

By the Committee on Children, Families, and Elder Affairs; and  
Senator Storms

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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;  
28          amending s. 400.934, F.S.; revising minimum standards  
29          for home medical equipment providers; amending s.

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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; requiring drug testing for  
54 prospective and current foster parents; amending s.  
55 409.221, F.S.; revising background screening  
56 requirements for persons who render consumer-directed  
57 care; amending s. 409.907, F.S.; revising background  
58 screening requirements for Medicaid providers;

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

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

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117 dissemination of criminal justice information;  
118 amending s. 985.644, F.S.; revising background  
119 screening requirements for the Department of Juvenile  
120 Justice; authorizing rulemaking; amending ss.  
121 381.60225, 409.912, 464.018, 468.3101, 744.309,  
122 744.474, and 985.04, F.S.; conforming provisions to  
123 changes made to ch. 435, F.S., by the act; repealing  
124 s. 409.1758, F.S., relating to screening of summer  
125 camp personnel; repealing s. 456.039(4)(d), F.S.,  
126 relating to information required for licensure of  
127 designated health care professionals; providing for  
128 prospective application of the act; providing an  
129 effective date.

130

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

132

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

135 39.821 Qualifications of guardians ad litem.—

136 (1) Because of the special trust or responsibility placed  
137 in a guardian ad litem, the Guardian Ad Litem Program may use  
138 any private funds collected by the program, or any state funds  
139 so designated, to conduct a security background investigation  
140 before certifying a volunteer to serve. A security background  
141 investigation must include, but need not be limited to,  
142 employment history checks, checks of references, local criminal  
143 records checks through local law enforcement agencies, and  
144 statewide criminal records checks through the Department of Law  
145 Enforcement. Upon request, an employer shall furnish a copy of

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

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175 pursuant to the security background investigation is  
176 confidential and exempt from s. 119.07(1).

177 Section 2. Paragraph (b) of subsection (1) of section  
178 215.5586, Florida Statutes, is amended to read:

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

195 (1) HURRICANE MITIGATION INSPECTIONS.—

196 (b) To qualify for selection by the department as a wind  
197 certification entity to provide hurricane mitigation  
198 inspections, the entity shall, at a minimum, meet the following  
199 requirements:

200 1. Use hurricane mitigation inspectors who:

- 201 a. Are certified as a building inspector under s. 468.607;  
202 b. Are licensed as a general or residential contractor  
203 under s. 489.111;

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

207 d. Are licensed as a professional architect under s.  
208 481.213; or

209 e. Have at least 2 years of experience in residential  
210 construction or residential building inspection and have  
211 received specialized training in hurricane mitigation  
212 procedures. Such training may be provided by a class offered  
213 online or in person.

214 2. Use hurricane mitigation inspectors who also:

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

228 b. Have been certified, in a manner satisfactory to the  
229 department, to conduct the inspections.

230 3. Provide a quality assurance program including a  
231 reinspection component.

232 Section 3. Subsection (5) is added to section 393.0655,

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233 Florida Statutes, to read:

234 393.0655 Screening of direct service providers.-

235 (5) DISQUALIFYING OFFENSES.-The background screening  
236 conducted under this section must ensure that, in addition to  
237 the disqualifying offenses listed in s. 435.04, no person  
238 subject to the provisions of this section has an arrest awaiting  
239 final disposition for, has been found guilty of, regardless of  
240 adjudication, or entered a plea of nolo contendere or guilty to,  
241 or has been adjudicated delinquent and the record has not been  
242 sealed or expunged for, any offense prohibited under any of the  
243 following provisions of the Florida Statutes or under any  
244 similar statute of another jurisdiction:

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

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

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

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

249 (e) Section 817.034, relating to fraudulent acts through  
250 mail, wire, radio, electromagnetic, photoelectronic, or  
251 photooptical systems.

252 (f) Section 817.234, relating to false and fraudulent  
253 insurance claims.

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

255 (h) Section 817.568, relating to criminal use of personal  
256 identification information.

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

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

261 (k) Section 831.01, relating to forgery.

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262       (l) Section 831.02, relating to uttering forged  
263 instruments.

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

266       (n) Section 831.09, relating to uttering forged bank bills,  
267 checks, drafts, or promissory notes.

268       Section 4. Section 394.4572, Florida Statutes, is amended  
269 to read:

270       394.4572 Screening of mental health personnel.—

271       (1) (a) The department and the Agency for Health Care  
272 Administration shall require level 2 background employment  
273 screening pursuant to chapter 435 for mental health personnel  
274 ~~using the standards for level 2 screening set forth in chapter~~  
275 ~~435.~~ "Mental health personnel" includes all program directors,  
276 professional clinicians, staff members, and volunteers working  
277 in public or private mental health programs and facilities who  
278 have direct contact with individuals held for examination or  
279 admitted for mental health treatment ~~unmarried patients under~~  
280 ~~the age of 18 years.~~ For purposes of this chapter, employment  
281 screening of mental health personnel shall also include, but is  
282 not limited to, employment screening as provided under chapter  
283 435 and s. 408.809.

284       (b) Students in the health care professions who are  
285 interning in a mental health facility licensed under chapter  
286 395, where the primary purpose of the facility is not the  
287 treatment of minors, are exempt from the fingerprinting and  
288 screening requirements ~~if, provided~~ they are under direct  
289 supervision in the actual physical presence of a licensed health  
290 care professional.

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291 ~~(c) Mental health personnel working in a facility licensed~~  
292 ~~under chapter 395 who have less than 15 hours per week of direct~~  
293 ~~contact with patients or who are health care professionals~~  
294 ~~licensed by the Agency for Health Care Administration or a board~~  
295 ~~thereunder are exempt from the fingerprinting and screening~~  
296 ~~requirements, except for persons working in mental health~~  
297 ~~facilities where the primary purpose of the facility is the~~  
298 ~~treatment of minors.~~

299 ~~(d) A volunteer who assists on an intermittent basis for~~  
300 ~~less than 40 hours per month is exempt from the fingerprinting~~  
301 ~~and screening requirements, provided the volunteer is under~~  
302 ~~direct and constant supervision by persons who meet the~~  
303 ~~screening requirements of paragraph (a).~~

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

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

318 Section 5. Section 400.215, Florida Statutes, is amended to  
319 read:

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320 400.215 Personnel screening requirement.—

321 (1) The agency shall require level 2 background screening  
322 for personnel as required in s. 408.809(1) (e) pursuant to as  
323 provided in chapter 435 and s. 408.809. ~~for all employees or~~  
324 ~~prospective employees of facilities licensed under this part who~~  
325 ~~are expected to, or whose responsibilities may require them to:~~

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

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

328 (c) ~~Have access to resident funds or other personal~~  
329 ~~property.~~

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

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

341 (b) ~~Employees qualified under the provisions of paragraph~~  
342 ~~(a) who have not maintained continuous residency within the~~  
343 ~~state for the 5 years immediately preceding the date of request~~  
344 ~~for background screening must complete level 2 screening, as~~  
345 ~~provided in chapter 435. Such employees may work in a~~  
346 ~~conditional status up to 180 days pending the receipt of written~~  
347 ~~findings evidencing the completion of level 2 screening. Level 2~~  
348 ~~screening shall not be required of employees or prospective~~

