
265 Administration shall require level 2 background employment
266 screening pursuant to chapter 435 for mental health personnel
267 ~~using the standards for level 2 screening set forth in chapter~~
268 ~~435.~~ "Mental health personnel" includes all program directors,
269 professional clinicians, staff members, and volunteers working
270 in public or private mental health programs and facilities who
271 have direct contact with individuals held for examination or
272 admitted for mental health treatment ~~unmarried patients under~~
273 ~~the age of 18 years.~~ For purposes of this chapter, employment
274 screening of mental health personnel shall also include, but is
275 not limited to, employment screening as provided under chapter
276 435 and s. 408.809.

277 (b) Students in the health care professions who are
278 interning in a mental health facility licensed under chapter
279 395, where the primary purpose of the facility is not the
280 treatment of minors, are exempt from the fingerprinting and
281 screening requirements if, ~~provided~~ they are under direct
282 supervision in the actual physical presence of a licensed health
283 care professional.

284 ~~(c) Mental health personnel working in a facility licensed~~
285 ~~under chapter 395 who have less than 15 hours per week of direct~~
286 ~~contact with patients or who are health care professionals~~
287 ~~licensed by the Agency for Health Care Administration or a board~~
288 ~~thereunder are exempt from the fingerprinting and screening~~



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289 ~~requirements, except for persons working in mental health~~
290 ~~facilities where the primary purpose of the facility is the~~
291 ~~treatment of minors.~~

292 ~~(c)(d)~~ A volunteer who assists on an intermittent basis for
293 less than 40 hours per month is exempt from the fingerprinting
294 and screening requirements, provided the volunteer is under
295 direct and constant supervision by persons who meet the
296 screening requirements of paragraph (a).

297 (2) The department or the Agency for Health Care
298 Administration may grant exemptions from disqualification as
299 provided in chapter 435 s. 435.06.

300 ~~(3) Prospective mental health personnel who have previously~~
301 ~~been fingerprinted or screened pursuant to this chapter, chapter~~
302 ~~393, chapter 397, chapter 402, or chapter 409, or teachers who~~
303 ~~have been fingerprinted pursuant to chapter 1012, who have not~~
304 ~~been unemployed for more than 90 days thereafter, and who under~~
305 ~~the penalty of perjury attest to the completion of such~~
306 ~~fingerprinting or screening and to compliance with the~~
307 ~~provisions of this section and the standards for level 1~~
308 ~~screening contained in chapter 435, shall not be required to be~~
309 ~~refingerprinted or rescreened in order to comply with any~~
310 ~~screening requirements of this part.~~

311 Section 5. Section 400.215, Florida Statutes, is amended to
312 read:

313 400.215 Personnel screening requirement.-

314 (1) The agency shall require level 2 background screening
315 for personnel as required in s. 408.809(1)(e) pursuant to as
316 provided in chapter 435 and s. 408.809. ~~for all employees or~~
317 ~~prospective employees of facilities licensed under this part who~~



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318 ~~are expected to, or whose responsibilities may require them to:~~

319 ~~(a) Provide personal care or services to residents;~~

320 ~~(b) Have access to resident living areas; or~~

321 ~~(c) Have access to resident funds or other personal~~
322 ~~property.~~

323 ~~(2) Employers and employees shall comply with the~~
324 ~~requirements of s. 435.05.~~

325 ~~(a) Notwithstanding the provisions of s. 435.05(1),~~
326 ~~facilities must have in their possession evidence that level 1~~
327 ~~screening has been completed before allowing an employee to~~
328 ~~begin working with patients as provided in subsection (1). All~~
329 ~~information necessary for conducting background screening using~~
330 ~~level 1 standards as specified in s. 435.03 shall be submitted~~
331 ~~by the nursing facility to the agency. Results of the background~~
332 ~~screening shall be provided by the agency to the requesting~~
333 ~~nursing facility.~~

334 ~~(b) Employees qualified under the provisions of paragraph~~
335 ~~(a) who have not maintained continuous residency within the~~
336 ~~state for the 5 years immediately preceding the date of request~~
337 ~~for background screening must complete level 2 screening, as~~
338 ~~provided in chapter 435. Such employees may work in a~~
339 ~~conditional status up to 180 days pending the receipt of written~~
340 ~~findings evidencing the completion of level 2 screening. Level 2~~
341 ~~screening shall not be required of employees or prospective~~
342 ~~employees who attest in writing under penalty of perjury that~~
343 ~~they meet the residency requirement. Completion of level 2~~
344 ~~screening shall require the employee or prospective employee to~~
345 ~~furnish to the nursing facility a full set of fingerprints to~~
346 ~~enable a criminal background investigation to be conducted. The~~



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347 ~~nursing facility shall submit the completed fingerprint card to~~
348 ~~the agency. The agency shall establish a record of the request~~
349 ~~in the database provided for in paragraph (c) and forward the~~
350 ~~request to the Department of Law Enforcement, which is~~
351 ~~authorized to submit the fingerprints to the Federal Bureau of~~
352 ~~Investigation for a national criminal history records check. The~~
353 ~~results of the national criminal history records check shall be~~
354 ~~returned to the agency, which shall maintain the results in the~~
355 ~~database provided for in paragraph (c). The agency shall notify~~
356 ~~the administrator of the requesting nursing facility or the~~
357 ~~administrator of any other facility licensed under chapter 393,~~
358 ~~chapter 394, chapter 395, chapter 397, chapter 429, or this~~
359 ~~chapter, as requested by such facility, as to whether or not the~~
360 ~~employee has qualified under level 1 or level 2 screening. An~~
361 ~~employee or prospective employee who has qualified under level 2~~
362 ~~screening and has maintained such continuous residency within~~
363 ~~the state shall not be required to complete a subsequent level 2~~
364 ~~screening as a condition of employment at another facility.~~

365 ~~(c) The agency shall establish and maintain a database of~~
366 ~~background screening information which shall include the results~~
367 ~~of both level 1 and level 2 screening. The Department of Law~~
368 ~~Enforcement shall timely provide to the agency, electronically,~~
369 ~~the results of each statewide screening for incorporation into~~
370 ~~the database. The agency shall, upon request from any facility,~~
371 ~~agency, or program required by or authorized by law to screen~~
372 ~~its employees or applicants, notify the administrator of the~~
373 ~~facility, agency, or program of the qualifying or disqualifying~~
374 ~~status of the employee or applicant named in the request.~~

375 ~~(d) Applicants and employees shall be excluded from~~



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376 ~~employment pursuant to s. 435.06.~~

377 ~~(3) The applicant is responsible for paying the fees~~
378 ~~associated with obtaining the required screening. Payment for~~
379 ~~the screening shall be submitted to the agency. The agency shall~~
380 ~~establish a schedule of fees to cover the costs of level 1 and~~
381 ~~level 2 screening. Facilities may reimburse employees for these~~
382 ~~costs. The Department of Law Enforcement shall charge the agency~~
383 ~~for a level 1 or level 2 screening a rate sufficient to cover~~
384 ~~the costs of such screening pursuant to s. 943.053(3). The~~
385 ~~agency shall, as allowable, reimburse nursing facilities for the~~
386 ~~cost of conducting background screening as required by this~~
387 ~~section. This reimbursement will not be subject to any rate~~
388 ~~ceilings or payment targets in the Medicaid Reimbursement plan.~~

389 ~~(4)(a) As provided in s. 435.07, the agency may grant an~~
390 ~~exemption from disqualification to an employee or prospective~~
391 ~~employee who is subject to this section and who has not received~~
392 ~~a professional license or certification from the Department of~~
393 ~~Health.~~

394 ~~(b) As provided in s. 435.07, the appropriate regulatory~~
395 ~~board within the Department of Health, or that department itself~~
396 ~~when there is no board, may grant an exemption from~~
397 ~~disqualification to an employee or prospective employee who is~~
398 ~~subject to this section and who has received a professional~~
399 ~~license or certification from the Department of Health or a~~
400 ~~regulatory board within that department.~~

401 ~~(5) Any provision of law to the contrary notwithstanding,~~
402 ~~persons who have been screened and qualified as required by this~~
403 ~~section and who have not been unemployed for more than 180 days~~
404 ~~thereafter, and who under penalty of perjury attest to not~~



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405 ~~having been convicted of a disqualifying offense since the~~
406 ~~completion of such screening, shall not be required to be~~
407 ~~rescreened. An employer may obtain, pursuant to s. 435.10,~~
408 ~~written verification of qualifying screening results from the~~
409 ~~previous employer or other entity which caused such screening to~~
410 ~~be performed.~~

411 ~~(6) The agency and the Department of Health shall have~~
412 ~~authority to adopt rules pursuant to the Administrative~~
413 ~~Procedure Act to implement this section.~~

414 ~~(7) All employees shall comply with the requirements of~~
415 ~~this section by October 1, 1998. No current employee of a~~
416 ~~nursing facility as of the effective date of this act shall be~~
417 ~~required to submit to rescreening if the nursing facility has in~~
418 ~~its possession written evidence that the person has been~~
419 ~~screened and qualified according to level 1 standards as~~
420 ~~specified in s. 435.03(1). Any current employee who meets the~~
421 ~~level 1 requirement but does not meet the 5-year residency~~
422 ~~requirement as specified in this section must provide to the~~
423 ~~employing nursing facility written attestation under penalty of~~
424 ~~perjury that the employee has not been convicted of a~~
425 ~~disqualifying offense in another state or jurisdiction. All~~
426 ~~applicants hired on or after October 1, 1998, shall comply with~~
427 ~~the requirements of this section.~~

428 ~~(8) There is no monetary or unemployment liability on the~~
429 ~~part of, and no cause of action for damages arising against an~~
430 ~~employer that, upon notice of a disqualifying offense listed~~
431 ~~under chapter 435 or an act of domestic violence, terminates the~~
432 ~~employee against whom the report was issued, whether or not the~~
433 ~~employee has filed for an exemption with the Department of~~



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434 ~~Health or the Agency for Health Care Administration.~~

435 Section 6. Subsection (9) of section 400.506, Florida
436 Statutes, is amended to read:

437 400.506 Licensure of nurse registries; requirements;
438 penalties.—

439 (9) Each nurse registry must comply with the background
440 screening requirements ~~procedures set forth~~ in s. 400.512 for
441 ~~maintaining records of the work history of~~ all persons referred
442 for contract and is subject to the standards and conditions set
443 forth in that section. However, an initial screening may not be
444 required for persons who have been continuously registered with
445 the nurse registry since October 1, 2000.

446 Section 7. Section 400.512, Florida Statutes, is amended to
447 read:

448 400.512 Screening of home health agency personnel; nurse
449 registry personnel; and companions and homemakers.—The agency
450 shall require level 2 background screening for personnel as
451 required in s. 408.809(1)(e) pursuant to chapter 435 and s.
452 408.809 ~~employment or contractor screening as provided in~~
453 ~~chapter 435, using the level 1 standards for screening set forth~~
454 ~~in that chapter, for home health agency personnel; persons~~
455 ~~referred for employment by nurse registries; and persons~~
456 ~~employed by companion or homemaker services registered under s.~~
457 ~~400.509.~~

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



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463 ~~(b) The appropriate regulatory board within the Department~~
464 ~~of Health, or that department itself when there is no board,~~
465 ~~may, upon request of the licensed health care practitioner,~~
466 ~~grant exemptions from disqualification from employment or~~
467 ~~contracting under this section as provided in s. 435.07.~~

468 ~~(2) The administrator of each home health agency, the~~
469 ~~managing employee of each nurse registry, and the managing~~
470 ~~employee of each companion or homemaker service registered under~~
471 ~~s. 400.509 must sign an affidavit annually, under penalty of~~
472 ~~perjury, stating that all personnel hired or contracted with or~~
473 ~~registered on or after October 1, 2000, who enter the home of a~~
474 ~~patient or client in their service capacity have been screened.~~

475 ~~(3) As a prerequisite to operating as a home health agency,~~
476 ~~nurse registry, or companion or homemaker service under s.~~
477 ~~400.509, the administrator or managing employee, respectively,~~
478 ~~must submit to the agency his or her name and any other~~
479 ~~information necessary to conduct a complete screening according~~
480 ~~to this section. The agency shall submit the information to the~~
481 ~~Department of Law Enforcement for state processing. The agency~~
482 ~~shall review the record of the administrator or manager with~~
483 ~~respect to the offenses specified in this section and shall~~
484 ~~notify the owner of its findings. If disposition information is~~
485 ~~missing on a criminal record, the administrator or manager, upon~~
486 ~~request of the agency, must obtain and supply within 30 days the~~
487 ~~missing disposition information to the agency. Failure to supply~~
488 ~~missing information within 30 days or to show reasonable efforts~~
489 ~~to obtain such information will result in automatic~~
490 ~~disqualification.~~

491 ~~(4) Proof of compliance with the screening requirements of~~



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492 ~~chapter 435 shall be accepted in lieu of the requirements of~~
493 ~~this section if the person has been continuously employed or~~
494 ~~registered without a breach in service that exceeds 180 days,~~
495 ~~the proof of compliance is not more than 2 years old, and the~~
496 ~~person has been screened by the Department of Law Enforcement. A~~
497 ~~home health agency, nurse registry, or companion or homemaker~~
498 ~~service registered under s. 400.509 shall directly provide proof~~
499 ~~of compliance to another home health agency, nurse registry, or~~
500 ~~companion or homemaker service registered under s. 400.509. The~~
501 ~~recipient home health agency, nurse registry, or companion or~~
502 ~~homemaker service registered under s. 400.509 may not accept any~~
503 ~~proof of compliance directly from the person who requires~~
504 ~~screening. Proof of compliance with the screening requirements~~
505 ~~of this section shall be provided upon request to the person~~
506 ~~screened by the home health agencies; nurse registries; or~~
507 ~~companion or homemaker services registered under s. 400.509.~~

508 ~~(5) There is no monetary liability on the part of, and no~~
509 ~~cause of action for damages arises against, a licensed home~~
510 ~~health agency, licensed nurse registry, or companion or~~
511 ~~homemaker service registered under s. 400.509, that, upon notice~~
512 ~~that the employee or contractor has been found guilty of,~~
513 ~~regardless of adjudication, or entered a plea of nolo contendere~~
514 ~~or guilty to, any offense prohibited under s. 435.03 or under~~
515 ~~any similar statute of another jurisdiction, terminates the~~
516 ~~employee or contractor, whether or not the employee or~~
517 ~~contractor has filed for an exemption with the agency in~~
518 ~~accordance with chapter 435 and whether or not the time for~~
519 ~~filing has expired.~~

520 ~~(6) The costs of processing the statewide correspondence~~



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521 ~~criminal records checks must be borne by the home health agency;~~
522 ~~the nurse registry; or the companion or homemaker service~~
523 ~~registered under s. 400.509, or by the person being screened, at~~
524 ~~the discretion of the home health agency, nurse registry, or s.~~
525 ~~400.509 registrant.~~

526 Section 8. Section 400.6065, Florida Statutes, is amended
527 to read:

528 400.6065 Background screening.—The agency shall require
529 level 2 background employment or contractor screening for
530 personnel as required in s. 408.809(1)(e) pursuant to chapter
531 435 and s. 408.809 as provided in chapter 435, using the level 1
532 standards for screening set forth in that chapter, for hospice
533 personnel.