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349 ~~employees who attest in writing under penalty of perjury that~~  
350 ~~they meet the residency requirement. Completion of level 2~~  
351 ~~screening shall require the employee or prospective employee to~~  
352 ~~furnish to the nursing facility a full set of fingerprints to~~  
353 ~~enable a criminal background investigation to be conducted. The~~  
354 ~~nursing facility shall submit the completed fingerprint card to~~  
355 ~~the agency. The agency shall establish a record of the request~~  
356 ~~in the database provided for in paragraph (c) and forward the~~  
357 ~~request to the Department of Law Enforcement, which is~~  
358 ~~authorized to submit the fingerprints to the Federal Bureau of~~  
359 ~~Investigation for a national criminal history records check. The~~  
360 ~~results of the national criminal history records check shall be~~  
361 ~~returned to the agency, which shall maintain the results in the~~  
362 ~~database provided for in paragraph (c). The agency shall notify~~  
363 ~~the administrator of the requesting nursing facility or the~~  
364 ~~administrator of any other facility licensed under chapter 393,~~  
365 ~~chapter 394, chapter 395, chapter 397, chapter 429, or this~~  
366 ~~chapter, as requested by such facility, as to whether or not the~~  
367 ~~employee has qualified under level 1 or level 2 screening. An~~  
368 ~~employee or prospective employee who has qualified under level 2~~  
369 ~~screening and has maintained such continuous residency within~~  
370 ~~the state shall not be required to complete a subsequent level 2~~  
371 ~~screening as a condition of employment at another facility.~~

372 ~~(c) The agency shall establish and maintain a database of~~  
373 ~~background screening information which shall include the results~~  
374 ~~of both level 1 and level 2 screening. The Department of Law~~  
375 ~~Enforcement shall timely provide to the agency, electronically,~~  
376 ~~the results of each statewide screening for incorporation into~~  
377 ~~the database. The agency shall, upon request from any facility,~~

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378 ~~agency, or program required by or authorized by law to screen~~  
379 ~~its employees or applicants, notify the administrator of the~~  
380 ~~facility, agency, or program of the qualifying or disqualifying~~  
381 ~~status of the employee or applicant named in the request.~~

382 ~~(d) Applicants and employees shall be excluded from~~  
383 ~~employment pursuant to s. 435.06.~~

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

396 ~~(4)(a) As provided in s. 435.07, the agency may grant an~~  
397 ~~exemption from disqualification to an employee or prospective~~  
398 ~~employee who is subject to this section and who has not received~~  
399 ~~a professional license or certification from the Department of~~  
400 ~~Health.~~

401 ~~(b) As provided in s. 435.07, the appropriate regulatory~~  
402 ~~board within the Department of Health, or that department itself~~  
403 ~~when there is no board, may grant an exemption from~~  
404 ~~disqualification to an employee or prospective employee who is~~  
405 ~~subject to this section and who has received a professional~~  
406 ~~license or certification from the Department of Health or a~~

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407 ~~regulatory board within that department.~~

408 ~~(5) Any provision of law to the contrary notwithstanding,~~  
409 ~~persons who have been screened and qualified as required by this~~  
410 ~~section and who have not been unemployed for more than 180 days~~  
411 ~~thereafter, and who under penalty of perjury attest to not~~  
412 ~~having been convicted of a disqualifying offense since the~~  
413 ~~completion of such screening, shall not be required to be~~  
414 ~~rescreened. An employer may obtain, pursuant to s. 435.10,~~  
415 ~~written verification of qualifying screening results from the~~  
416 ~~previous employer or other entity which caused such screening to~~  
417 ~~be performed.~~

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

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

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

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436 ~~part of, and no cause of action for damages arising against an~~  
437 ~~employer that, upon notice of a disqualifying offense listed~~  
438 ~~under chapter 435 or an act of domestic violence, terminates the~~  
439 ~~employee against whom the report was issued, whether or not the~~  
440 ~~employee has filed for an exemption with the Department of~~  
441 ~~Health or the Agency for Health Care Administration.~~

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

444 400.506 Licensure of nurse registries; requirements;  
445 penalties.—

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

453 Section 7. Section 400.512, Florida Statutes, is amended to  
454 read:

455 400.512 Screening of home health agency personnel; nurse  
456 registry personnel; and companions and homemakers.—The agency  
457 shall require level 2 background screening for personnel as  
458 required in s. 408.809(1)(e) pursuant to chapter 435 and s.  
459 408.809 ~~employment or contractor screening as provided in~~  
460 ~~chapter 435, using the level 1 standards for screening set forth~~  
461 ~~in that chapter, for home health agency personnel; persons~~  
462 ~~referred for employment by nurse registries; and persons~~  
463 ~~employed by companion or homemaker services registered under s.~~  
464 400.509.

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

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

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

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

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494 ~~missing disposition information to the agency. Failure to supply~~  
495 ~~missing information within 30 days or to show reasonable efforts~~  
496 ~~to obtain such information will result in automatic~~  
497 ~~disqualification.~~

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

515 ~~(5) There is no monetary liability on the part of, and no~~  
516 ~~cause of action for damages arises against, a licensed home~~  
517 ~~health agency, licensed nurse registry, or companion or~~  
518 ~~homemaker service registered under s. 400.509, that, upon notice~~  
519 ~~that the employee or contractor has been found guilty of,~~  
520 ~~regardless of adjudication, or entered a plea of nolo contendere~~  
521 ~~or guilty to, any offense prohibited under s. 435.03 or under~~  
522 ~~any similar statute of another jurisdiction, terminates the~~

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523 ~~employee or contractor, whether or not the employee or~~  
524 ~~contractor has filed for an exemption with the agency in~~  
525 ~~accordance with chapter 435 and whether or not the time for~~  
526 ~~filing has expired.~~

527 ~~(6) The costs of processing the statewide correspondence~~  
528 ~~criminal records checks must be borne by the home health agency,~~  
529 ~~the nurse registry, or the companion or homemaker service~~  
530 ~~registered under s. 400.509, or by the person being screened, at~~  
531 ~~the discretion of the home health agency, nurse registry, or s.~~  
532 ~~400.509 registrant.~~

533 Section 8. Section 400.6065, Florida Statutes, is amended  
534 to read:

535 400.6065 Background screening.—The agency shall require  
536 level 2 background employment or contractor screening for  
537 personnel as required in s. 408.809(1)(e) pursuant to chapter  
538 435 and s. 408.809 as provided in chapter 435, using the level 1  
539 standards for screening set forth in that chapter, for hospice  
540 personnel.

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

543 400.801 Homes for special services.—

544 (2)(a) The requirements of part II of chapter 408 apply to  
545 the provision of services that require licensure pursuant to  
546 this section and part II of chapter 408 and entities licensed by  
547 or applying for such licensure from the agency pursuant to this  
548 section. A license issued by the agency is required in order to  
549 operate a home for special services in this state.

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

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552 chapter 435 and s. 408.809.

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

555 400.805 Transitional living facilities.—

556 (2)

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

560 Section 11. Section 400.9065, Florida Statutes, is created  
561 to read:

562 400.9065 Background screening.—The agency shall require  
563 level 2 background screening for personnel as required in s.  
564 408.809(1)(e) pursuant to chapter 435 and s. 408.809.

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

567 400.934 Minimum standards.—As a requirement of licensure,  
568 home medical equipment providers shall:

569 (16) Establish procedures for maintaining a record of the  
570 employment history, including background screening as required  
571 by ss. ~~s.~~ 400.953 and 408.809(1) and chapter 435, of all home  
572 medical equipment provider personnel. A home medical equipment  
573 provider must require its personnel to submit an employment  
574 history to the home medical equipment provider and must verify  
575 the employment history for at least the previous 5 years, unless  
576 through diligent efforts such verification is not possible.  
577 There is no monetary liability on the part of, and no cause of  
578 action for damages arising against a former employer, a  
579 prospective employee, or a prospective independent contractor  
580 with a licensed home medical equipment provider, who reasonably

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581 and in good faith communicates his or her honest opinions about  
582 a former employee's job performance. This subsection does not  
583 affect the official immunity of an officer or employee of a  
584 public corporation.

585 Section 13. Section 400.953, Florida Statutes, is amended  
586 to read:

587 400.953 Background screening of home medical equipment  
588 provider personnel.—The agency shall require level 2 background  
589 screening for personnel as required in s. 408.809(1)(e) pursuant  
590 to chapter 435 and s. 408.809 employment screening as provided  
591 in chapter 435, using the level 1 standards for screening set  
592 forth in that chapter, for home medical equipment provider  
593 personnel.

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

596 ~~(2) The general manager of each home medical equipment~~  
597 ~~provider must sign an affidavit annually, under penalty of~~  
598 ~~perjury, stating that all home medical equipment provider~~  
599 ~~personnel hired on or after July 1, 1999, who enter the home of~~  
600 ~~a patient in the capacity of their employment have been screened~~  
601 ~~and that its remaining personnel have worked for the home~~  
602 ~~medical equipment provider continuously since before July 1,~~  
603 ~~1999.~~

604 ~~(3) Proof of compliance with the screening requirements of~~  
605 ~~s. 110.1127, s. 393.0655, s. 394.4572, s. 397.451, s. 402.305,~~  
606 ~~s. 402.313, s. 409.175, s. 464.008, or s. 985.644 or this part~~  
607 ~~must be accepted in lieu of the requirements of this section if~~  
608 ~~the person has been continuously employed in the same type of~~  
609 ~~occupation for which he or she is seeking employment without a~~

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610 ~~breach in service that exceeds 180 days, the proof of compliance~~  
611 ~~is not more than 2 years old, and the person has been screened~~  
612 ~~by the Department of Law Enforcement. An employer or contractor~~  
613 ~~shall directly provide proof of compliance to another employer~~  
614 ~~or contractor, and a potential employer or contractor may not~~  
615 ~~accept any proof of compliance directly from the person~~  
616 ~~requiring screening. Proof of compliance with the screening~~  
617 ~~requirements of this section shall be provided, upon request, to~~  
618 ~~the person screened by the home medical equipment provider.~~

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

628 ~~(5) The costs of processing the statewide correspondence~~  
629 ~~criminal records checks must be borne by the home medical~~  
630 ~~equipment provider or by the person being screened, at the~~  
631 ~~discretion of the home medical equipment provider.~~

632 ~~(6) Neither the agency nor the home medical equipment~~  
633 ~~provider may use the criminal records or juvenile records of a~~  
634 ~~person for any purpose other than determining whether that~~  
635 ~~person meets minimum standards of good moral character for home~~  
636 ~~medical equipment provider personnel.~~

637 ~~(7)(a) It is a misdemeanor of the first degree, punishable~~  
638 ~~as provided in s. 775.082 or s. 775.083, for any person~~

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639 ~~willfully, knowingly, or intentionally to:~~

640 ~~1. Fail, by false statement, misrepresentation,~~  
641 ~~impersonation, or other fraudulent means, to disclose in any~~  
642 ~~application for paid employment a material fact used in making a~~  
643 ~~determination as to the person's qualifications to be an~~  
644 ~~employee under this section;~~

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

648 ~~3. Use information from the criminal records obtained under~~  
649 ~~this section for any purpose other than screening that person~~  
650 ~~for employment as specified in this section, or release such~~  
651 ~~information to any other person for any purpose other than~~  
652 ~~screening for employment under this section.~~

653 ~~(b) It is a felony of the third degree, punishable as~~  
654 ~~provided in s. 775.082, s. 775.083, or s. 775.084, for any~~  
655 ~~person willfully, knowingly, or intentionally to use information~~  
656 ~~from the juvenile records of a person obtained under this~~  
657 ~~section for any purpose other than screening for employment~~  
658 ~~under this section.~~

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

660 Section 15. Section 400.964, Florida Statutes, is amended  
661 to read:

662 400.964 Personnel screening requirement.—

663 ~~(1)~~ The agency shall require level 2 background screening  
664 for personnel as required in s. 408.809(1)(e) pursuant to  
665 chapter 435 and s. 408.809 as provided in chapter 435 for all  
666 employees or prospective employees of facilities licensed under  
667 this part who are expected to be, or whose responsibilities are

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668 ~~such that they would be considered to be, a direct service~~  
669 ~~provider.~~

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

672 ~~(3) Applicants and employees shall be excluded from~~  
673 ~~employment pursuant to s. 435.06.~~

674 ~~(4) The applicant is responsible for paying the fees~~  
675 ~~associated with obtaining the required screening. Payment for~~  
676 ~~the screening must be submitted to the agency as prescribed by~~  
677 ~~the agency.~~

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

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

688 ~~(7) All employees must comply with the requirements of this~~  
689 ~~section by October 1, 2000. A person employed by a facility~~  
690 ~~licensed pursuant to this part as of the effective date of this~~  
691 ~~act is not required to submit to rescreening if the facility has~~  
692 ~~in its possession written evidence that the person has been~~  
693 ~~screened and qualified according to level 1 standards as~~  
694 ~~specified in s. 435.03. Any current employee who meets the level~~  
695 ~~1 requirement but does not meet the 5-year residency requirement~~  
696 ~~must provide to the employing facility written attestation under~~

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697 ~~penalty of perjury that the employee has not been convicted of a~~  
698 ~~disqualifying offense in another state or jurisdiction. All~~  
699 ~~applicants hired on or after October 1, 1999, must comply with~~  
700 ~~the requirements of this section.~~

701 ~~(8) There is no monetary or unemployment liability on the~~  
702 ~~part of, and no cause of action for damages arises against an~~  
703 ~~employer that, upon notice of a disqualifying offense listed~~  
704 ~~under chapter 435 or an act of domestic violence, terminates the~~  
705 ~~employee, whether or not the employee has filed for an exemption~~  
706 ~~with the Department of Health or the Agency for Health Care~~  
707 ~~Administration.~~

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

710 400.980 Health care services pools.—

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

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

719 400.991 License requirements; background screenings;  
720 prohibitions.—

721 ~~(5) Each applicant for licensure shall comply with the~~  
722 ~~following requirements:~~

723 (a) As used in this subsection, the term "applicant" means  
724 individuals owning or controlling, directly or indirectly, 5  
725 percent or more of an interest in a clinic; the medical or

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726 clinic director, or a similarly titled person who is responsible  
727 for the day-to-day operation of the licensed clinic; the  
728 financial officer or similarly titled individual who is  
729 responsible for the financial operation of the clinic; and  
730 licensed health care practitioners at the clinic.

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

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

752 ~~(d) A license may not be granted to a clinic if the~~  
753 ~~applicant has been found guilty of, regardless of adjudication,~~  
754 ~~or has entered a plea of nolo contendere or guilty to, any~~

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755 ~~offense prohibited under the level 2 standards for screening set~~  
756 ~~forth in chapter 435, or a violation of insurance fraud under s.~~  
757 ~~817.234, within the past 5 years. If the applicant has been~~  
758 ~~convicted of an offense prohibited under the level 2 standards~~  
759 ~~or insurance fraud in any jurisdiction, the applicant must show~~  
760 ~~that his or her civil rights have been restored prior to~~  
761 ~~submitting an application.~~

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

764 408.806 License application process.—

765 (1) An application for licensure must be made to the agency  
766 on forms furnished by the agency, submitted under oath, and  
767 accompanied by the appropriate fee in order to be accepted and  
768 considered timely. The application must contain information  
769 required by authorizing statutes and applicable rules and must  
770 include:

771 (h) An affidavit, under penalty of perjury, as required in  
772 s. 435.05(3), stating compliance with the provisions of this  
773 section and chapter 435.

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

776 408.808 License categories.—

777 (2) PROVISIONAL LICENSE. ~~A provisional license may be~~  
778 ~~issued to an applicant pursuant to s. 408.809(3).~~ An applicant  
779 against whom a proceeding denying or revoking a license is  
780 pending at the time of license renewal may be issued a  
781 provisional license effective until final action not subject to  
782 further appeal. A provisional license may also be issued to an  
783 applicant applying for a change of ownership. A provisional

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784 license shall be limited in duration to a specific period of  
785 time, not to exceed 12 months, as determined by the agency.