534 Section 9. Subsection (2) of section 400.801, Florida
535 Statutes, is amended to read:

536 400.801 Homes for special services.—

537 (2)(a) The requirements of part II of chapter 408 apply to
538 the provision of services that require licensure pursuant to
539 this section and part II of chapter 408 and entities licensed by
540 or applying for such licensure from the agency pursuant to this
541 section. A license issued by the agency is required in order to
542 operate a home for special services in this state.

543 (b) The agency shall require level 2 background screening
544 for personnel as required in s. 408.809(1)(e) pursuant to
545 chapter 435 and s. 408.809.

546 Section 10. Paragraph (d) is added to subsection (2) of
547 section 400.805, Florida Statutes, to read:

548 400.805 Transitional living facilities.—

549 (2)



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550 (d) The agency shall require level 2 background screening
551 for personnel as required in s. 408.809(1) (e) pursuant to
552 chapter 435 and s. 408.809.

553 Section 11. Section 400.9065, Florida Statutes, is created
554 to read:

555 400.9065 Background screening.—The agency shall require
556 level 2 background screening for personnel as required in s.
557 408.809(1) (e) pursuant to chapter 435 and s. 408.809.

558 Section 12. Subsection (16) of section 400.934, Florida
559 Statutes, is amended to read:

560 400.934 Minimum standards.—As a requirement of licensure,
561 home medical equipment providers shall:

562 (16) Establish procedures for maintaining a record of the
563 employment history, including background screening as required
564 by ss. ~~s.~~ 400.953 and 408.809(1) and chapter 435, of all home
565 medical equipment provider personnel. A home medical equipment
566 provider must require its personnel to submit an employment
567 history to the home medical equipment provider and must verify
568 the employment history for at least the previous 5 years, unless
569 through diligent efforts such verification is not possible.
570 There is no monetary liability on the part of, and no cause of
571 action for damages arising against a former employer, a
572 prospective employee, or a prospective independent contractor
573 with a licensed home medical equipment provider, who reasonably
574 and in good faith communicates his or her honest opinions about
575 a former employee's job performance. This subsection does not
576 affect the official immunity of an officer or employee of a
577 public corporation.

578 Section 13. Section 400.953, Florida Statutes, is amended



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579 to read:

580 400.953 Background screening of home medical equipment
581 provider personnel.—The agency shall require level 2 background
582 screening for personnel as required in s. 408.809(1)(e) pursuant
583 to chapter 435 and s. 408.809 employment screening as provided
584 in chapter 435, using the level 1 standards for screening set
585 forth in that chapter, for home medical equipment provider
586 personnel.

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

589 ~~(2) The general manager of each home medical equipment~~
590 ~~provider must sign an affidavit annually, under penalty of~~
591 ~~perjury, stating that all home medical equipment provider~~
592 ~~personnel hired on or after July 1, 1999, who enter the home of~~
593 ~~a patient in the capacity of their employment have been screened~~
594 ~~and that its remaining personnel have worked for the home~~
595 ~~medical equipment provider continuously since before July 1,~~
596 ~~1999.~~

597 ~~(3) Proof of compliance with the screening requirements of~~
598 ~~s. 110.1127, s. 393.0655, s. 394.4572, s. 397.451, s. 402.305,~~
599 ~~s. 402.313, s. 409.175, s. 464.008, or s. 985.644 or this part~~
600 ~~must be accepted in lieu of the requirements of this section if~~
601 ~~the person has been continuously employed in the same type of~~
602 ~~occupation for which he or she is seeking employment without a~~
603 ~~breach in service that exceeds 180 days, the proof of compliance~~
604 ~~is not more than 2 years old, and the person has been screened~~
605 ~~by the Department of Law Enforcement. An employer or contractor~~
606 ~~shall directly provide proof of compliance to another employer~~
607 ~~or contractor, and a potential employer or contractor may not~~



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608 ~~accept any proof of compliance directly from the person~~
609 ~~requiring screening. Proof of compliance with the screening~~
610 ~~requirements of this section shall be provided, upon request, to~~
611 ~~the person screened by the home medical equipment provider.~~

612 ~~(4) There is no monetary liability on the part of, and no~~
613 ~~cause of action for damages arising against, a licensed home~~
614 ~~medical equipment provider that, upon notice that an employee~~
615 ~~has been found guilty of, regardless of adjudication, or entered~~
616 ~~a plea of nolo contendere or guilty to, any offense prohibited~~
617 ~~under s. 435.03 or under any similar statute of another~~
618 ~~jurisdiction, terminates the employee, whether or not the~~
619 ~~employee has filed for an exemption with the agency and whether~~
620 ~~or not the time for filing has expired.~~

621 ~~(5) The costs of processing the statewide correspondence~~
622 ~~criminal records checks must be borne by the home medical~~
623 ~~equipment provider or by the person being screened, at the~~
624 ~~discretion of the home medical equipment provider.~~

625 ~~(6) Neither the agency nor the home medical equipment~~
626 ~~provider may use the criminal records or juvenile records of a~~
627 ~~person for any purpose other than determining whether that~~
628 ~~person meets minimum standards of good moral character for home~~
629 ~~medical equipment provider personnel.~~

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

633 ~~1. Fail, by false statement, misrepresentation,~~
634 ~~impersonation, or other fraudulent means, to disclose in any~~
635 ~~application for paid employment a material fact used in making a~~
636 ~~determination as to the person's qualifications to be an~~



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637 ~~employee under this section;~~

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

641 ~~3. Use information from the criminal records obtained under~~
642 ~~this section for any purpose other than screening that person~~
643 ~~for employment as specified in this section, or release such~~
644 ~~information to any other person for any purpose other than~~
645 ~~screening for employment under this section.~~

646 ~~(b) It is a felony of the third degree, punishable as~~
647 ~~provided in s. 775.082, s. 775.083, or s. 775.084, for any~~
648 ~~person willfully, knowingly, or intentionally to use information~~
649 ~~from the juvenile records of a person obtained under this~~
650 ~~section for any purpose other than screening for employment~~
651 ~~under this section.~~

652 Section 14. Section 400.955, Florida Statutes, is repealed.

653 Section 15. Section 400.964, Florida Statutes, is amended
654 to read:

655 400.964 Personnel screening requirement.-

656 ~~(1) The agency shall require level 2 background screening~~
657 ~~for personnel as required in s. 408.809(1)(e) pursuant to~~
658 ~~chapter 435 and s. 408.809 as provided in chapter 435 for all~~
659 ~~employees or prospective employees of facilities licensed under~~
660 ~~this part who are expected to be, or whose responsibilities are~~
661 ~~such that they would be considered to be, a direct service~~
662 ~~provider.~~

663 ~~(2) Employers and employees shall comply with the~~
664 ~~requirements of chapter 435.~~

665 ~~(3) Applicants and employees shall be excluded from~~



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666 ~~employment pursuant to s. 435.06.~~

667 ~~(4) The applicant is responsible for paying the fees~~
668 ~~associated with obtaining the required screening. Payment for~~
669 ~~the screening must be submitted to the agency as prescribed by~~
670 ~~the agency.~~

671 ~~(5) Notwithstanding any other provision of law, persons who~~
672 ~~have been screened and qualified as required by this section and~~
673 ~~who have not been unemployed for more than 180 days thereafter,~~
674 ~~and who under penalty of perjury attest to not having been~~
675 ~~convicted of a disqualifying offense since the completion of~~
676 ~~such screening are not required to be rescreened. An employer~~
677 ~~may obtain, pursuant to s. 435.10, written verification of~~
678 ~~qualifying screening results from the previous employer or other~~
679 ~~entity that caused such screening to be performed.~~

680 ~~(6) The agency may adopt rules to administer this section.~~

681 ~~(7) All employees must comply with the requirements of this~~
682 ~~section by October 1, 2000. A person employed by a facility~~
683 ~~licensed pursuant to this part as of the effective date of this~~
684 ~~act is not required to submit to rescreening if the facility has~~
685 ~~in its possession written evidence that the person has been~~
686 ~~screened and qualified according to level 1 standards as~~
687 ~~specified in s. 435.03. Any current employee who meets the level~~
688 ~~1 requirement but does not meet the 5-year residency requirement~~
689 ~~must provide to the employing facility written attestation under~~
690 ~~penalty of perjury that the employee has not been convicted of a~~
691 ~~disqualifying offense in another state or jurisdiction. All~~
692 ~~applicants hired on or after October 1, 1999, must comply with~~
693 ~~the requirements of this section.~~

694 ~~(8) There is no monetary or unemployment liability on the~~



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695 ~~part of, and no cause of action for damages arises against an~~
696 ~~employer that, upon notice of a disqualifying offense listed~~
697 ~~under chapter 435 or an act of domestic violence, terminates the~~
698 ~~employee, whether or not the employee has filed for an exemption~~
699 ~~with the Department of Health or the Agency for Health Care~~
700 ~~Administration.~~

701 Section 16. Subsection (3) of section 400.980, Florida
702 Statutes, is amended to read:

703 400.980 Health care services pools.—

704 (3) ~~Upon receipt of a completed, signed, and dated~~
705 ~~application,~~ The agency shall require level 2 background
706 screening for personnel as required in s. 408.809(1)(e) pursuant
707 to chapter 435 and s. 408.809, ~~in accordance with the level 1~~
708 ~~standards for screening set forth in chapter 435, of every~~
709 ~~individual who will have contact with patients.~~

710 Section 17. Subsection (5) of section 400.991, Florida
711 Statutes, is amended to read:

712 400.991 License requirements; background screenings;
713 prohibitions.—

714 (5) ~~Each applicant for licensure shall comply with the~~
715 ~~following requirements:~~

716 (a) As used in this subsection, the term "applicant" means
717 individuals owning or controlling, directly or indirectly, 5
718 percent or more of an interest in a clinic; the medical or
719 clinic director, or a similarly titled person who is responsible
720 for the day-to-day operation of the licensed clinic; the
721 financial officer or similarly titled individual who is
722 responsible for the financial operation of the clinic; and
723 licensed health care practitioners at the clinic.



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724 ~~(b) Upon receipt of a completed, signed, and dated~~
725 ~~application,~~ The agency shall require level 2 background
726 ~~screening for applicants and personnel as required in s.~~
727 ~~408.809(1) (e) pursuant to chapter 435 and s. 408.809 of the~~
728 ~~applicant, in accordance with the level 2 standards for~~
729 ~~screening set forth in chapter 435. Proof of compliance with the~~
730 ~~level 2 background screening requirements of chapter 435 which~~
731 ~~has been submitted within the previous 5 years in compliance~~
732 ~~with any other health care licensure requirements of this state~~
733 ~~is acceptable in fulfillment of this paragraph. Applicants who~~
734 ~~own less than 10 percent of a health care clinic are not~~
735 ~~required to submit fingerprints under this section.~~

736 (c) Each applicant must submit to the agency, with the
737 application, a description and explanation of any exclusions,
738 permanent suspensions, or terminations of an applicant from the
739 Medicare or Medicaid programs. Proof of compliance with the
740 requirements for disclosure of ownership and control interest
741 under the Medicaid or Medicare programs may be accepted in lieu
742 of this submission. The description and explanation may indicate
743 whether such exclusions, suspensions, or terminations were
744 voluntary or not voluntary on the part of the applicant.

745 ~~(d) A license may not be granted to a clinic if the~~
746 ~~applicant has been found guilty of, regardless of adjudication,~~
747 ~~or has entered a plea of nolo contendere or guilty to, any~~
748 ~~offense prohibited under the level 2 standards for screening set~~
749 ~~forth in chapter 435, or a violation of insurance fraud under s.~~
750 ~~817.234, within the past 5 years. If the applicant has been~~
751 ~~convicted of an offense prohibited under the level 2 standards~~
752 ~~or insurance fraud in any jurisdiction, the applicant must show~~



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753 ~~that his or her civil rights have been restored prior to~~
754 ~~submitting an application.~~

755 Section 18. Paragraph (h) is added to subsection (1) of
756 section 408.806, Florida Statutes, to read:

757 408.806 License application process.-

758 (1) An application for licensure must be made to the agency
759 on forms furnished by the agency, submitted under oath, and
760 accompanied by the appropriate fee in order to be accepted and
761 considered timely. The application must contain information
762 required by authorizing statutes and applicable rules and must
763 include:

764 (h) An affidavit, under penalty of perjury, stating that
765 all persons subject to background screening as required by this
766 part, authorizing statutes, and applicable rules have been
767 screened and are qualified.