786 Section 20. Section 408.809, Florida Statutes, is amended  
787 to read:

788 408.809 Background screening; prohibited offenses.—

789 (1) Level 2 background screening pursuant to chapter 435  
790 must be conducted through the agency on each of the following  
791 persons, who shall be considered an employee for the purposes of  
792 conducting screening under chapter 435:

793 (a) The licensee, if an individual.

794 (b) The administrator or a similarly titled person who is  
795 responsible for the day-to-day operation of the provider.

796 (c) The financial officer or similarly titled individual  
797 who is responsible for the financial operation of the licensee  
798 or provider.

799 (d) Any person who is a controlling interest if the agency  
800 has reason to believe that such person has been convicted of any  
801 offense prohibited by s. 435.04. For each controlling interest  
802 who has been convicted of any such offense, the licensee shall  
803 submit to the agency a description and explanation of the  
804 conviction at the time of license application.

805 (e) Any person, as required by authorizing statutes,  
806 seeking employment with a licensee or provider who is expected  
807 to, or whose responsibilities may require him or her to, provide  
808 personal care or services directly to clients or have access to  
809 client funds, personal property, or living areas; and any  
810 person, as required by authorizing statutes, contracting with a  
811 licensee or provider whose responsibilities require him or her  
812 to provide personal care or personal services directly to

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813 clients. Evidence of contractor screening may be retained by the  
814 contractor's employer or the licensee.

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

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842 to operate a continuing care retirement community under chapter  
843 651 satisfies the requirements of this section, provided that  
844 the person subject to screening has not been unemployed for more  
845 than 90 days and such proof is accompanied, under penalty of  
846 perjury, by an affidavit of compliance with the provisions of  
847 chapter 435 and this section using forms provided by the agency.  
848 ~~Proof of compliance with the background screening requirements~~  
849 ~~of the Department of Financial Services submitted within the~~  
850 ~~previous 5 years for an applicant for a certificate of authority~~  
851 ~~to operate a continuing care retirement community under chapter~~  
852 ~~651 satisfies the Department of Law Enforcement and Federal~~  
853 ~~Bureau of Investigation portions of a level 2 background check.~~

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

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871 ~~have been met or upon the granting of an exemption from~~  
872 ~~disqualification by the agency as set forth in chapter 435.~~

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

887 ~~(4)~~<sup>(5)</sup> ~~Effective October 1, 2009,~~ In addition to the  
888 offenses listed in s. ss. 435.03 and 435.04, all persons  
889 required to undergo background screening pursuant to this part  
890 or authorizing statutes must not have an arrest awaiting final  
891 disposition for, must not have been found guilty of, regardless  
892 of adjudication, or entered a plea of nolo contendere or guilty  
893 to, and must not have been adjudicated delinquent and the record  
894 not have been sealed or expunged for any of the following  
895 offenses or any similar offense of another jurisdiction:

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

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

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

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

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

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

905 ~~(g) Section 810.02, relating to burglary.~~

906 (f)~~(h)~~ Section 817.034, relating to fraudulent acts through  
907 mail, wire, radio, electromagnetic, photoelectronic, or  
908 photooptical systems.

909 (g)~~(i)~~ Section 817.234, relating to false and fraudulent  
910 insurance claims.

911 (h)~~(j)~~ Section 817.505, relating to patient brokering.

912 (i)~~(k)~~ Section 817.568, relating to criminal use of  
913 personal identification information.

914 (j)~~(l)~~ Section 817.60, relating to obtaining a credit card  
915 through fraudulent means.

916 (k)~~(m)~~ Section 817.61, relating to fraudulent use of credit  
917 cards, if the offense was a felony.

918 (l)~~(n)~~ Section 831.01, relating to forgery.

919 (m)~~(o)~~ Section 831.02, relating to uttering forged  
920 instruments.

921 (n)~~(p)~~ Section 831.07, relating to forging bank bills,  
922 checks, drafts, or promissory notes.

923 (o)~~(q)~~ Section 831.09, relating to uttering forged bank  
924 bills, checks, drafts, or promissory notes.

925 (p)~~(r)~~ Section 831.30, relating to fraud in obtaining  
926 medicinal drugs.

927 (q)~~(s)~~ Section 831.31, relating to the sale, manufacture,  
928 delivery, or possession with the intent to sell, manufacture, or

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929 deliver any counterfeit controlled substance, if the offense was  
930 a felony.

931

932 A person who serves as a controlling interest of, ~~or~~ is employed  
933 by, or contracts with a licensee on June 30, 2010 ~~September 30,~~  
934 2009, who has been screened and qualified according to standards  
935 specified in s. 435.03 or s. 435.04 must be rescreened by June  
936 30, 2015. The agency may adopt rules pursuant to ss. 120.536(1)  
937 and 120.54 to establish a schedule to stagger the implementation  
938 of the required rescreening over the 5-year period starting June  
939 30, 2010, through June 30, 2015. ~~is not required by law to~~  
940 ~~submit to rescreening if that licensee has in its possession~~  
941 ~~written evidence that the person has been screened and qualified~~  
942 ~~according to the standards specified in s. 435.03 or s. 435.04.~~  
943 ~~However, if such person has a disqualifying offense listed in~~  
944 ~~this section, he or she may apply for an exemption from the~~  
945 ~~appropriate licensing agency before September 30, 2009, and if~~  
946 ~~agreed to by the employer, may continue to perform his or her~~  
947 ~~duties until the licensing agency renders a decision on the~~  
948 ~~application for exemption for offenses listed in this section.~~  
949 ~~Exemptions from disqualification may be granted pursuant to s.~~  
950 ~~435.07.~~

951 (5)(6) The costs associated with obtaining the required  
952 screening must be borne either by the licensee or the person  
953 subject to screening. Licensees may reimburse persons for these  
954 costs. The Department of Law Enforcement shall charge the agency  
955 for screening pursuant to s. 943.053(3). The agency shall  
956 establish a schedule of fees to cover the costs of screening ~~The~~  
957 ~~attestations required under ss. 435.04(5) and 435.05(3) must be~~

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958 ~~submitted at the time of license renewal, notwithstanding the~~  
959 ~~provisions of ss. 435.04(5) and 435.05(3) which require annual~~  
960 ~~submission of an affidavit of compliance with background~~  
961 ~~screening requirements.~~

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

968 (b) As provided in chapter 435, the appropriate regulatory  
969 board within the Department of Health, or the department itself  
970 when there is no board, may grant an exemption from  
971 disqualification to a person who is subject to this section and  
972 who has received a professional license or certification from  
973 the Department of Health or a regulatory board within that  
974 department and that person is providing a service within the  
975 scope of his or her licensed or certified practice.

976 (7) The agency and the Department of Health may adopt rules  
977 pursuant to ss. 120.536(1) and 120.54 to implement this section,  
978 chapter 435, and authorizing statutes requiring background  
979 screening and to implement and adopt criteria relating to  
980 retaining fingerprints pursuant to s. 943.05(2).

981 (8) There is no unemployment compensation or other monetary  
982 liability on the part of, and no cause of action for damages  
983 arising against, an employer that, upon notice of a  
984 disqualifying offense listed under chapter 435 or this section,  
985 terminates the person against whom the report was issued,  
986 whether or not that person has filed for an exemption with the

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987 Department of Health or the agency.

988 Section 21. Paragraph (k) of subsection (2) of section  
989 409.175, Florida Statutes, is amended, present paragraphs (b)  
990 and (c) of subsection (5) of that section are redesignated as  
991 paragraphs (c) and (d), respectively, and a new paragraph (b) is  
992 added to that section, to read:

993 409.175 Licensure of family foster homes, residential  
994 child-caring agencies, and child-placing agencies; public  
995 records exemption.—

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

997 (k) "Screening" means the act of assessing the background  
998 of personnel and includes, but is not limited to, employment  
999 history checks as provided in chapter 435, using the level 2  
1000 standards for screening set forth in that chapter. Screening for  
1001 employees and volunteers in summer day camps and summer 24-hour  
1002 camps and screening for all volunteers included under the  
1003 definition of "personnel" shall be conducted as provided in  
1004 chapter 435, using the level 2 ~~level 1~~ standards set forth in  
1005 that chapter.

1006 (5)

1007 (b) The department shall require all foster parent  
1008 applicants and current foster parents to be drug tested pursuant  
1009 to the procedures and requirements of s. 112.0455, the Drug-Free  
1010 Workplace Act. The department may adopt rules, policies, and  
1011 procedures necessary to administer this paragraph.

1012 Section 22. Paragraph (i) of subsection (4) of section  
1013 409.221, Florida Statutes, is amended to read:

1014 409.221 Consumer-directed care program.—

1015 (4) CONSUMER-DIRECTED CARE.—

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1016 (i) *Background screening requirements.*—All persons who  
 1017 render care under this section must undergo level 2 background  
 1018 screening pursuant to chapter 435 ~~shall comply with the~~  
 1019 ~~requirements of s. 435.05. Persons shall be excluded from~~  
 1020 ~~employment pursuant to s. 435.06.~~

1021 ~~1. Persons excluded from employment may request an~~  
 1022 ~~exemption from disqualification, as provided in s. 435.07.~~  
 1023 ~~Persons not subject to certification or professional licensure~~  
 1024 ~~may request an exemption from the agency. In considering a~~  
 1025 ~~request for an exemption, the agency shall comply with the~~  
 1026 ~~provisions of s. 435.07.~~

1027 ~~2.~~ The agency shall, as allowable, reimburse consumer-  
 1028 employed caregivers for the cost of conducting background  
 1029 screening as required by this section.

1030  
 1031 For purposes of this section, a person who has undergone  
 1032 screening, who is qualified for employment under this section  
 1033 and applicable rule, and who has not been unemployed for more  
 1034 than 90 ~~180~~ days following such screening is not required to be  
 1035 rescreened. Such person must attest under penalty of perjury to  
 1036 not having been convicted of a disqualifying offense since  
 1037 completing such screening.

1038 Section 23. Subsection (8) of section 409.907, Florida  
 1039 Statutes, is amended to read:

1040 409.907 Medicaid provider agreements.—The agency may make  
 1041 payments for medical assistance and related services rendered to  
 1042 Medicaid recipients only to an individual or entity who has a  
 1043 provider agreement in effect with the agency, who is performing  
 1044 services or supplying goods in accordance with federal, state,

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1045 and local law, and who agrees that no person shall, on the  
1046 grounds of handicap, race, color, or national origin, or for any  
1047 other reason, be subjected to discrimination under any program  
1048 or activity for which the provider receives payment from the  
1049 agency.

1050 (8) (a) Each provider, or each principal of the provider if  
1051 the provider is a corporation, partnership, association, or  
1052 other entity, seeking to participate in the Medicaid program  
1053 must submit a complete set of his or her fingerprints to the  
1054 agency for the purpose of conducting a criminal history record  
1055 check. Principals of the provider include any officer, director,  
1056 billing agent, managing employee, or affiliated person, or any  
1057 partner or shareholder who has an ownership interest equal to 5  
1058 percent or more in the provider. However, a director of a not-  
1059 for-profit corporation or organization is not a principal for  
1060 purposes of a background investigation as required by this  
1061 section if the director: serves solely in a voluntary capacity  
1062 for the corporation or organization, does not regularly take  
1063 part in the day-to-day operational decisions of the corporation  
1064 or organization, receives no remuneration from the not-for-  
1065 profit corporation or organization for his or her service on the  
1066 board of directors, has no financial interest in the not-for-  
1067 profit corporation or organization, and has no family members  
1068 with a financial interest in the not-for-profit corporation or  
1069 organization; and if the director submits an affidavit, under  
1070 penalty of perjury, to this effect to the agency and the not-  
1071 for-profit corporation or organization submits an affidavit,  
1072 under penalty of perjury, to this effect to the agency as part  
1073 of the corporation's or organization's Medicaid provider

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1074 agreement application. Notwithstanding the above, the agency may  
1075 require a background check for any person reasonably suspected  
1076 by the agency to have been convicted of a crime. This subsection  
1077 shall not apply to:

- 1078 1. A hospital licensed under chapter 395;
- 1079 2. A nursing home licensed under chapter 400;
- 1080 3. A hospice licensed under chapter 400;
- 1081 4. An assisted living facility licensed under chapter 429;
- 1082 5. A unit of local government, except that requirements of  
1083 this subsection apply to nongovernmental providers and entities  
1084 when contracting with the local government to provide Medicaid  
1085 services. The actual cost of the state and national criminal  
1086 history record checks must be borne by the nongovernmental  
1087 provider or entity; or

- 1088 6. Any business that derives more than 50 percent of its  
1089 revenue from the sale of goods to the final consumer, and the  
1090 business or its controlling parent either is required to file a  
1091 form 10-K or other similar statement with the Securities and  
1092 Exchange Commission or has a net worth of \$50 million or more.

1093 (b) Background screening shall be conducted in accordance  
1094 with chapter 435 and s. 408.809. ~~The agency shall submit the~~  
1095 ~~fingerprints to the Department of Law Enforcement. The~~  
1096 ~~department shall conduct a state criminal background~~  
1097 ~~investigation and forward the fingerprints to the Federal Bureau~~  
1098 ~~of Investigation for a national criminal history record check.~~  
1099 The cost of the state and national criminal record check shall  
1100 be borne by the provider.

1101 (c) ~~The agency may permit a provider to participate in the~~  
1102 ~~Medicaid program pending the results of the criminal record~~

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1103 ~~check. However, such permission is fully revocable if the record~~  
1104 ~~check reveals any crime-related history as provided in~~  
1105 ~~subsection (10).~~

1106 (c)~~(d)~~ Proof of compliance with the requirements of level 2  
1107 screening under chapter 435 s. 435.04 conducted within 12 months  
1108 prior to the date that the Medicaid provider application is  
1109 submitted to the agency shall fulfill the requirements of this  
1110 subsection. ~~Proof of compliance with the requirements of level 1~~  
1111 ~~screening under s. 435.03 conducted within 12 months prior to~~  
1112 ~~the date that the Medicaid provider application is submitted to~~  
1113 ~~the agency shall meet the requirement that the Department of Law~~  
1114 ~~Enforcement conduct a state criminal history record check.~~

1115 Section 24. Subsection (1) of section 429.14, Florida  
1116 Statutes, is amended to read:

1117 429.14 Administrative penalties.-

1118 (1) In addition to the requirements of part II of chapter  
1119 408, the agency may deny, revoke, and suspend any license issued  
1120 under this part and impose an administrative fine in the manner  
1121 provided in chapter 120 against a licensee ~~of an assisted living~~  
1122 ~~facility~~ for a violation of any provision of this part, part II  
1123 of chapter 408, or applicable rules, or for any of the following  
1124 actions by a licensee ~~of an assisted living facility~~, for the  
1125 actions of any person subject to level 2 background screening  
1126 under s. 408.809, or for the actions of any facility employee:

1127 (a) An intentional or negligent act seriously affecting the  
1128 health, safety, or welfare of a resident of the facility.

1129 (b) The determination by the agency that the owner lacks  
1130 the financial ability to provide continuing adequate care to  
1131 residents.

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1132 (c) Misappropriation or conversion of the property of a  
1133 resident of the facility.

1134 (d) Failure to follow the criteria and procedures provided  
1135 under part I of chapter 394 relating to the transportation,  
1136 voluntary admission, and involuntary examination of a facility  
1137 resident.