768 Section 19. Subsection (2) of section 408.808, Florida
769 Statutes, is amended to read:

770 408.808 License categories.-

771 (2) PROVISIONAL LICENSE. ~~A provisional license may be~~
772 ~~issued to an applicant pursuant to s. 408.809(3).~~ An applicant
773 against whom a proceeding denying or revoking a license is
774 pending at the time of license renewal may be issued a
775 provisional license effective until final action not subject to
776 further appeal. A provisional license may also be issued to an
777 applicant applying for a change of ownership. A provisional
778 license shall be limited in duration to a specific period of
779 time, not to exceed 12 months, as determined by the agency.

780 Section 20. Section 408.809, Florida Statutes, is amended
781 to read:



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782 408.809 Background screening; prohibited offenses.—
783 (1) Level 2 background screening pursuant to chapter 435
784 must be conducted through the agency on each of the following
785 persons, who shall be considered an employee for the purposes of
786 conducting screening under chapter 435:
787 (a) The licensee, if an individual.
788 (b) The administrator or a similarly titled person who is
789 responsible for the day-to-day operation of the provider.
790 (c) The financial officer or similarly titled individual
791 who is responsible for the financial operation of the licensee
792 or provider.
793 (d) Any person who is a controlling interest if the agency
794 has reason to believe that such person has been convicted of any
795 offense prohibited by s. 435.04. For each controlling interest
796 who has been convicted of any such offense, the licensee shall
797 submit to the agency a description and explanation of the
798 conviction at the time of license application.
799 (e) Any person, as required by authorizing statutes,
800 seeking employment with a licensee or provider who is expected
801 to, or whose responsibilities may require him or her to, provide
802 personal care or services directly to clients; and any person,
803 as required by authorizing statutes, contracting with a licensee
804 or provider whose responsibilities require him or her to provide
805 personal care or services directly to clients. Evidence of
806 contractor screening may be retained by the contractor's
807 employer or the licensee. A person who is employed by or
808 contracts with a licensee on or before June 30, 2010, is not
809 required to submit to rescreening until such time as he or she
810 is otherwise required to be rescreened pursuant to law if that



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811 licensee has in its possession written evidence that the person
812 has been screened and qualified according to standards specified
813 in s. 435.03 or s. 435.04.

814 (2) Every 5 years following his or her licensure,
815 employment, or entry into a contract in a capacity that under
816 subsection (1) would require level 2 background screening under
817 chapter 435, each such person must submit to level 2 background
818 rescreening as a condition of retaining such license or
819 continuing in such employment or contractual status. For any
820 such rescreening, the agency shall request the Department of Law
821 Enforcement to forward the person's fingerprints to the Federal
822 Bureau of Investigation for a national criminal history record
823 check. If the fingerprints of such a person are not retained by
824 the Department of Law Enforcement under s. 943.05(2)(g), the
825 person must file a complete set of fingerprints with the agency.
826 Upon the submission of fingerprints for this purpose, the agency
827 shall request the Department of Law Enforcement to forward the
828 fingerprints to the Federal Bureau of Investigation for a
829 national criminal history record check, and the fingerprints may
830 be retained by the Department of Law Enforcement under s.
831 943.05(2)(g). The cost of the state and national criminal
832 history records checks required by level 2 screening may be
833 borne by the licensee or the person fingerprinted. Proof of
834 compliance with level 2 screening standards submitted within the
835 previous 5 years to meet any provider or professional licensure
836 requirements of the agency, the Department of Health, the Agency
837 for Persons with Disabilities, ~~or~~ the Department of Children and
838 Family Services, or the Department of Financial Services for an
839 applicant for a certificate of authority to operate a continuing



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840 care retirement community under chapter 651 satisfies the
841 requirements of this section, provided that such proof is
842 accompanied, under penalty of perjury, by an affidavit of
843 compliance with the provisions of chapter 435 and this section
844 using forms provided by the agency. ~~Proof of compliance with the~~
845 ~~background screening requirements of the Department of Financial~~
846 ~~Services submitted within the previous 5 years for an applicant~~
847 ~~for a certificate of authority to operate a continuing care~~
848 ~~retirement community under chapter 651 satisfies the Department~~
849 ~~of Law Enforcement and Federal Bureau of Investigation portions~~
850 ~~of a level 2 background check.~~

851 (3) All fingerprints must be provided in electronic format.
852 Screening results shall be reviewed by the agency with respect
853 to the offenses specified in s. 435.04 and this section and
854 maintained in a database. The qualifying or disqualifying status
855 of the person named in the request shall be posted on a secure
856 website accessible to all licensees. A provisional license may
857 ~~be granted to an applicant when each individual required by this~~
858 ~~section to undergo background screening has met the standards~~
859 ~~for the Department of Law Enforcement background check but the~~
860 ~~agency has not yet received background screening results from~~
861 ~~the Federal Bureau of Investigation. A standard license may be~~
862 ~~granted to the licensee upon the agency's receipt of a report of~~
863 ~~the results of the Federal Bureau of Investigation background~~
864 ~~screening for each individual required by this section to~~
865 ~~undergo background screening that confirms that all standards~~
866 ~~have been met or upon the granting of an exemption from~~
867 ~~disqualification by the agency as set forth in chapter 435.~~

868 (4) ~~When a person is newly employed in a capacity that~~



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869 ~~requires screening under this section, the licensee must notify~~
870 ~~the agency of the change within the time period specified in the~~
871 ~~authorizing statute or rules and must submit to the agency~~
872 ~~information necessary to conduct level 2 screening or provide~~
873 ~~evidence of compliance with background screening requirements of~~
874 ~~this section. The person may serve in his or her capacity~~
875 ~~pending the agency's receipt of the report from the Federal~~
876 ~~Bureau of Investigation if he or she has met the standards for~~
877 ~~the Department of Law Enforcement background check. However, the~~
878 ~~person may not continue to serve in his or her capacity if the~~
879 ~~report indicates any violation of background screening standards~~
880 ~~unless an exemption from disqualification has been granted by~~
881 ~~the agency as set forth in chapter 435.~~

882 ~~(4)~~ (5) ~~Effective October 1, 2009,~~ In addition to the
883 offenses listed in ss. 435.03 and 435.04, all persons required
884 to undergo background screening pursuant to this part or
885 authorizing statutes must not have been found guilty of,
886 regardless of adjudication, or entered a plea of nolo contendere
887 or guilty to, any of the following offenses or any similar
888 offense of another jurisdiction:

889 (a) Any authorizing statutes, if the offense was a felony.

890 (b) This chapter, if the offense was a felony.

891 (c) Section 409.920, relating to Medicaid provider fraud,
892 ~~if the offense was a felony.~~

893 (d) Section 409.9201, relating to Medicaid fraud,
894 ~~if the offense was a felony.~~

895 (e) Section 741.28, relating to domestic violence.

896 ~~(f) Chapter 784, relating to assault, battery, and culpable~~
897 ~~negligence, if the offense was a felony.~~



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898 ~~(g)~~ Section 810.02, relating to burglary.
899 (f)~~(h)~~ Section 817.034, relating to fraudulent acts through
900 mail, wire, radio, electromagnetic, photoelectronic, or
901 photooptical systems.
902 (g)~~(i)~~ Section 817.234, relating to false and fraudulent
903 insurance claims.
904 (h)~~(j)~~ Section 817.505, relating to patient brokering.
905 (i)~~(k)~~ Section 817.568, relating to criminal use of
906 personal identification information.
907 (j)~~(l)~~ Section 817.60, relating to obtaining a credit card
908 through fraudulent means.
909 (k)~~(m)~~ Section 817.61, relating to fraudulent use of credit
910 cards, if the offense was a felony.
911 (l)~~(n)~~ Section 831.01, relating to forgery.
912 (m)~~(o)~~ Section 831.02, relating to uttering forged
913 instruments.
914 (n)~~(p)~~ Section 831.07, relating to forging bank bills,
915 checks, drafts, or promissory notes.
916 (o)~~(q)~~ Section 831.09, relating to uttering forged bank
917 bills, checks, drafts, or promissory notes.
918 (p)~~(r)~~ Section 831.30, relating to fraud in obtaining
919 medicinal drugs.
920 (q)~~(s)~~ Section 831.31, relating to the sale, manufacture,
921 delivery, or possession with the intent to sell, manufacture, or
922 deliver any counterfeit controlled substance, if the offense was
923 a felony.
924
925 A person who serves as a controlling interest of or is employed
926 by a licensee on September 30, 2009, is not required by law to



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927 submit to rescreening if that licensee has in its possession
928 written evidence that the person has been screened and qualified
929 according to the standards specified in s. 435.03 or s. 435.04.
930 However, if such person has a disqualifying offense listed in
931 this section, he or she may apply for an exemption from the
932 appropriate licensing agency before September 30, 2009, and if
933 agreed to by the employer, may continue to perform his or her
934 duties until the licensing agency renders a decision on the
935 application for exemption for offenses listed in this section.
936 Exemptions from disqualification may be granted pursuant to s.
937 435.07.

938 (5) ~~(6)~~ The costs associated with obtaining the required
939 screening must be borne either by the licensee or the person
940 subject to screening. Licensees may reimburse persons for these
941 costs. The Department of Law Enforcement shall charge the agency
942 for screening pursuant to s. 943.053(3). The agency shall
943 establish a schedule of fees to cover the costs of screening ~~The~~
944 ~~attestations required under ss. 435.04(5) and 435.05(3) must be~~
945 ~~submitted at the time of license renewal, notwithstanding the~~
946 ~~provisions of ss. 435.04(5) and 435.05(3) which require annual~~
947 ~~submission of an affidavit of compliance with background~~
948 ~~screening requirements.~~

949 (6) (a) As provided in chapter 435, the agency may grant an
950 exemption from disqualification to a person who is subject to
951 this section and who has not received a professional license or
952 certification from the Department of Health if that person is
953 providing a service that is within the scope of his or her
954 licensed or certified practice.

955 (b) As provided in chapter 435, the appropriate regulatory



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956 board within the Department of Health, or the department itself
957 when there is no board, may grant an exemption from
958 disqualification to a person who is subject to this section and
959 who has received a professional license or certification from
960 the Department of Health or a regulatory board within that
961 department and that person is providing a service within the
962 scope of his or her licensed or certified practice.

963 (7) The agency and the Department of Health may adopt rules
964 pursuant to ss. 120.536(1) and 120.54 to implement this section,
965 chapter 435, and authorizing statutes requiring background
966 screening and to implement and adopt criteria relating to
967 retaining fingerprints pursuant to s. 943.05(2).

968 (8) There is no unemployment compensation or other monetary
969 liability on the part of, and no cause of action for damages
970 arising against, an employer that, upon notice of a
971 disqualifying offense listed under chapter 435 or this section,
972 terminates the person against whom the report was issued,
973 whether or not that person has filed for an exemption with the
974 Department of Health or the agency.

975 Section 21. Paragraph (k) of subsection (2) of section
976 409.175, Florida Statutes, is amended to read:

977 409.175 Licensure of family foster homes, residential
978 child-caring agencies, and child-placing agencies; public
979 records exemption.—

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

981 (k) "Screening" means the act of assessing the background
982 of personnel and includes, but is not limited to, employment
983 history checks as provided in chapter 435, using the level 2
984 standards for screening set forth in that chapter. Screening for



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985 employees and volunteers in summer day camps and summer 24-hour
986 camps and screening for all volunteers included under the
987 definition of "personnel" shall be conducted as provided in
988 chapter 435, using the level 2 ~~level 1~~ standards set forth in
989 that chapter.

990 Section 22. Paragraph (i) of subsection (4) of section
991 409.221, Florida Statutes, is amended to read:

992 409.221 Consumer-directed care program.—

993 (4) CONSUMER-DIRECTED CARE.—

994 (i) *Background screening requirements.*—All persons who
995 render care under this section must undergo level 2 background
996 screening pursuant to chapter 435 ~~shall comply with the~~
997 ~~requirements of s. 435.05. Persons shall be excluded from~~
998 ~~employment pursuant to s. 435.06.~~

999 ~~1. Persons excluded from employment may request an~~
1000 ~~exemption from disqualification, as provided in s. 435.07.~~
1001 ~~Persons not subject to certification or professional licensure~~
1002 ~~may request an exemption from the agency. In considering a~~
1003 ~~request for an exemption, the agency shall comply with the~~
1004 ~~provisions of s. 435.07.~~

1005 ~~2.~~ The agency shall, as allowable, reimburse consumer-
1006 employed caregivers for the cost of conducting background
1007 screening as required by this section.

1008
1009 For purposes of this section, a person who has undergone
1010 screening, who is qualified for employment under this section
1011 and applicable rule, and who has not been unemployed for more
1012 than 90 ~~180~~ days following such screening is not required to be
1013 rescreened. Such person must attest under penalty of perjury to



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1014 not having been convicted of a disqualifying offense since
1015 completing such screening.

1016 Section 23. Subsection (8) of section 409.907, Florida
1017 Statutes, is amended to read:

1018 409.907 Medicaid provider agreements.—The agency may make
1019 payments for medical assistance and related services rendered to
1020 Medicaid recipients only to an individual or entity who has a
1021 provider agreement in effect with the agency, who is performing
1022 services or supplying goods in accordance with federal, state,
1023 and local law, and who agrees that no person shall, on the
1024 grounds of handicap, race, color, or national origin, or for any
1025 other reason, be subjected to discrimination under any program
1026 or activity for which the provider receives payment from the
1027 agency.

1028 (8) (a) Each provider, or each principal of the provider if
1029 the provider is a corporation, partnership, association, or
1030 other entity, seeking to participate in the Medicaid program
1031 must submit a complete set of his or her fingerprints to the
1032 agency for the purpose of conducting a criminal history record
1033 check. Principals of the provider include any officer, director,
1034 billing agent, managing employee, or affiliated person, or any
1035 partner or shareholder who has an ownership interest equal to 5
1036 percent or more in the provider. However, a director of a not-
1037 for-profit corporation or organization is not a principal for
1038 purposes of a background investigation as required by this
1039 section if the director: serves solely in a voluntary capacity
1040 for the corporation or organization, does not regularly take
1041 part in the day-to-day operational decisions of the corporation
1042 or organization, receives no remuneration from the not-for-



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1043 profit corporation or organization for his or her service on the
1044 board of directors, has no financial interest in the not-for-
1045 profit corporation or organization, and has no family members
1046 with a financial interest in the not-for-profit corporation or
1047 organization; and if the director submits an affidavit, under
1048 penalty of perjury, to this effect to the agency and the not-
1049 for-profit corporation or organization submits an affidavit,
1050 under penalty of perjury, to this effect to the agency as part
1051 of the corporation's or organization's Medicaid provider
1052 agreement application. Notwithstanding the above, the agency may
1053 require a background check for any person reasonably suspected
1054 by the agency to have been convicted of a crime. This subsection
1055 shall not apply to:

- 1056 1. A hospital licensed under chapter 395;
- 1057 2. A nursing home licensed under chapter 400;
- 1058 3. A hospice licensed under chapter 400;
- 1059 4. An assisted living facility licensed under chapter 429;
- 1060 5. A unit of local government, except that requirements of
1061 this subsection apply to nongovernmental providers and entities
1062 when contracting with the local government to provide Medicaid
1063 services. The actual cost of the state and national criminal
1064 history record checks must be borne by the nongovernmental
1065 provider or entity; or
- 1066 6. Any business that derives more than 50 percent of its
1067 revenue from the sale of goods to the final consumer, and the
1068 business or its controlling parent either is required to file a
1069 form 10-K or other similar statement with the Securities and
1070 Exchange Commission or has a net worth of \$50 million or more.

1071 (b) Background screening shall be conducted in accordance



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1072 ~~with chapter 435 and s. 408.809. The agency shall submit the~~
1073 ~~fingerprints to the Department of Law Enforcement. The~~
1074 ~~department shall conduct a state criminal background~~
1075 ~~investigation and forward the fingerprints to the Federal Bureau~~
1076 ~~of Investigation for a national criminal history record check.~~
1077 The cost of the state and national criminal record check shall
1078 be borne by the provider.

1079 ~~(c) The agency may permit a provider to participate in the~~
1080 ~~Medicaid program pending the results of the criminal record~~
1081 ~~check. However, such permission is fully revocable if the record~~
1082 ~~check reveals any crime-related history as provided in~~
1083 ~~subsection (10).~~

1084 ~~(c) (d)~~ Proof of compliance with the requirements of level 2
1085 screening under chapter 435 s. 435.04 conducted within 12 months
1086 prior to the date that the Medicaid provider application is
1087 submitted to the agency shall fulfill the requirements of this
1088 subsection. ~~Proof of compliance with the requirements of level 1~~
1089 ~~screening under s. 435.03 conducted within 12 months prior to~~
1090 ~~the date that the Medicaid provider application is submitted to~~
1091 ~~the agency shall meet the requirement that the Department of Law~~
1092 ~~Enforcement conduct a state criminal history record check.~~

1093 Section 24. Subsection (1) of section 429.14, Florida
1094 Statutes, is amended to read:

1095 429.14 Administrative penalties.-

1096 (1) In addition to the requirements of part II of chapter
1097 408, the agency may deny, revoke, and suspend any license issued
1098 under this part and impose an administrative fine in the manner
1099 provided in chapter 120 against a licensee ~~of an assisted living~~
1100 ~~facility~~ for a violation of any provision of this part, part II



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1101 of chapter 408, or applicable rules, or for any of the following
1102 actions by a licensee ~~of an assisted living facility~~, for the
1103 actions of any person subject to level 2 background screening
1104 under s. 408.809, or for the actions of any facility employee:

1105 (a) An intentional or negligent act seriously affecting the
1106 health, safety, or welfare of a resident of the facility.

1107 (b) The determination by the agency that the owner lacks
1108 the financial ability to provide continuing adequate care to
1109 residents.

1110 (c) Misappropriation or conversion of the property of a
1111 resident of the facility.

1112 (d) Failure to follow the criteria and procedures provided
1113 under part I of chapter 394 relating to the transportation,
1114 voluntary admission, and involuntary examination of a facility
1115 resident.

1116 (e) A citation of any of the following deficiencies as
1117 specified in s. 429.19:

1118 1. One or more cited class I deficiencies.

1119 2. Three or more cited class II deficiencies.

1120 3. Five or more cited class III deficiencies that have been
1121 cited on a single survey and have not been corrected within the
1122 times specified.

1123 (f) Failure to comply with the A determination that a
1124 ~~person subject to level 2 background screening under s. 408.809~~
1125 ~~does not meet the screening standards of this part, s.~~
1126 408.809(1), chapter 435 s. 435.04 ~~or that the facility is~~
1127 ~~retaining an employee subject to level 1 background screening~~
1128 ~~standards under s. 429.174 who does not meet the screening~~
1129 ~~standards of s. 435.03 and for whom exemptions from~~



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1130 ~~disqualification have not been provided by the agency.~~

1131 ~~(g) A determination that an employee, volunteer,~~
1132 ~~administrator, or owner, or person who otherwise has access to~~
1133 ~~the residents of a facility does not meet the criteria specified~~
1134 ~~in s. 435.03(2), and the owner or administrator has not taken~~
1135 ~~action to remove the person. Exemptions from disqualification~~
1136 ~~may be granted as set forth in s. 435.07. No administrative~~
1137 ~~action may be taken against the facility if the person is~~
1138 ~~granted an exemption.~~

1139 ~~(g)(h)~~ Violation of a moratorium.

1140 ~~(h)(i)~~ Failure of the license applicant, the licensee
1141 during relicensure, or a licensee that holds a provisional
1142 license to meet the minimum license requirements of this part,
1143 or related rules, at the time of license application or renewal.

1144 ~~(i)(j)~~ An intentional or negligent life-threatening act in
1145 violation of the uniform firesafety standards for assisted
1146 living facilities or other firesafety standards that threatens
1147 the health, safety, or welfare of a resident of a facility, as
1148 communicated to the agency by the local authority having
1149 jurisdiction or the State Fire Marshal.

1150 ~~(j)(k)~~ Knowingly operating any unlicensed facility or
1151 providing without a license any service that must be licensed
1152 under this chapter or chapter 400.

1153 ~~(k)(l)~~ Any act constituting a ground upon which application
1154 for a license may be denied.

1155 Section 25. Section 429.174, Florida Statutes, is amended
1156 to read:

1157 429.174 Background screening; exemptions.—The agency shall
1158 require level 2 background screening for personnel as required



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1159 ~~in s. 408.809(1)(e) pursuant to chapter 435 and s. 408.809. The~~
1160 ~~owner or administrator of an assisted living facility must~~
1161 ~~conduct level 1 background screening, as set forth in chapter~~
1162 ~~435, on all employees hired on or after October 1, 1998, who~~
1163 ~~perform personal services as defined in s. 429.02(16). The~~
1164 ~~agency may exempt an individual from employment disqualification~~
1165 ~~as set forth in chapter 435. Such persons shall be considered as~~
1166 ~~having met this requirement if:~~

1167 ~~(1) Proof of compliance with level 1 screening requirements~~
1168 ~~obtained to meet any professional license requirements in this~~
1169 ~~state is provided and accompanied, under penalty of perjury, by~~
1170 ~~a copy of the person's current professional license and an~~
1171 ~~affidavit of current compliance with the background screening~~
1172 ~~requirements.~~

1173 ~~(2) The person required to be screened has been~~
1174 ~~continuously employed in the same type of occupation for which~~
1175 ~~the person is seeking employment without a breach in service~~
1176 ~~which exceeds 180 days, and proof of compliance with the level 1~~
1177 ~~screening requirement which is no more than 2 years old is~~
1178 ~~provided. Proof of compliance shall be provided directly from~~
1179 ~~one employer or contractor to another, and not from the person~~
1180 ~~screened. Upon request, a copy of screening results shall be~~
1181 ~~provided by the employer retaining documentation of the~~
1182 ~~screening to the person screened.~~

1183 ~~(3) The person required to be screened is employed by a~~
1184 ~~corporation or business entity or related corporation or~~
1185 ~~business entity that owns, operates, or manages more than one~~
1186 ~~facility or agency licensed under this chapter, and for whom a~~
1187 ~~level 1 screening was conducted by the corporation or business~~



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1188 ~~entity as a condition of initial or continued employment.~~

1189 Section 26. Subsection (4) of section 429.67, Florida
1190 Statutes, is amended to read:

1191 429.67 Licensure.-

1192 ~~(4) Upon receipt of a completed license application or~~
1193 ~~license renewal, and the fee, The agency shall require level 2~~
1194 ~~initiate a level 1 background screening for personnel as~~
1195 ~~required in s. 408.809(1)(e), including as provided under~~
1196 ~~chapter 435 on the adult family-care home provider, the~~
1197 ~~designated relief person, and all adult household members,~~
1198 ~~pursuant to chapter 435 and s. 408.809, and all staff members.~~

1199 ~~(a) Proof of compliance with level 1 screening standards~~
1200 ~~which has been submitted within the previous 5 years to meet any~~
1201 ~~facility or professional licensure requirements of the agency or~~
1202 ~~the Department of Health satisfies the requirements of this~~
1203 ~~subsection. Such proof must be accompanied, under penalty of~~
1204 ~~perjury, by a copy of the person's current professional license~~
1205 ~~and an affidavit of current compliance with the background~~
1206 ~~screening requirements.~~

1207 ~~(b) The person required to be screened must have been~~
1208 ~~continuously employed in the same type of occupation for which~~
1209 ~~the person is seeking employment without a breach in service~~
1210 ~~that exceeds 180 days, and proof of compliance with the level 1~~
1211 ~~screening requirement which is no more than 2 years old must be~~
1212 ~~provided. Proof of compliance shall be provided directly from~~
1213 ~~one employer or contractor to another, and not from the person~~
1214 ~~screened. Upon request, a copy of screening results shall be~~
1215 ~~provided to the person screened by the employer retaining~~
1216 ~~documentation of the screening.~~



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1217 Section 27. Section 429.69, Florida Statutes, is amended to
1218 read:

1219 429.69 Denial, revocation, and suspension of a license.—In
1220 addition to the requirements of part II of chapter 408, the
1221 agency may deny, suspend, and revoke a license for any of the
1222 following reasons:

1223 (1) Failure to comply with the ~~of any of the persons~~
1224 ~~required to undergo~~ background screening standards of this part,
1225 s. 408.809(1), or chapter 435 under s. 429.67 to meet the level
1226 ~~1 screening standards of s. 435.03, unless an exemption from~~
1227 ~~disqualification has been provided by the agency.~~

1228 (2) Failure to correct cited fire code violations that
1229 threaten the health, safety, or welfare of residents.

1230 Section 28. Paragraph (c) of subsection (2) of section
1231 429.911, Florida Statutes, is amended to read:

1232 429.911 Denial, suspension, revocation of license;
1233 emergency action; administrative fines; investigations and
1234 inspections.—

1235 (2) Each of the following actions by the owner of an adult
1236 day care center or by its operator or employee is a ground for
1237 action by the agency against the owner of the center or its
1238 operator or employee:

1239 (c) A Failure to comply with the ~~of persons subject to~~
1240 ~~level 2~~ background screening standards of this part, s.
1241 408.809(1), or chapter 435 under s. 408.809 to meet the
1242 ~~screening standards of s. 435.04, or the retention by the center~~
1243 ~~of an employee subject to level 1 background screening standards~~
1244 ~~under s. 429.174 who does not meet the screening standards of s.~~
1245 ~~435.03 and for whom exemptions from disqualification have not~~



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1246 ~~been provided by the agency.~~

1247 Section 29. Section 429.919, Florida Statutes, is amended
1248 to read:

1249 429.919 Background screening.—The agency shall require
1250 level 2 background screening for personnel as required in s.
1251 408.809(1)(e) pursuant to chapter 435 and s. 408.809. ~~The owner~~
1252 ~~or administrator of an adult day care center must conduct level~~
1253 ~~1 background screening as set forth in chapter 435 on all~~
1254 ~~employees hired on or after October 1, 1998, who provide basic~~
1255 ~~services or supportive and optional services to the~~
1256 ~~participants. Such persons satisfy this requirement if:~~

1257 ~~(1) Proof of compliance with level 1 screening requirements~~
1258 ~~obtained to meet any professional license requirements in this~~
1259 ~~state is provided and accompanied, under penalty of perjury, by~~
1260 ~~a copy of the person's current professional license and an~~
1261 ~~affidavit of current compliance with the background screening~~
1262 ~~requirements.~~

1263 ~~(2) The person required to be screened has been~~
1264 ~~continuously employed, without a breach in service that exceeds~~
1265 ~~180 days, in the same type of occupation for which the person is~~
1266 ~~seeking employment and provides proof of compliance with the~~
1267 ~~level 1 screening requirement which is no more than 2 years old.~~
1268 ~~Proof of compliance must be provided directly from one employer~~
1269 ~~or contractor to another, and not from the person screened. Upon~~
1270 ~~request, a copy of screening results shall be provided to the~~
1271 ~~person screened by the employer retaining documentation of the~~
1272 ~~screening.~~

1273 ~~(3) The person required to be screened is employed by a~~
1274 ~~corporation or business entity or related corporation or~~



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1275 ~~business entity that owns, operates, or manages more than one~~
1276 ~~facility or agency licensed under chapter 400 or this chapter,~~
1277 ~~and for whom a level 1 screening was conducted by the~~
1278 ~~corporation or business entity as a condition of initial or~~
1279 ~~continued employment.~~

1280 Section 30. Section 430.60, Florida Statutes, is created to
1281 read:

1282 430.60 Screening of direct service providers.-

1283 (1) (a) Level 2 background screening pursuant to chapter 435
1284 is required for direct service providers. Background screening
1285 shall include employment history checks as provided in s.
1286 435.03(1) and local criminal records checks through local law
1287 enforcement agencies.