1138 (e) A citation of any of the following deficiencies as  
1139 specified in s. 429.19:

1140 1. One or more cited class I deficiencies.

1141 2. Three or more cited class II deficiencies.

1142 3. Five or more cited class III deficiencies that have been  
1143 cited on a single survey and have not been corrected within the  
1144 times specified.

1145 (f) Failure to comply with the ~~A determination that a~~  
1146 ~~person subject to level 2 background screening under s. 408.809~~  
1147 ~~does not meet the screening standards of this part, s.~~  
1148 408.809(1), chapter 435 s. 435.04 ~~or that the facility is~~  
1149 ~~retaining an employee subject to level 1 background screening~~  
1150 ~~standards under s. 429.174 who does not meet the screening~~  
1151 ~~standards of s. 435.03 and for whom exemptions from~~  
1152 ~~disqualification have not been provided by the agency.~~

1153 (g) ~~A determination that an employee, volunteer,~~  
1154 ~~administrator, or owner, or person who otherwise has access to~~  
1155 ~~the residents of a facility does not meet the criteria specified~~  
1156 ~~in s. 435.03(2), and the owner or administrator has not taken~~  
1157 ~~action to remove the person. Exemptions from disqualification~~  
1158 ~~may be granted as set forth in s. 435.07. No administrative~~  
1159 ~~action may be taken against the facility if the person is~~  
1160 ~~granted an exemption.~~

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1161        (g)~~(h)~~ Violation of a moratorium.

1162        (h)~~(i)~~ Failure of the license applicant, the licensee  
1163 during relicensure, or a licensee that holds a provisional  
1164 license to meet the minimum license requirements of this part,  
1165 or related rules, at the time of license application or renewal.

1166        (i)~~(j)~~ An intentional or negligent life-threatening act in  
1167 violation of the uniform firesafety standards for assisted  
1168 living facilities or other firesafety standards that threatens  
1169 the health, safety, or welfare of a resident of a facility, as  
1170 communicated to the agency by the local authority having  
1171 jurisdiction or the State Fire Marshal.

1172        (j)~~(k)~~ Knowingly operating any unlicensed facility or  
1173 providing without a license any service that must be licensed  
1174 under this chapter or chapter 400.

1175        (k)~~(l)~~ Any act constituting a ground upon which application  
1176 for a license may be denied.

1177        Section 25. Section 429.174, Florida Statutes, is amended  
1178 to read:

1179        429.174 Background screening; ~~exemptions.~~The agency shall  
1180 require level 2 background screening for personnel as required  
1181 in s. 408.809(1)(e) pursuant to chapter 435 and s. 408.809. The  
1182 owner or administrator of an assisted living facility must  
1183 conduct level 1 background screening, as set forth in chapter  
1184 435, on all employees hired on or after October 1, 1998, who  
1185 perform personal services as defined in s. 429.02(16). The  
1186 agency may exempt an individual from employment disqualification  
1187 as set forth in chapter 435. Such persons shall be considered as  
1188 having met this requirement if:

1189        ~~(1) Proof of compliance with level 1 screening requirements~~

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1190 ~~obtained to meet any professional license requirements in this~~  
1191 ~~state is provided and accompanied, under penalty of perjury, by~~  
1192 ~~a copy of the person's current professional license and an~~  
1193 ~~affidavit of current compliance with the background screening~~  
1194 ~~requirements.~~

1195 ~~(2) The person required to be screened has been~~  
1196 ~~continuously employed in the same type of occupation for which~~  
1197 ~~the person is seeking employment without a breach in service~~  
1198 ~~which exceeds 180 days, and proof of compliance with the level 1~~  
1199 ~~screening requirement which is no more than 2 years old is~~  
1200 ~~provided. Proof of compliance shall be provided directly from~~  
1201 ~~one employer or contractor to another, and not from the person~~  
1202 ~~screened. Upon request, a copy of screening results shall be~~  
1203 ~~provided by the employer retaining documentation of the~~  
1204 ~~screening to the person screened.~~

1205 ~~(3) The person required to be screened is employed by a~~  
1206 ~~corporation or business entity or related corporation or~~  
1207 ~~business entity that owns, operates, or manages more than one~~  
1208 ~~facility or agency licensed under this chapter, and for whom a~~  
1209 ~~level 1 screening was conducted by the corporation or business~~  
1210 ~~entity as a condition of initial or continued employment.~~

1211 Section 26. Subsection (4) of section 429.67, Florida  
1212 Statutes, is amended to read:

1213 429.67 Licensure.—

1214 (4) ~~Upon receipt of a completed license application or~~  
1215 ~~license renewal, and the fee, The agency shall require level 2~~  
1216 ~~initiate a level 1 background screening for personnel as~~  
1217 ~~required in s. 408.809(1)(e), including as provided under~~  
1218 ~~chapter 435 on the adult family-care home provider, the~~

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1219 designated relief person, and all adult household members,  
1220 pursuant to chapter 435 and s. 408.809, ~~and all staff members.~~

1221 ~~(a) Proof of compliance with level 1 screening standards~~  
1222 ~~which has been submitted within the previous 5 years to meet any~~  
1223 ~~facility or professional licensure requirements of the agency or~~  
1224 ~~the Department of Health satisfies the requirements of this~~  
1225 ~~subsection. Such proof must be accompanied, under penalty of~~  
1226 ~~perjury, by a copy of the person's current professional license~~  
1227 ~~and an affidavit of current compliance with the background~~  
1228 ~~screening requirements.~~

1229 ~~(b) The person required to be screened must have been~~  
1230 ~~continuously employed in the same type of occupation for which~~  
1231 ~~the person is seeking employment without a breach in service~~  
1232 ~~that exceeds 180 days, and proof of compliance with the level 1~~  
1233 ~~screening requirement which is no more than 2 years old must be~~  
1234 ~~provided. Proof of compliance shall be provided directly from~~  
1235 ~~one employer or contractor to another, and not from the person~~  
1236 ~~screened. Upon request, a copy of screening results shall be~~  
1237 ~~provided to the person screened by the employer retaining~~  
1238 ~~documentation of the screening.~~

1239 Section 27. Section 429.69, Florida Statutes, is amended to  
1240 read:

1241 429.69 Denial, revocation, and suspension of a license.—In  
1242 addition to the requirements of part II of chapter 408, the  
1243 agency may deny, suspend, and revoke a license for any of the  
1244 following reasons:

1245 (1) Failure to comply with the ~~of any of the persons~~  
1246 ~~required to undergo~~ background screening standards of this part,  
1247 s. 408.809(1), or chapter 435 ~~under s. 429.67 to meet the level~~

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1248 ~~1 screening standards of s. 435.03, unless an exemption from~~  
1249 ~~disqualification has been provided by the agency.~~

1250 (2) Failure to correct cited fire code violations that  
1251 threaten the health, safety, or welfare of residents.

1252 Section 28. Paragraph (c) of subsection (2) of section  
1253 429.911, Florida Statutes, is amended to read:

1254 429.911 Denial, suspension, revocation of license;  
1255 emergency action; administrative fines; investigations and  
1256 inspections.—

1257 (2) Each of the following actions by the owner of an adult  
1258 day care center or by its operator or employee is a ground for  
1259 action by the agency against the owner of the center or its  
1260 operator or employee:

1261 (c) ~~A Failure to comply with the~~ of persons subject to  
1262 level 2 background screening standards of this part, s.  
1263 408.809(1), or chapter 435 under s. 408.809 to meet the  
1264 screening standards of s. 435.04, or the retention by the center  
1265 of an employee subject to level 1 background screening standards  
1266 under s. 429.174 who does not meet the screening standards of s.  
1267 435.03 and for whom exemptions from disqualification have not  
1268 been provided by the agency.