1288 (b) For purposes of this section, the term "direct service
1289 provider" means a person 18 years of age or older who is
1290 unrelated to his or her clients and who has direct, face-to-face
1291 contact with a client while providing services to the client and
1292 has access to the client's living areas or to the client's funds
1293 or personal property. The term includes coordinators, managers,
1294 and supervisors of residential facilities and volunteers.

1295 (2) Licensed physicians, nurses, or other professionals
1296 licensed by the Department of Health are not subject to
1297 background screening pursuant to this section if they are
1298 providing a service that is within the scope of their licensed
1299 practice.

1300 (3) Refusal on the part of an employer to dismiss a
1301 manager, supervisor, or direct service provider who has been
1302 found to be in noncompliance with standards of this section
1303 shall result in the automatic denial, termination, or revocation



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1304 of the license or certification, rate agreement, purchase order,
1305 or contract, in addition to any other remedies authorized by
1306 law.

1307 (4) The background screening conducted pursuant to this
1308 section must ensure that, in addition to the disqualifying
1309 offenses listed in s. 435.04, no person subject to the
1310 provisions of this section has been found guilty of, regardless
1311 of adjudication, or entered a plea of nolo contendere or guilty
1312 to, any offense prohibited under any of the following provisions
1313 of the Florida Statutes or under any similar statute of another
1314 jurisdiction:

1315 (a) Any authorizing statutes, if the offense was a felony.

1316 (b) Section 409.920, relating to Medicaid provider fraud.

1317 (c) Section 409.9201, relating to Medicaid fraud.

1318 (d) Section 817.034, relating to fraudulent acts through
1319 mail, wire, radio, electromagnetic, photoelectronic, or
1320 photooptical systems.

1321 (e) Section 817.234, relating to false and fraudulent
1322 insurance claims.

1323 (f) Section 817.505, relating to patient brokering.

1324 (g) Section 817.568, relating to criminal use of personal
1325 identification information.

1326 (h) Section 817.60, relating to obtaining a credit card
1327 through fraudulent means.

1328 (i) Section 817.61, relating to fraudulent use of credit
1329 cards, if the offense was a felony.

1330 (j) Section 831.01, relating to forgery.

1331 (k) Section 831.02, relating to uttering forged
1332 instruments.



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1333 (l) Section 831.07, relating to forging bank bills, checks,
1334 drafts, or promissory notes.

1335 (m) Section 831.09, relating to uttering forged bank bills,
1336 checks, drafts, or promissory notes.

1337 Section 31. Section 435.01, Florida Statutes, is amended to
1338 read:

1339 435.01 Applicability of this chapter; statutory references;
1340 rulemaking.-

1341 (1) (a) Unless otherwise provided by law, whenever a
1342 background screening for employment or a background security
1343 check is required by law to be conducted pursuant to this
1344 chapter for employment, unless otherwise provided by law, the
1345 provisions of this chapter shall apply.

1346 (b) Unless expressly provided otherwise, a reference in any
1347 section of the Florida Statutes to chapter 435 or to any section
1348 or sections or portion of a section of chapter 435 includes, and
1349 shall be understood as including, all subsequent amendments to
1350 chapter 435 or to the referenced section or sections or portions
1351 of a section. The purpose of this chapter is to facilitate
1352 uniform background screening and, to this end, a reference to
1353 this chapter, or to any section or subdivision within this
1354 chapter, constitutes a general reference under the doctrine of
1355 incorporation by reference.

1356 (2) Agencies may adopt rules pursuant to ss. 120.536(1) and
1357 120.54 necessary to implement the provisions of this chapter.

1358 Section 32. Section 435.02, Florida Statutes, is reordered
1359 and amended to read:

1360 435.02 Definitions.-For the purposes of this chapter, the
1361 term:



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1362 (2)~~(1)~~ "Employee" means any person required by law to be
1363 screened pursuant to the provisions of this chapter.

1364 (3)~~(2)~~ "Employer" means any person or entity required by
1365 law to conduct screening of employees pursuant to this chapter.

1366 (1)~~(3)~~ "~~Licensing~~ Agency" means any state, ~~or~~ county, or
1367 municipal agency that ~~which~~ grants licenses or registration
1368 permitting the operation of an employer or is itself an employer
1369 or that otherwise facilitates the screening of employees
1370 pursuant to this chapter. When there is no state ~~licensing~~
1371 agency or the municipal or county ~~licensing~~ agency chooses not
1372 to conduct employment screening, "~~licensing~~ agency" means the
1373 Department of Children and Family Services.

1374 (4) "Employment" means any activity or service sought to be
1375 performed by an employee that requires the employee to be
1376 subject to screening pursuant to this chapter.

1377 (5) "Vulnerable person" means a minor or a vulnerable adult
1378 as defined in s. 415.102.

1379 Section 33. Section 435.03, Florida Statutes, is amended to
1380 read:

1381 435.03 Level 1 screening standards.—

1382 (1) All employees required by law to be screened pursuant
1383 to this section must ~~shall be required to~~ undergo background
1384 screening as a condition of employment and continued employment
1385 which includes. ~~For the purposes of this subsection, level 1~~
1386 ~~screenings shall include~~, but need not be limited to, employment
1387 history checks and statewide criminal correspondence checks
1388 through the ~~Florida~~ Department of Law Enforcement, and may
1389 include local criminal records checks through local law
1390 enforcement agencies.



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1391 (2) Any person required by law to be screened pursuant to
1392 this section ~~for whom employment screening is required by~~
1393 ~~statute~~ must not have been found guilty of, regardless of
1394 adjudication, or entered a plea of nolo contendere or guilty to,
1395 any offense prohibited under any provision of s. 435.04(2) ~~of~~
1396 ~~the following provisions of the Florida Statutes~~ or under any
1397 similar statute of another jurisdiction.†

1398 ~~(a) Section 393.135, relating to sexual misconduct with~~
1399 ~~certain developmentally disabled clients and reporting of such~~
1400 ~~sexual misconduct.~~

1401 ~~(b) Section 394.4593, relating to sexual misconduct with~~
1402 ~~certain mental health patients and reporting of such sexual~~
1403 ~~misconduct.~~

1404 ~~(c) Section 415.111, relating to abuse, neglect, or~~
1405 ~~exploitation of a vulnerable adult.~~

1406 ~~(d) Section 782.04, relating to murder.~~

1407 ~~(e) Section 782.07, relating to manslaughter, aggravated~~
1408 ~~manslaughter of an elderly person or disabled adult, or~~
1409 ~~aggravated manslaughter of a child.~~

1410 ~~(f) Section 782.071, relating to vehicular homicide.~~

1411 ~~(g) Section 782.09, relating to killing of an unborn quick~~
1412 ~~child by injury to the mother.~~

1413 ~~(h) Section 784.011, relating to assault, if the victim of~~
1414 ~~the offense was a minor.~~

1415 ~~(i) Section 784.021, relating to aggravated assault.~~

1416 ~~(j) Section 784.03, relating to battery, if the victim of~~
1417 ~~the offense was a minor.~~

1418 ~~(k) Section 784.045, relating to aggravated battery.~~

1419 ~~(l) Section 787.01, relating to kidnapping.~~



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- 1420 ~~(m) Section 787.02, relating to false imprisonment.~~
- 1421 ~~(n) Section 794.011, relating to sexual battery.~~
- 1422 ~~(o) Former s. 794.041, relating to prohibited acts of~~
- 1423 ~~persons in familial or custodial authority.~~
- 1424 ~~(p) Chapter 796, relating to prostitution.~~
- 1425 ~~(q) Section 798.02, relating to lewd and lascivious~~
- 1426 ~~behavior.~~
- 1427 ~~(r) Chapter 800, relating to lewdness and indecent~~
- 1428 ~~exposure.~~
- 1429 ~~(s) Section 806.01, relating to arson.~~
- 1430 ~~(t) Chapter 812, relating to theft, robbery, and related~~
- 1431 ~~crimes, if the offense was a felony.~~
- 1432 ~~(u) Section 817.563, relating to fraudulent sale of~~
- 1433 ~~controlled substances, only if the offense was a felony.~~
- 1434 ~~(v) Section 825.102, relating to abuse, aggravated abuse,~~
- 1435 ~~or neglect of an elderly person or disabled adult.~~
- 1436 ~~(w) Section 825.1025, relating to lewd or lascivious~~
- 1437 ~~offenses committed upon or in the presence of an elderly person~~
- 1438 ~~or disabled adult.~~
- 1439 ~~(x) Section 825.103, relating to exploitation of an elderly~~
- 1440 ~~person or disabled adult, if the offense was a felony.~~
- 1441 ~~(y) Section 826.04, relating to incest.~~
- 1442 ~~(z) Section 827.03, relating to child abuse, aggravated~~
- 1443 ~~child abuse, or neglect of a child.~~
- 1444 ~~(aa) Section 827.04, relating to contributing to the~~
- 1445 ~~delinquency or dependency of a child.~~
- 1446 ~~(bb) Former s. 827.05, relating to negligent treatment of~~
- 1447 ~~children.~~
- 1448 ~~(cc) Section 827.071, relating to sexual performance by a~~



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1449 ~~child.~~

1450 ~~(dd) Chapter 847, relating to obscene literature.~~

1451 ~~(ee) Chapter 893, relating to drug abuse prevention and~~
1452 ~~control, only if the offense was a felony or if any other person~~
1453 ~~involved in the offense was a minor.~~

1454 ~~(ff) Section 916.1075, relating to sexual misconduct with~~
1455 ~~certain forensic clients and reporting of such sexual~~
1456 ~~misconduct.~~

1457 (3) The security background investigations under this
1458 section must ensure that no person subject to the provisions of
1459 this section has been found guilty of, regardless of
1460 adjudication, or entered a plea of nolo contendere or guilty to,
1461 any offense that constitutes domestic violence as defined in s.
1462 741.28, whether such act was committed in this state or in
1463 another jurisdiction. Standards must also ensure that the
1464 person:

1465 ~~(a) For employees and employers licensed or registered~~
1466 ~~pursuant to chapter 400 or chapter 429, and for employees and~~
1467 ~~employers of developmental disabilities centers as defined in s.~~
1468 ~~393.063, intermediate care facilities for the developmentally~~
1469 ~~disabled as defined in s. 400.960, and mental health treatment~~
1470 ~~facilities as defined in s. 394.455, meets the requirements of~~
1471 ~~this chapter.~~

1472 ~~(b) Has not committed an act that constitutes domestic~~
1473 ~~violence as defined in s. 741.28.~~

1474 Section 34. Section 435.04, Florida Statutes, is amended to
1475 read:

1476 435.04 Level 2 screening standards.—

1477 (1) (a) All employees required by law to be screened



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1478 pursuant to this section must ~~in positions designated by law as~~
1479 ~~positions of trust or responsibility shall be required to~~
1480 undergo security background investigations as a condition of
1481 employment and continued employment which includes. ~~For the~~
1482 ~~purposes of this subsection, security background investigations~~
1483 ~~shall include~~, but need not be limited to, fingerprinting for
1484 statewide criminal history records ~~all purposes and checks in~~
1485 ~~this subsection, statewide criminal and juvenile records checks~~
1486 through the ~~Florida~~ Department of Law Enforcement, and national
1487 ~~federal~~ criminal history records checks through the Federal
1488 Bureau of Investigation, and may include local criminal records
1489 checks through local law enforcement agencies.

1490 (b) Fingerprints submitted pursuant to this section on or
1491 after July 1, 2012, must be submitted electronically to the
1492 Department of Law Enforcement by, or on the behalf of, the
1493 employee or employer.

1494 (c) An agency may contract with one or more vendors to
1495 perform all or part of the electronic fingerprinting pursuant to
1496 this section. Such contracts must ensure that the owners and
1497 personnel of the vendor performing the electronic fingerprinting
1498 are qualified and will ensure the integrity and security of all
1499 personal information.

1500 (d) An agency may require by rule adopted pursuant to
1501 chapter 120 that fingerprints submitted pursuant to this section
1502 must be submitted electronically to the Department of Law
1503 Enforcement by, or on the behalf of, the employee or employer on
1504 a date earlier than July 1, 2012.

1505 (2) The security background investigations under this
1506 section must ensure that no persons subject to the provisions of



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1507 this section have been found guilty of, regardless of
1508 adjudication, or entered a plea of nolo contendere or guilty to,
1509 any offense prohibited under any of the following provisions of
1510 the Florida Statutes or under any similar statute of another
1511 jurisdiction:

1512 (a) Section 393.135, relating to sexual misconduct with
1513 certain developmentally disabled clients and reporting of such
1514 sexual misconduct.

1515 (b) Section 394.4593, relating to sexual misconduct with
1516 certain mental health patients and reporting of such sexual
1517 misconduct.

1518 (c) Section 415.111, relating to adult abuse, neglect, or
1519 exploitation of aged persons or disabled adults.

1520 (d) Section 782.04, relating to murder.

1521 (e) Section 782.07, relating to manslaughter, aggravated
1522 manslaughter of an elderly person or disabled adult, or
1523 aggravated manslaughter of a child.

1524 (f) Section 782.071, relating to vehicular homicide.

1525 (g) Section 782.09, relating to killing of an unborn quick
1526 child by injury to the mother.

1527 (h) Chapter 784, relating to assault, battery, and culpable
1528 negligence, if the offense was a felony.

1529 (i)~~(h)~~ Section 784.011, relating to assault, if the victim
1530 of the offense was a minor.

1531 ~~(i) Section 784.021, relating to aggravated assault.~~

1532 (j) Section 784.03, relating to battery, if the victim of
1533 the offense was a minor.

1534 ~~(k) Section 784.045, relating to aggravated battery.~~

1535 ~~(l) Section 784.075, relating to battery on a detention or~~



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- 1536 ~~commitment facility staff.~~
- 1537 (k)~~(m)~~ Section 787.01, relating to kidnapping.
- 1538 (l)~~(n)~~ Section 787.02, relating to false imprisonment.
- 1539 (m) Section 787.025, relating to luring or enticing a
- 1540 child.
- 1541 (n)~~(o)~~ Section 787.04(2), relating to taking, enticing, or
- 1542 removing a child beyond the state limits with criminal intent
- 1543 pending custody proceedings.
- 1544 (o)~~(p)~~ Section 787.04(3), relating to carrying a child
- 1545 beyond the state lines with criminal intent to avoid producing a
- 1546 child at a custody hearing or delivering the child to the
- 1547 designated person.
- 1548 (p)~~(q)~~ Section 790.115(1), relating to exhibiting firearms
- 1549 or weapons within 1,000 feet of a school.
- 1550 (q)~~(r)~~ Section 790.115(2)(b), relating to possessing an
- 1551 electric weapon or device, destructive device, or other weapon
- 1552 on school property.
- 1553 (r)~~(s)~~ Section 794.011, relating to sexual battery.
- 1554 (s)~~(t)~~ Former s. 794.041, relating to prohibited acts of
- 1555 persons in familial or custodial authority.
- 1556 (t) Section 794.05, relating to unlawful sexual activity
- 1557 with certain minors.
- 1558 (u) Chapter 796, relating to prostitution.
- 1559 (v) Section 798.02, relating to lewd and lascivious
- 1560 behavior.
- 1561 (w) Chapter 800, relating to lewdness and indecent
- 1562 exposure.
- 1563 (x) Section 806.01, relating to arson.
- 1564 (y) Section 810.02, relating to burglary.



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1565 (z) Section 810.14, relating to voyeurism, if the offense
1566 is a felony.

1567 (aa) Section 810.145, relating to video voyeurism, if the
1568 offense is a felony.

1569 ~~(yb)~~ Chapter 812, relating to theft, robbery, and
1570 related crimes, if the offense is a felony.

1571 ~~(zc)~~ Section 817.563, relating to fraudulent sale of
1572 controlled substances, only if the offense was a felony.

1573 ~~(ad)~~ Section 825.102, relating to abuse, aggravated
1574 abuse, or neglect of an elderly person or disabled adult.

1575 ~~(be)~~ Section 825.1025, relating to lewd or lascivious
1576 offenses committed upon or in the presence of an elderly person
1577 or disabled adult.

1578 ~~(cf)~~ Section 825.103, relating to exploitation of an
1579 elderly person or disabled adult, if the offense was a felony.

1580 ~~(gd)~~ Section 826.04, relating to incest.

1581 ~~(he)~~ Section 827.03, relating to child abuse,
1582 aggravated child abuse, or neglect of a child.

1583 ~~(if)~~ Section 827.04, relating to contributing to the
1584 delinquency or dependency of a child.

1585 ~~(jj)~~ Former s. 827.05, relating to negligent treatment
1586 of children.

1587 ~~(kh)~~ Section 827.071, relating to sexual performance by
1588 a child.

1589 ~~(li)~~ Section 843.01, relating to resisting arrest with
1590 violence.

1591 ~~(mj)~~ Section 843.025, relating to depriving a law
1592 enforcement, correctional, or correctional probation officer
1593 means of protection or communication.



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1594 (nn) ~~(kk)~~ Section 843.12, relating to aiding in an escape.

1595 (oo) ~~(ll)~~ Section 843.13, relating to aiding in the escape
1596 of juvenile inmates in correctional institutions.

1597 (pp) ~~(mm)~~ Chapter 847, relating to obscene literature.

1598 (qq) ~~(nn)~~ Section 874.05(1), relating to encouraging or
1599 recruiting another to join a criminal gang.

1600 (rr) ~~(oo)~~ Chapter 893, relating to drug abuse prevention and
1601 control, only if the offense was a felony or if any other person
1602 involved in the offense was a minor.

1603 (ss) ~~(pp)~~ Section 916.1075, relating to sexual misconduct
1604 with certain forensic clients and reporting of such sexual
1605 misconduct.

1606 (tt) ~~(qq)~~ Section 944.35(3), relating to inflicting cruel or
1607 inhuman treatment on an inmate resulting in great bodily harm.

1608 (uu) Section 944.40, relating to escape.

1609 (vv) ~~(rr)~~ Section 944.46, relating to harboring, concealing,
1610 or aiding an escaped prisoner.

1611 (ww) ~~(ss)~~ Section 944.47, relating to introduction of
1612 contraband into a correctional facility.

1613 (xx) ~~(tt)~~ Section 985.701, relating to sexual misconduct in
1614 juvenile justice programs.

1615 (yy) ~~(uu)~~ Section 985.711, relating to contraband introduced
1616 into detention facilities.

1617 (3) The security background investigations under this
1618 section must ensure that no person subject to this section has
1619 been found guilty of, regardless of adjudication, or entered a
1620 plea of nolo contendere or guilty to, any offense that
1621 constitutes domestic violence as defined in s. 741.28, whether
1622 such act was committed in this state or in another jurisdiction.



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1623 ~~The security background investigations conducted under this~~
1624 ~~section for employees of the Department of Juvenile Justice must~~
1625 ~~ensure that no persons subject to the provisions of this section~~
1626 ~~have been found guilty of, regardless of adjudication, or~~
1627 ~~entered a plea of nolo contendere or guilty to, any offense~~
1628 ~~prohibited under any of the following provisions of the Florida~~
1629 ~~Statutes or under any similar statute of another jurisdiction:~~

1630 ~~(a) Section 784.07, relating to assault or battery of law~~
1631 ~~enforcement officers, firefighters, emergency medical care~~
1632 ~~providers, public transit employees or agents, or other~~
1633 ~~specified officers.~~

1634 ~~(b) Section 810.02, relating to burglary, if the offense is~~
1635 ~~a felony.~~

1636 ~~(c) Section 944.40, relating to escape.~~

1637
1638 ~~The Department of Juvenile Justice may not remove a~~
1639 ~~disqualification from employment or grant an exemption to any~~
1640 ~~person who is disqualified under this section for any offense~~
1641 ~~disposed of during the most recent 7-year period.~~

1642 ~~(4) Standards must also ensure that the person:~~

1643 ~~(a) For employees or employers licensed or registered~~
1644 ~~pursuant to chapter 400 or chapter 429, does not have a~~
1645 ~~confirmed report of abuse, neglect, or exploitation as defined~~
1646 ~~in s. 415.102(6), which has been uncontested or upheld under s.~~
1647 ~~415.103.~~

1648 ~~(b) Has not committed an act that constitutes domestic~~
1649 ~~violence as defined in s. 741.30.~~

1650 ~~(5) Under penalty of perjury, all employees in such~~
1651 ~~positions of trust or responsibility shall attest to meeting the~~



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1652 ~~requirements for qualifying for employment and agreeing to~~
1653 ~~inform the employer immediately if convicted of any of the~~
1654 ~~disqualifying offenses while employed by the employer. Each~~
1655 ~~employer of employees in such positions of trust or~~
1656 ~~responsibilities which is licensed or registered by a state~~
1657 ~~agency shall submit to the licensing agency annually or at the~~
1658 ~~time of license renewal, under penalty of perjury, an affidavit~~
1659 ~~of compliance with the provisions of this section.~~

1660 Section 35. Section 435.05, Florida Statutes, is amended to
1661 read:

1662 435.05 Requirements for covered employees and employers.-
1663 Except as otherwise provided by law, the following requirements
1664 shall apply to covered employees and employers:

1665 (1) (a) Every person required by law to be screened pursuant
1666 to the provisions of this chapter must ~~employed in a position~~
1667 ~~for which employment screening is required must, within 5~~
1668 ~~working days after starting to work, submit to the employer a~~
1669 complete set of information necessary to conduct a screening
1670 under this chapter section.

1671 (b) For level 1 screening, the employer must submit the
1672 information necessary for screening to the ~~Florida~~ Department of
1673 Law Enforcement within 5 working days after receiving it. The
1674 ~~Florida~~ Department of Law Enforcement will conduct a search of
1675 its records and will respond to the employer or agency. The
1676 employer will inform the employee whether screening has revealed
1677 any disqualifying information.

1678 (c) For level 2 screening, the employer or ~~licensing~~ agency
1679 must submit the information necessary for screening to the
1680 ~~Florida~~ Department of Law Enforcement within 5 working days



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1681 after receiving it. The ~~Florida~~ Department of Law Enforcement
1682 will perform a criminal history record check of its ~~conduct a~~
1683 ~~search of its criminal and juvenile records~~ and will request
1684 that the Federal Bureau of Investigation perform a national
1685 criminal history record check ~~conduct a search~~ of its records
1686 for each employee for whom the request is made. The ~~Florida~~
1687 Department of Law Enforcement will respond to the employer or
1688 ~~licensing~~ agency, and the employer or ~~licensing~~ agency will
1689 inform the employee whether screening has revealed disqualifying
1690 information.

1691 (d) The person whose background is being checked must
1692 supply any missing criminal or other necessary information upon
1693 request to the requesting employer or agency within 30 days
1694 after receiving the ~~employer makes a~~ request for the information
1695 ~~or be subject to automatic disqualification.~~

1696 (2) Every employee must attest, subject to penalty of
1697 perjury, to meeting the requirements for qualifying for
1698 employment pursuant to this chapter and agreeing to inform the
1699 employer immediately if arrested for any of the disqualifying
1700 offenses while employed by the employer. ~~Unless otherwise~~
1701 ~~prohibited by state or federal law, new employees may be placed~~
1702 ~~on probationary status pending a determination of compliance~~
1703 ~~with minimum standards set forth in this chapter.~~

1704 (3) Each employer that is licensed or registered with an
1705 agency and is required by law to conduct level 2 background
1706 screening must submit to the agency ~~sign an affidavit~~ annually
1707 or at the time of license renewal, under penalty of perjury, a
1708 signed affidavit attesting to compliance with the provisions of
1709 this chapter ~~stating that all covered employees have been~~



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1710 ~~screened or are newly hired and are awaiting the results of the~~
1711 ~~required screening checks.~~

1712 Section 36. Section 435.06, Florida Statutes, is amended to
1713 read:

1714 435.06 Exclusion from employment.-

1715 (1) When an employer or ~~licensing~~ agency has reasonable
1716 cause to believe that grounds exist for the denial or
1717 termination of employment of any employee as a result of
1718 background screening, it shall notify the employee in writing,
1719 stating the specific record that ~~which~~ indicates noncompliance
1720 with the standards in this chapter section. It shall be the
1721 responsibility of the affected employee to contest his or her
1722 disqualification or to request exemption from disqualification.
1723 The only basis for contesting the disqualification shall be
1724 proof of mistaken identity.

1725 (2) (a) An employer may not hire, select, or otherwise allow
1726 an employee to have contact with any vulnerable person that
1727 would place the employee in a role that would require background
1728 screening until such time as the screening process is completed
1729 and demonstrates the absence of any grounds for the denial or
1730 termination of employment. If the screening process shows any
1731 grounds for the denial or termination of employment, the
1732 employer may not hire, select, or otherwise allow the employee
1733 to have contact with any vulnerable person that would place the
1734 employee in a role that would require background screening
1735 unless the employee is granted an exemption for the
1736 disqualification by the agency as provided under s. 435.07.

1737 (b) If at any time an employer becomes aware that an
1738 employee has been arrested for a disqualifying offense, the



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1739 employer must remove the employee from contact with any
1740 vulnerable person that would place the employee in a role that
1741 would require background screening until such time as the arrest
1742 is resolved in such a way that the employer determines that the
1743 employee is still eligible for employment under this chapter.

1744 (c) The employer must either terminate the employment of
1745 any of its personnel found to be in noncompliance with the
1746 minimum standards of this chapter ~~for good moral character~~
1747 ~~contained in this section~~ or place the employee in a position
1748 for which background screening is not required unless the
1749 employee is granted an exemption from disqualification pursuant
1750 to s. 435.07.

1751 (3) Any employee ~~person who is required to undergo~~
1752 ~~employment screening and~~ who refuses to cooperate in such
1753 screening or refuses to timely submit the information necessary
1754 to complete the screening, including fingerprints when required,
1755 must ~~shall~~ be disqualified for employment in such position or,
1756 if employed, must ~~shall~~ be dismissed.

1757 Section 37. Section 435.07, Florida Statutes, is amended to
1758 read:

1759 435.07 Exemptions from disqualification.—Unless otherwise
1760 provided by law, the provisions of this section shall apply to
1761 exemptions from disqualification pursuant to this chapter.

1762 (1) The head of the appropriate ~~licensing~~ agency may grant
1763 to any employee otherwise disqualified from employment an
1764 exemption from disqualification for:

1765 (a) Felonies for which at least 3 years have elapsed since
1766 the applicant for the exemption has completed or been lawfully
1767 released from confinement, supervision, or sanction for the



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1768 ~~disqualifying felony committed more than 3 years prior to the~~
1769 ~~date of disqualification;~~

1770 (b) Misdemeanors prohibited under any of the Florida
1771 Statutes cited in this chapter or under similar statutes of
1772 other jurisdictions;

1773 (c) Offenses that were felonies when committed but are now
1774 misdemeanors; or

1775 (d) Findings of delinquency; ~~or~~

1776 ~~(e) Commissions of acts of domestic violence as defined in~~
1777 ~~s. 741.30.~~

1778
1779 For the purposes of this subsection, the term "felonies" means
1780 both felonies prohibited under any of the Florida Statutes cited
1781 in this chapter or under similar statutes of other
1782 jurisdictions.

1783 (2) Persons employed, or applicants for employment, by
1784 treatment providers who treat adolescents 13 years of age and
1785 older who are disqualified from employment solely because of
1786 crimes under s. 817.563, s. 893.13, or s. 893.147 may be
1787 exempted from disqualification from employment pursuant to this
1788 chapter section without application of the 3-year waiting period
1789 in paragraph (1)(a).

1790 (3) (a) In order for the head of an agency ~~a licensing~~
1791 ~~department~~ to grant an exemption to any employee, the employee
1792 must demonstrate by clear and convincing evidence that the
1793 employee should not be disqualified from employment. Employees
1794 seeking an exemption have the burden of setting forth clear and
1795 convincing ~~sufficient~~ evidence of rehabilitation, including, but
1796 not limited to, the circumstances surrounding the criminal



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1797 incident for which an exemption is sought, the time period that
1798 has elapsed since the incident, the nature of the harm caused to
1799 the victim, and the history of the employee since the incident,
1800 or any other evidence or circumstances indicating that the
1801 employee will not present a danger if employment or continued
1802 employment is allowed.