1269 Section 29. Section 429.919, Florida Statutes, is amended  
1270 to read:

1271 429.919 Background screening.—The agency shall require  
1272 level 2 background screening for personnel as required in s.  
1273 408.809(1) (e) pursuant to chapter 435 and s. 408.809. The owner  
1274 or administrator of an adult day care center must conduct level  
1275 1 background screening as set forth in chapter 435 on all  
1276 employees hired on or after October 1, 1998, who provide basic

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1277 ~~services or supportive and optional services to the~~  
1278 ~~participants. Such persons satisfy this requirement if:~~

1279 ~~(1) Proof of compliance with level 1 screening requirements~~  
1280 ~~obtained to meet any professional license requirements in this~~  
1281 ~~state is provided and accompanied, under penalty of perjury, by~~  
1282 ~~a copy of the person's current professional license and an~~  
1283 ~~affidavit of current compliance with the background screening~~  
1284 ~~requirements.~~

1285 ~~(2) The person required to be screened has been~~  
1286 ~~continuously employed, without a breach in service that exceeds~~  
1287 ~~180 days, in the same type of occupation for which the person is~~  
1288 ~~seeking employment and provides proof of compliance with the~~  
1289 ~~level 1 screening requirement which is no more than 2 years old.~~  
1290 ~~Proof of compliance must be provided directly from one employer~~  
1291 ~~or contractor to another, and not from the person screened. Upon~~  
1292 ~~request, a copy of screening results shall be provided to the~~  
1293 ~~person screened by the employer retaining documentation of the~~  
1294 ~~screening.~~

1295 ~~(3) The person required to be screened is employed by a~~  
1296 ~~corporation or business entity or related corporation or~~  
1297 ~~business entity that owns, operates, or manages more than one~~  
1298 ~~facility or agency licensed under chapter 400 or this chapter,~~  
1299 ~~and for whom a level 1 screening was conducted by the~~  
1300 ~~corporation or business entity as a condition of initial or~~  
1301 ~~continued employment.~~

1302 Section 30. Section 430.60, Florida Statutes, is created to  
1303 read:

1304 430.60 Screening of direct service providers.—

1305 (1) (a) Level 2 background screening pursuant to chapter 435

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1306 is required for direct service providers. Background screening  
1307 shall include employment history checks as provided in s.  
1308 435.03(1) and local criminal records checks through local law  
1309 enforcement agencies.

1310 (b) For purposes of this section, the term "direct service  
1311 provider" means a person 18 years of age or older who is  
1312 unrelated to his or her clients and who has direct, face-to-face  
1313 contact with a client while providing services to the client and  
1314 has access to the client's living areas or to the client's funds  
1315 or personal property. The term includes coordinators, managers,  
1316 and supervisors of residential facilities and volunteers.

1317 (2) Licensed physicians, nurses, or other professionals  
1318 licensed by the Department of Health are not subject to  
1319 background screening pursuant to this section if they are  
1320 providing a service that is within the scope of their licensed  
1321 practice.

1322 (3) Refusal on the part of an employer to dismiss a  
1323 manager, supervisor, or direct service provider who has been  
1324 found to be in noncompliance with standards of this section  
1325 shall result in the automatic denial, termination, or revocation  
1326 of the license or certification, rate agreement, purchase order,  
1327 or contract, in addition to any other remedies authorized by  
1328 law.

1329 (4) The background screening conducted pursuant to this  
1330 section must ensure that, in addition to the disqualifying  
1331 offenses listed in s. 435.04, no person subject to the  
1332 provisions of this section has an arrest awaiting final  
1333 disposition for, has been found guilty of, regardless of  
1334 adjudication, or entered a plea of nolo contendere or guilty to,

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1335 or has been adjudicated delinquent and the record has not been  
1336 sealed or expunged for, any offense prohibited under any of the  
1337 following provisions of the Florida Statutes or under any  
1338 similar statute of another jurisdiction:

1339 (a) Any authorizing statutes, if the offense was a felony.

1340 (b) Section 409.920, relating to Medicaid provider fraud.

1341 (c) Section 409.9201, relating to Medicaid fraud.

1342 (d) Section 817.034, relating to fraudulent acts through  
1343 mail, wire, radio, electromagnetic, photoelectronic, or  
1344 photooptical systems.

1345 (e) Section 817.234, relating to false and fraudulent  
1346 insurance claims.

1347 (f) Section 817.505, relating to patient brokering.

1348 (g) Section 817.568, relating to criminal use of personal  
1349 identification information.

1350 (h) Section 817.60, relating to obtaining a credit card  
1351 through fraudulent means.

1352 (i) Section 817.61, relating to fraudulent use of credit  
1353 cards, if the offense was a felony.

1354 (j) Section 831.01, relating to forgery.

1355 (k) Section 831.02, relating to uttering forged  
1356 instruments.

1357 (l) Section 831.07, relating to forging bank bills, checks,  
1358 drafts, or promissory notes.

1359 (m) Section 831.09, relating to uttering forged bank bills,  
1360 checks, drafts, or promissory notes.

1361 Section 31. Section 435.01, Florida Statutes, is amended to  
1362 read:

1363 435.01 Applicability of this chapter; statutory references;

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1364 rulemaking.—

1365 (1) (a) Unless otherwise provided by law, whenever a  
1366 background screening for employment or a background security  
1367 check is required by law to be conducted pursuant to this  
1368 chapter for employment, ~~unless otherwise provided by law,~~ the  
1369 provisions of this chapter shall apply.

1370 (b) Unless expressly provided otherwise, a reference in any  
1371 section of the Florida Statutes to chapter 435 or to any section  
1372 or sections or portion of a section of chapter 435 includes, and  
1373 shall be understood as including, all subsequent amendments to  
1374 chapter 435 or to the referenced section or sections or portions  
1375 of a section. The purpose of this chapter is to facilitate  
1376 uniform background screening and, to this end, a reference to  
1377 this chapter, or to any section or subdivision within this  
1378 chapter, constitutes a general reference under the doctrine of  
1379 incorporation by reference.

1380 (2) Agencies may adopt rules pursuant to ss. 120.536(1) and  
1381 120.54 necessary to implement the provisions of this chapter.

1382 Section 32. Section 435.02, Florida Statutes, is reordered  
1383 and amended to read:

1384 435.02 Definitions.—For the purposes of this chapter, the  
1385 term:

1386 (2) (1) "Employee" means any person required by law to be  
1387 screened pursuant to the provisions of this chapter.

1388 (3) (2) "Employer" means any person or entity required by  
1389 law to conduct screening of employees pursuant to this chapter.

1390 (1) (3) "Licensing Agency" means any state, ~~or~~ county, or  
1391 municipal agency that ~~which~~ grants licenses or registration  
1392 permitting the operation of an employer or is itself an employer

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1393 or that otherwise facilitates the screening of employees  
1394 pursuant to this chapter. When there is no state ~~licensing~~  
1395 agency or the municipal or county ~~licensing~~ agency chooses not  
1396 to conduct employment screening, "licensing agency" means the  
1397 Department of Children and Family Services.

1398 (4) "Employment" means any activity or service sought to be  
1399 performed by an employee that requires the employee to be  
1400 subject to screening pursuant to this chapter.

1401 (5) "Vulnerable person" means a minor or a vulnerable adult  
1402 as defined in s. 415.102.

1403 Section 33. Section 435.03, Florida Statutes, is amended to  
1404 read:

1405 435.03 Level 1 screening standards.—

1406 (1) All employees required by law to be screened pursuant  
1407 to this section must ~~shall be required to~~ undergo background  
1408 screening as a condition of employment and continued employment  
1409 which includes. ~~For the purposes of this subsection, level 1~~  
1410 ~~screenings shall include,~~ but need not be limited to, employment  
1411 history checks and statewide criminal correspondence checks  
1412 through the ~~Florida~~ Department of Law Enforcement, a check of  
1413 the Dru Sjodin National Sex Offender Registry, and may include  
1414 local criminal records checks through local law enforcement  
1415 agencies.