1803 (b) The agency may consider as part of its deliberations of
1804 the employee's rehabilitation the fact that the employee has,
1805 subsequent to the conviction for the disqualifying offense for
1806 which the exemption is being sought, been arrested for or
1807 convicted of another crime, even if that crime is not a
1808 disqualifying offense.

1809 (c) The decision of the head of an agency ~~licensing~~
1810 ~~department~~ regarding an exemption may be contested through the
1811 hearing procedures set forth in chapter 120. The standard of
1812 review by the administrative law judge is whether the agency's
1813 intended action is an abuse of discretion.

1814 (4) (a) Disqualification from employment under this chapter
1815 ~~subsection (1)~~ may not be removed from, nor may an exemption be
1816 granted to, any personnel who is found guilty of, regardless of
1817 adjudication, or who has entered a plea of nolo contendere or
1818 guilty to, any felony covered by s. 435.03 or s. 435.04 solely
1819 by reason of any pardon, executive clemency, or restoration of
1820 civil rights.

1821 (b) Disqualification from employment under this chapter may
1822 not be removed from, nor may an exemption be granted to, any
1823 person who has been designated as a sexual predator pursuant to
1824 s. 775.21.

1825 (5) Exemptions granted by one ~~licensing~~ agency shall be



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1826 considered by subsequent ~~licensing~~ agencies, but are not binding
1827 on the subsequent ~~licensing~~ agency.

1828 Section 38. Section 435.08, Florida Statutes, is amended to
1829 read:

1830 435.08 Payment for processing of fingerprints and state
1831 criminal records checks.—Either the employer or the employee is
1832 responsible for paying the costs of screening. Payment shall be
1833 submitted to the ~~Florida~~ Department of Law Enforcement with the
1834 request for screening. The appropriate agency is responsible for
1835 collecting and paying any fee related to fingerprints retained
1836 on its behalf to the Department of Law Enforcement for costs
1837 resulting from the fingerprint information retention services.
1838 The amount of the annual fee and procedures for the submission
1839 and retention of fingerprint information and for the
1840 dissemination of search results shall be established by rule of
1841 the Department of Law Enforcement.

1842 Section 39. Subsection (1) of section 464.203, Florida
1843 Statutes, is amended to read:

1844 464.203 Certified nursing assistants; certification
1845 requirement.—

1846 (1) The board shall issue a certificate to practice as a
1847 certified nursing assistant to any person who demonstrates a
1848 minimum competency to read and write and successfully passes the
1849 required background ~~Level I or Level II~~ screening pursuant to s.
1850 400.215 and meets one of the following requirements:

1851 (a) Has successfully completed an approved training program
1852 and achieved a minimum score, established by rule of the board,
1853 on the nursing assistant competency examination, which consists
1854 of a written portion and skills-demonstration portion approved



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1855 by the board and administered at a site and by personnel
1856 approved by the department.

1857 (b) Has achieved a minimum score, established by rule of
1858 the board, on the nursing assistant competency examination,
1859 which consists of a written portion and skills-demonstration
1860 portion, approved by the board and administered at a site and by
1861 personnel approved by the department and:

1862 1. Has a high school diploma, or its equivalent; or

1863 2. Is at least 18 years of age.

1864 (c) Is currently certified in another state; is listed on
1865 that state's certified nursing assistant registry; and has not
1866 been found to have committed abuse, neglect, or exploitation in
1867 that state.

1868 (d) Has completed the curriculum developed under the
1869 Enterprise Florida Jobs and Education Partnership Grant and
1870 achieved a minimum score, established by rule of the board, on
1871 the nursing assistant competency examination, which consists of
1872 a written portion and skills-demonstration portion, approved by
1873 the board and administered at a site and by personnel approved
1874 by the department.

1875 Section 40. Subsection (9) of section 489.115, Florida
1876 Statutes, is amended to read:

1877 489.115 Certification and registration; endorsement;
1878 reciprocity; renewals; continuing education.—

1879 (9) An initial applicant shall submit, along with the
1880 application, a complete set of fingerprints in a form and manner
1881 required by the department. The fingerprints shall be submitted
1882 to the Department of Law Enforcement for state processing, and
1883 the Department of Law Enforcement shall forward them to the



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1884 Federal Bureau of Investigation for the purpose of processing
1885 the fingerprint submission to determine if the applicant has a
1886 criminal history record ~~conducting a level 2 background check~~
1887 ~~pursuant to s. 435.04~~. The department shall and the board may
1888 review the background results to determine if an applicant meets
1889 licensure requirements. The cost for the fingerprint processing
1890 shall be borne by the person subject to the background
1891 screening. These fees are to be collected by the authorized
1892 agencies or vendors. The authorized agencies or vendors are
1893 responsible for paying the processing costs to the Department of
1894 Law Enforcement.

1895 Section 41. Paragraphs (g) and (h) of subsection (2) of
1896 section 943.05, Florida Statutes, are amended, and subsection
1897 (4) is added to that section, to read:

1898 943.05 Criminal Justice Information Program; duties; crime
1899 reports.-

1900 (2) The program shall:

1901 (g) Upon official written request from the agency executive
1902 director or secretary, or from his or her designee, or from
1903 qualified entities participating in the volunteer and employee
1904 criminal history screening system under s. 943.0542, or as
1905 otherwise required ~~As authorized~~ by law, retain fingerprints
1906 submitted by criminal and noncriminal justice agencies to the
1907 department for a criminal history background screening in a
1908 manner provided by rule and enter the fingerprints in the
1909 statewide automated fingerprint identification system authorized
1910 by paragraph (b). Such fingerprints shall thereafter be
1911 available for all purposes and uses authorized for arrest
1912 fingerprint submissions ~~cards~~ entered into the statewide



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1913 automated fingerprint identification system pursuant to s.
1914 943.051.

1915 ~~(h)1. For each agency or qualified entity that officially~~
1916 ~~requests retention of fingerprints or for which retention is~~
1917 ~~otherwise required As authorized by law, search all arrest~~
1918 ~~fingerprint submissions cards~~ received under s. 943.051 against
1919 the fingerprints retained in the statewide automated fingerprint
1920 identification system under paragraph (g).

1921 1. Any arrest record that is identified with the retained
1922 fingerprints of a person subject to background screening as
1923 provided in paragraph (g) shall be reported to the appropriate
1924 agency or qualified entity.

1925 2. To Agencies may participate in this search process,
1926 agencies or qualified entities must notify each person
1927 fingerprinted that his or her fingerprints will be retained, pay
1928 by payment of an annual fee to the department, and inform by
1929 informing the department of any change in the affiliation,
1930 employment, or contractual status or place of affiliation,
1931 employment, or contracting of each person the persons whose
1932 fingerprints are retained under paragraph (g) when such change
1933 removes or eliminates the agency or qualified entity's basis or
1934 need for receiving reports of any arrest of that person, so that
1935 the agency or qualified entity will not be obligated to pay the
1936 upcoming annual fee for the retention and searching of that
1937 person's fingerprints to the department. The department shall
1938 adopt a rule setting the amount of the annual fee to be imposed
1939 upon each participating agency or qualified entity for
1940 performing these searches and establishing the procedures for
1941 the retention of fingerprints and the dissemination of search



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1942 results. The fee may be borne by the agency, qualified entity,
1943 or person subject to fingerprint retention or as otherwise
1944 provided by law. Fees may be waived or reduced by the executive
1945 director for good cause shown. Consistent with the recognition
1946 of criminal justice agencies expressed in s. 943.053(3), these
1947 services will be provided to criminal justice agencies for
1948 criminal justice purposes free of charge.

1949 3. Agencies that participate in the fingerprint retention
1950 and search process may adopt rules pursuant to ss. 120.536(1)
1951 and 120.54 to require employers to keep the agency informed of
1952 any change in the affiliation, employment, or contractual status
1953 of each person whose fingerprints are retained under paragraph
1954 (g) when such change removes or eliminates the agency's basis or
1955 need for receiving reports of any arrest of that person, so that
1956 the agency will not be obligated to pay the upcoming annual fee
1957 for the retention and searching of that person's fingerprints to
1958 the department.

1959 (4) Upon notification that a federal fingerprint retention
1960 program is in effect, and subject to the department being funded
1961 and equipped to participate in such a program, the department
1962 shall, when state and national criminal history records checks
1963 and retention of submitted prints are authorized or required by
1964 law, retain the fingerprints as provided in paragraphs (2) (g)
1965 and (h) and advise the Federal Bureau of Investigation to retain
1966 the fingerprints at the national level for searching against
1967 arrest fingerprint submissions received at the national level.

1968 Section 42. Subsections (6) and (11) of section 943.053,
1969 Florida Statutes, are amended to read:

1970 943.053 Dissemination of criminal justice information;



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1971 fees.-

1972 (6) Notwithstanding any other provision of law, the
1973 department shall provide to the ~~Florida~~ Department of Revenue
1974 ~~Child Support Enforcement~~ access to Florida criminal records
1975 which are not exempt from disclosure under chapter 119, and to
1976 such information as may be lawfully available from other states
1977 via the National Law Enforcement Telecommunications System, for
1978 the purpose of locating subjects who owe or potentially owe
1979 support, as defined in s. 409.2554, or to whom such obligation
1980 is owed pursuant to Title IV-D of the Social Security Act. Such
1981 information may be provided to child support enforcement
1982 authorities in other states for these specific purposes.

1983 (11) A criminal justice agency that is authorized under
1984 federal rules or law to conduct a criminal history background
1985 check on an agency employee who is not certified by the Criminal
1986 Justice Standards and Training Commission under s. 943.12 may
1987 submit to the department the fingerprints of the noncertified
1988 employee to obtain state and national criminal history
1989 information. ~~Effective January 15, 2007,~~ The fingerprints
1990 submitted shall be retained and entered in the statewide
1991 automated fingerprint identification system authorized by s.
1992 943.05 and shall be available for all purposes and uses
1993 authorized for arrest fingerprint submissions ~~cards~~ entered in
1994 the statewide automated fingerprint identification system
1995 pursuant to s. 943.051. The department shall search all arrest
1996 fingerprint submissions ~~cards~~ received pursuant to s. 943.051
1997 against the fingerprints retained in the statewide automated
1998 fingerprint identification system pursuant to this section. In
1999 addition to all purposes and uses authorized for arrest



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2000 fingerprint submissions ~~cards~~ for which submitted fingerprints
2001 may be used, any arrest record that is identified with the
2002 retained employee fingerprints must be reported to the
2003 submitting employing agency.

2004 Section 43. Section 985.644, Florida Statutes, is amended
2005 to read:

2006 985.644 Departmental contracting powers; personnel
2007 standards and screening.—

2008 (1) ~~The department of Juvenile Justice or the Department of~~
2009 ~~Children and Family Services, as appropriate,~~ may contract with
2010 the Federal Government, other state departments and agencies,
2011 county and municipal governments and agencies, public and
2012 private agencies, and private individuals and corporations in
2013 carrying out the purposes of, and the responsibilities
2014 established in, this chapter.

2015 (a) ~~When the Department of Juvenile Justice or the~~
2016 ~~Department of Children and Family Services contracts with a~~
2017 ~~provider for any program for children, all personnel, including~~
2018 ~~owners, operators, employees, and volunteers, in the facility~~
2019 ~~must be of good moral character.~~ Each contract entered into by
2020 the either department for services delivered on an appointment
2021 or intermittent basis by a provider that does not have regular
2022 custodial responsibility for children and each contract with a
2023 school for before or aftercare services must ensure that the all
2024 owners, operators, and ~~all~~ personnel who have direct contact
2025 with children are subject to level 2 background screening
2026 pursuant to chapter 435 of good moral character.

2027 (b) A volunteer who assists the department or any program
2028 for children on an intermittent basis for less than 40 hours per



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2029 month need not be screened if the volunteer is under direct and
2030 constant supervision by persons who meet the screening
2031 requirements.

2032 ~~(b) The Department of Juvenile Justice and the Department~~
2033 ~~of Children and Family Services shall require employment~~
2034 ~~screening pursuant to chapter 435, using the level 2 standards~~
2035 ~~set forth in that chapter for personnel in programs for children~~
2036 ~~or youths.~~

2037 ~~(c) The Department of Juvenile Justice or the Department of~~
2038 ~~Children and Family Services may grant exemptions from~~
2039 ~~disqualification from working with children as provided in s.~~
2040 ~~435.07.~~

2041 ~~(2) The department may contract with the Federal~~
2042 ~~Government, other state departments and agencies, county and~~
2043 ~~municipal governments and agencies, public and private agencies,~~
2044 ~~and private individuals and corporations in carrying out the~~
2045 ~~purposes and the responsibilities of the delinquency services~~
2046 ~~and programs of the department.~~

2047 ~~(2)~~⁽³⁾ The department shall adopt a rule pursuant to
2048 chapter 120 establishing a procedure to provide notice of policy
2049 changes that affect contracted delinquency services and
2050 programs. A policy is defined as an operational requirement that
2051 applies to only the specified contracted delinquency service or
2052 program. The procedure shall include:

2053 (a) Public notice of policy development.

2054 (b) Opportunity for public comment on the proposed policy.

2055 (c) Assessment for fiscal impact upon the department and
2056 providers.

2057 (d) The department's response to comments received.



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2058 ~~(4) When the department contracts with a provider for any~~
2059 ~~delinquency service or program, all personnel, including all~~
2060 ~~owners, operators, employees, and volunteers in the facility or~~
2061 ~~providing the service or program shall be of good moral~~
2062 ~~character. A volunteer who assists on an intermittent basis for~~
2063 ~~less than 40 hours per month is not required to be screened if~~
2064 ~~the volunteer is under direct and constant supervision by~~
2065 ~~persons who meet the screening requirements.~~

2066 (3)(5)(a) All employees of the department and all personnel
2067 of contract providers for any program for children, including
2068 all owners, operators, employees, persons who have access to
2069 confidential juvenile records, and volunteers, must complete ~~For~~
2070 ~~any person employed by the department, or by a provider under~~
2071 ~~contract with the department, in delinquency facilities,~~
2072 ~~services, or programs, the department shall require:~~

2073 1. A level 2 employment screening pursuant to chapter 435
2074 prior to employment. The security background investigations
2075 conducted under this section must ensure that, in addition to
2076 the disqualifying offenses listed in s. 435.04, no person
2077 subject to the background screening provisions of this section
2078 has been found guilty of, regardless of adjudication, or entered
2079 a plea of nolo contendere or guilty to, any offense prohibited
2080 under any of the following provisions of the Florida Statutes or
2081 under any similar statute of another jurisdiction:

2082 a. Section 784.07, relating to assault or battery of law
2083 enforcement officers, firefighters, emergency medical care
2084 providers, public transit employees or agents, or other
2085 specified officers.

2086 b. Section 817.568, relating to criminal use of personal



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2087 identification information.

2088 2. A national ~~federal~~ criminal records check by the Federal
2089 Bureau of Investigation every 5 years following the date of the
2090 person's employment.

2091 (b) Except for law enforcement, correctional, and
2092 correctional probation officers, to whom s. 943.13(5) applies,
2093 the department shall electronically submit to the Department of
2094 Law Enforcement:

2095 1. Fingerprint information obtained during the employment
2096 screening required by subparagraph (a)1.

2097 2. ~~Beginning on December 15, 2005,~~ Fingerprint information
2098 for all persons employed by the department, or by a provider
2099 under contract with the department, in delinquency facilities,
2100 services, or programs if such fingerprint information has not
2101 previously been electronically submitted to the Department of
2102 Law Enforcement under this paragraph.

2103 (c) All fingerprint information electronically submitted to
2104 the Department of Law Enforcement under paragraph (b) shall be
2105 retained by the Department of Law Enforcement and entered into
2106 the statewide automated fingerprint identification system
2107 authorized by s. 943.05(2) (b). Thereafter, such fingerprint
2108 information shall be available for all purposes and uses
2109 authorized for arrest fingerprint information entered into the
2110 statewide automated fingerprint identification system pursuant
2111 to s. 943.051 until the fingerprint information is removed
2112 pursuant to paragraph (e). The Department of Law Enforcement
2113 shall search all arrest fingerprint information received
2114 pursuant to s. 943.051 against the fingerprint information
2115 entered into the statewide automated fingerprint system pursuant



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2116 to this subsection. Any arrest records identified as a result of
2117 the search shall be reported to the department in the manner and
2118 timeframe established by the Department of Law Enforcement by
2119 rule.

2120 (d) The department shall pay an annual fee to the
2121 Department of Law Enforcement for its costs resulting from the
2122 fingerprint information retention services required by this
2123 subsection. The amount of the annual fee and procedures for the
2124 submission and retention of fingerprint information and for the
2125 dissemination of search results shall be established by the
2126 Department of Law Enforcement by a rule that is applicable to
2127 the department individually pursuant to this subsection or that
2128 is applicable to the department and other employing agencies
2129 pursuant to rulemaking authority otherwise provided by law.

2130 (e) The department shall notify the Department of Law
2131 Enforcement when a person whose fingerprint information is
2132 retained by the Department of Law Enforcement under this
2133 subsection is no longer employed by the department, or by a
2134 provider under contract with the department, in a delinquency
2135 facility, service, or program. This notice shall be provided by
2136 the department to the Department of Law Enforcement no later
2137 than 6 months after the date of the change in the person's
2138 employment status. Fingerprint information for persons
2139 identified by the department in the notice shall be removed from
2140 the statewide automated fingerprint system.

2141 (6) The department may grant exemptions from
2142 disqualification from working with children as provided in s.
2143 435.07.

2144 (7) The department may adopt rules pursuant to ss.



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2145 120.536(1) and 120.54 to describe the procedure and requirements
2146 necessary to implement the employment screening and fingerprint
2147 retention services for all employees of the department and all
2148 personnel of contract providers for any program for children,
2149 including all owners, operators, employees, and volunteers,
2150 including the collection of associated fees.

2151 Section 44. Paragraph (a) of subsection (1) of section
2152 381.60225, Florida Statutes, is amended to read:

2153 381.60225 Background screening.—

2154 (1) Each applicant for certification must comply with the
2155 following requirements:

2156 (a) Upon receipt of a completed, signed, and dated
2157 application, the Agency for Health Care Administration shall
2158 require background screening, in accordance with the level 2
2159 standards for screening set forth in chapter 435, of the
2160 managing employee, or other similarly titled individual
2161 responsible for the daily operation of the organization, agency,
2162 or entity, and financial officer, or other similarly titled
2163 individual who is responsible for the financial operation of the
2164 organization, agency, or entity, including billings for
2165 services. The applicant must comply with the procedures for
2166 level 2 background screening as set forth in chapter 435, ~~as~~
2167 ~~well as the requirements of s. 435.03(3).~~

2168 Section 45. Subsection (32) of section 409.912, Florida
2169 Statutes, is amended to read:

2170 409.912 Cost-effective purchasing of health care.—The
2171 agency shall purchase goods and services for Medicaid recipients
2172 in the most cost-effective manner consistent with the delivery
2173 of quality medical care. To ensure that medical services are



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2174 effectively utilized, the agency may, in any case, require a
2175 confirmation or second physician's opinion of the correct
2176 diagnosis for purposes of authorizing future services under the
2177 Medicaid program. This section does not restrict access to
2178 emergency services or poststabilization care services as defined
2179 in 42 C.F.R. part 438.114. Such confirmation or second opinion
2180 shall be rendered in a manner approved by the agency. The agency
2181 shall maximize the use of prepaid per capita and prepaid
2182 aggregate fixed-sum basis services when appropriate and other
2183 alternative service delivery and reimbursement methodologies,
2184 including competitive bidding pursuant to s. 287.057, designed
2185 to facilitate the cost-effective purchase of a case-managed
2186 continuum of care. The agency shall also require providers to
2187 minimize the exposure of recipients to the need for acute
2188 inpatient, custodial, and other institutional care and the
2189 inappropriate or unnecessary use of high-cost services. The
2190 agency shall contract with a vendor to monitor and evaluate the
2191 clinical practice patterns of providers in order to identify
2192 trends that are outside the normal practice patterns of a
2193 provider's professional peers or the national guidelines of a
2194 provider's professional association. The vendor must be able to
2195 provide information and counseling to a provider whose practice
2196 patterns are outside the norms, in consultation with the agency,
2197 to improve patient care and reduce inappropriate utilization.
2198 The agency may mandate prior authorization, drug therapy
2199 management, or disease management participation for certain
2200 populations of Medicaid beneficiaries, certain drug classes, or
2201 particular drugs to prevent fraud, abuse, overuse, and possible
2202 dangerous drug interactions. The Pharmaceutical and Therapeutics



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2203 Committee shall make recommendations to the agency on drugs for
2204 which prior authorization is required. The agency shall inform
2205 the Pharmaceutical and Therapeutics Committee of its decisions
2206 regarding drugs subject to prior authorization. The agency is
2207 authorized to limit the entities it contracts with or enrolls as
2208 Medicaid providers by developing a provider network through
2209 provider credentialing. The agency may competitively bid single-
2210 source-provider contracts if procurement of goods or services
2211 results in demonstrated cost savings to the state without
2212 limiting access to care. The agency may limit its network based
2213 on the assessment of beneficiary access to care, provider
2214 availability, provider quality standards, time and distance
2215 standards for access to care, the cultural competence of the
2216 provider network, demographic characteristics of Medicaid
2217 beneficiaries, practice and provider-to-beneficiary standards,
2218 appointment wait times, beneficiary use of services, provider
2219 turnover, provider profiling, provider licensure history,
2220 previous program integrity investigations and findings, peer
2221 review, provider Medicaid policy and billing compliance records,
2222 clinical and medical record audits, and other factors. Providers
2223 shall not be entitled to enrollment in the Medicaid provider
2224 network. The agency shall determine instances in which allowing
2225 Medicaid beneficiaries to purchase durable medical equipment and
2226 other goods is less expensive to the Medicaid program than long-
2227 term rental of the equipment or goods. The agency may establish
2228 rules to facilitate purchases in lieu of long-term rentals in
2229 order to protect against fraud and abuse in the Medicaid program
2230 as defined in s. 409.913. The agency may seek federal waivers
2231 necessary to administer these policies.



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2232 (32) Each managed care plan that is under contract with the
2233 agency to provide health care services to Medicaid recipients
2234 shall annually conduct a background check with the Florida
2235 Department of Law Enforcement of all persons with ownership
2236 interest of 5 percent or more or executive management
2237 responsibility for the managed care plan and shall submit to the
2238 agency information concerning any such person who has been found
2239 guilty of, regardless of adjudication, or has entered a plea of
2240 nolo contendere or guilty to, any of the offenses listed in s.
2241 435.04 ~~435.03~~.

2242 Section 46. Paragraph (e) of subsection (1) of section
2243 464.018, Florida Statutes, is amended to read:

2244 464.018 Disciplinary actions.—

2245 (1) The following acts constitute grounds for denial of a
2246 license or disciplinary action, as specified in s. 456.072(2):

2247 (e) Having been found guilty of, regardless of
2248 adjudication, or entered a plea of nolo contendere or guilty to,
2249 any offense prohibited under s. 435.04 ~~435.03~~ or under any
2250 similar statute of another jurisdiction; or having committed an
2251 act which constitutes domestic violence as defined in s. 741.28.

2252 Section 47. Paragraph (m) of subsection (1) of section
2253 468.3101, Florida Statutes, is amended to read:

2254 468.3101 Disciplinary grounds and actions.—

2255 (1) The department may make or require to be made any
2256 investigations, inspections, evaluations, and tests, and require
2257 the submission of any documents and statements, which it
2258 considers necessary to determine whether a violation of this
2259 part has occurred. The following acts shall be grounds for
2260 disciplinary action as set forth in this section:



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2261 (m) Having been found guilty of, regardless of
2262 adjudication, or pleading guilty or nolo contendere to, any
2263 offense prohibited under s. 435.04 ~~435.03~~ or under any similar
2264 statute of another jurisdiction.

2265 Section 48. Subsection (3) of section 744.309, Florida
2266 Statutes, is amended to read:

2267 744.309 Who may be appointed guardian of a resident ward.-

2268 (3) DISQUALIFIED PERSONS.—No person who has been convicted
2269 of a felony or who, from any incapacity or illness, is incapable
2270 of discharging the duties of a guardian, or who is otherwise
2271 unsuitable to perform the duties of a guardian, shall be
2272 appointed to act as guardian. Further, no person who has been
2273 judicially determined to have committed abuse, abandonment, or
2274 neglect against a child as defined in s. 39.01 or s. 984.03(1),
2275 (2), and (37), or who has been found guilty of, regardless of
2276 adjudication, or entered a plea of nolo contendere or guilty to,
2277 any offense prohibited under s. 435.04 ~~435.03~~ or under any
2278 similar statute of another jurisdiction, shall be appointed to
2279 act as a guardian. Except as provided in subsection (5) or
2280 subsection (6), a person who provides substantial services to
2281 the proposed ward in a professional or business capacity, or a
2282 creditor of the proposed ward, may not be appointed guardian and
2283 retain that previous professional or business relationship. A
2284 person may not be appointed a guardian if he or she is in the
2285 employ of any person, agency, government, or corporation that
2286 provides service to the proposed ward in a professional or
2287 business capacity, except that a person so employed may be
2288 appointed if he or she is the spouse, adult child, parent, or
2289 sibling of the proposed ward or the court determines that the



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2290 potential conflict of interest is insubstantial and that the
2291 appointment would clearly be in the proposed ward's best
2292 interest. The court may not appoint a guardian in any other
2293 circumstance in which a conflict of interest may occur.

2294 Section 49. Subsection (12) of section 744.474, Florida
2295 Statutes, is amended to read:

2296 744.474 Reasons for removal of guardian.—A guardian may be
2297 removed for any of the following reasons, and the removal shall
2298 be in addition to any other penalties prescribed by law:

2299 (12) Having been found guilty of, regardless of
2300 adjudication, or entered a plea of nolo contendere or guilty to,
2301 any offense prohibited under s. 435.04 ~~435.03~~ or under any
2302 similar statute of another jurisdiction.

2303 Section 50. Paragraph (a) of subsection (6) of section
2304 985.04, Florida Statutes, is amended to read:

2305 985.04 Oaths; records; confidential information.—

2306 (6) (a) Records maintained by the department, including
2307 copies of records maintained by the court, which pertain to a
2308 child found to have committed a delinquent act which, if
2309 committed by an adult, would be a crime specified in s. ~~ss.~~
2310 ~~435.03~~ and 435.04 may not be destroyed under this section for a
2311 period of 25 years after the youth's final referral to the
2312 department, except in cases of the death of the child. Such
2313 records, however, shall be sealed by the court for use only in
2314 meeting the screening requirements for personnel in s. 402.3055
2315 and the other sections cited above, or under departmental rule;
2316 however, current criminal history information must be obtained
2317 from the Department of Law Enforcement in accordance with s.
2318 943.053. The information shall be released to those persons



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2319 specified in the above cited sections for the purposes of
2320 complying with those sections. The court may punish by contempt
2321 any person who releases or uses the records for any unauthorized
2322 purpose.

2323 Section 51. The changes made by this act are intended to be
2324 prospective in nature. It is not intended that persons who are
2325 employed or licensed on the effective date of this act be
2326 rescreened until such time as they are otherwise required to be
2327 rescreened pursuant to law, at which time they must meet the
2328 requirements for screening as set forth in this act.

2329 Section 52. This act shall take effect July 1, 2010.