1416 (2) Any person required by law to be screened pursuant to  
1417 this section must not have an arrest awaiting final disposition,  
1418 ~~for whom employment screening is required by statute~~ must not  
1419 have been found guilty of, regardless of adjudication, or  
1420 entered a plea of nolo contendere or guilty to, and must not  
1421 have been adjudicated delinquent and the record has not been

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1422 sealed or expunged for, any offense prohibited under any  
1423 provision of s. 435.04(2) ~~of the following provisions of the~~  
1424 ~~Florida Statutes~~ or under any similar statute of another  
1425 jurisdiction.

1426 ~~(a) Section 393.135, relating to sexual misconduct with~~  
1427 ~~certain developmentally disabled clients and reporting of such~~  
1428 ~~sexual misconduct.~~

1429 ~~(b) Section 394.4593, relating to sexual misconduct with~~  
1430 ~~certain mental health patients and reporting of such sexual~~  
1431 ~~misconduct.~~

1432 ~~(c) Section 415.111, relating to abuse, neglect, or~~  
1433 ~~exploitation of a vulnerable adult.~~

1434 ~~(d) Section 782.04, relating to murder.~~

1435 ~~(e) Section 782.07, relating to manslaughter, aggravated~~  
1436 ~~manslaughter of an elderly person or disabled adult, or~~  
1437 ~~aggravated manslaughter of a child.~~

1438 ~~(f) Section 782.071, relating to vehicular homicide.~~

1439 ~~(g) Section 782.09, relating to killing of an unborn quick~~  
1440 ~~child by injury to the mother.~~

1441 ~~(h) Section 784.011, relating to assault, if the victim of~~  
1442 ~~the offense was a minor.~~

1443 ~~(i) Section 784.021, relating to aggravated assault.~~

1444 ~~(j) Section 784.03, relating to battery, if the victim of~~  
1445 ~~the offense was a minor.~~

1446 ~~(k) Section 784.045, relating to aggravated battery.~~

1447 ~~(l) Section 787.01, relating to kidnapping.~~

1448 ~~(m) Section 787.02, relating to false imprisonment.~~

1449 ~~(n) Section 794.011, relating to sexual battery.~~

1450 ~~(o) Former s. 794.041, relating to prohibited acts of~~

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1451 ~~persons in familial or custodial authority.~~  
1452 ~~(p) Chapter 796, relating to prostitution.~~  
1453 ~~(q) Section 798.02, relating to lewd and lascivious~~  
1454 ~~behavior.~~  
1455 ~~(r) Chapter 800, relating to lewdness and indecent~~  
1456 ~~exposure.~~  
1457 ~~(s) Section 806.01, relating to arson.~~  
1458 ~~(t) Chapter 812, relating to theft, robbery, and related~~  
1459 ~~crimes, if the offense was a felony.~~  
1460 ~~(u) Section 817.563, relating to fraudulent sale of~~  
1461 ~~controlled substances, only if the offense was a felony.~~  
1462 ~~(v) Section 825.102, relating to abuse, aggravated abuse,~~  
1463 ~~or neglect of an elderly person or disabled adult.~~  
1464 ~~(w) Section 825.1025, relating to lewd or lascivious~~  
1465 ~~offenses committed upon or in the presence of an elderly person~~  
1466 ~~or disabled adult.~~  
1467 ~~(x) Section 825.103, relating to exploitation of an elderly~~  
1468 ~~person or disabled adult, if the offense was a felony.~~  
1469 ~~(y) Section 826.04, relating to incest.~~  
1470 ~~(z) Section 827.03, relating to child abuse, aggravated~~  
1471 ~~child abuse, or neglect of a child.~~  
1472 ~~(aa) Section 827.04, relating to contributing to the~~  
1473 ~~delinquency or dependency of a child.~~  
1474 ~~(bb) Former s. 827.05, relating to negligent treatment of~~  
1475 ~~children.~~  
1476 ~~(cc) Section 827.071, relating to sexual performance by a~~  
1477 ~~child.~~  
1478 ~~(dd) Chapter 847, relating to obscene literature.~~  
1479 ~~(ee) Chapter 893, relating to drug abuse prevention and~~

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1480 ~~control, only if the offense was a felony or if any other person~~  
1481 ~~involved in the offense was a minor.~~

1482 ~~(ff) Section 916.1075, relating to sexual misconduct with~~  
1483 ~~certain forensic clients and reporting of such sexual~~  
1484 ~~misconduct.~~

1485 (3) The security background investigations under this  
1486 section must ensure that no person subject to the provisions of  
1487 this section has been found guilty of, regardless of  
1488 adjudication, or entered a plea of nolo contendere or guilty to,  
1489 any offense that constitutes domestic violence as defined in s.  
1490 741.28, whether such act was committed in this state or in  
1491 another jurisdiction. Standards must also ensure that the  
1492 person:

1493 ~~(a) For employees and employers licensed or registered~~  
1494 ~~pursuant to chapter 400 or chapter 429, and for employees and~~  
1495 ~~employers of developmental disabilities centers as defined in s.~~  
1496 ~~393.063, intermediate care facilities for the developmentally~~  
1497 ~~disabled as defined in s. 400.960, and mental health treatment~~  
1498 ~~facilities as defined in s. 394.455, meets the requirements of~~  
1499 ~~this chapter.~~

1500 ~~(b) Has not committed an act that constitutes domestic~~  
1501 ~~violence as defined in s. 741.28.~~

1502 Section 34. Section 435.04, Florida Statutes, is amended to  
1503 read:

1504 435.04 Level 2 screening standards.—

1505 (1)(a) All employees required by law to be screened  
1506 pursuant to this section must in positions designated by law as  
1507 positions of trust or responsibility shall be required to  
1508 undergo security background investigations as a condition of

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1509 employment and continued employment which includes. ~~For the~~  
1510 ~~purposes of this subsection, security background investigations~~  
1511 ~~shall include,~~ but need not be limited to, fingerprinting for  
1512 statewide criminal history records ~~all purposes and checks in~~  
1513 ~~this subsection, statewide criminal and juvenile records checks~~  
1514 through the ~~Florida~~ Department of Law Enforcement, and national  
1515 ~~federal~~ criminal history records checks through the Federal  
1516 Bureau of Investigation, and may include local criminal records  
1517 checks through local law enforcement agencies.

1518 (b) Fingerprints submitted pursuant to this section on or  
1519 after July 1, 2012, must be submitted electronically to the  
1520 Department of Law Enforcement.

1521 (c) An agency may contract with one or more vendors to  
1522 perform all or part of the electronic fingerprinting pursuant to  
1523 this section. Such contracts must ensure that the owners and  
1524 personnel of the vendor performing the electronic fingerprinting  
1525 are qualified and will ensure the integrity and security of all  
1526 personal information.

1527 (d) An agency may require by rule adopted pursuant to  
1528 chapter 120 that fingerprints submitted pursuant to this section  
1529 must be submitted electronically to the Department of Law  
1530 Enforcement on a date earlier than July 1, 2012.

1531 (2) The security background investigations under this  
1532 section must ensure that no persons subject to the provisions of  
1533 this section have been arrested for and are awaiting final  
1534 disposition of, have been found guilty of, regardless of  
1535 adjudication, or entered a plea of nolo contendere or guilty to,  
1536 or have been adjudicated delinquent and the record has not been  
1537 sealed or expunged for, any offense prohibited under any of the

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1538 following provisions of the Florida Statutes or under any  
1539 similar statute of another jurisdiction:

1540 (a) Section 393.135, relating to sexual misconduct with  
1541 certain developmentally disabled clients and reporting of such  
1542 sexual misconduct.

1543 (b) Section 394.4593, relating to sexual misconduct with  
1544 certain mental health patients and reporting of such sexual  
1545 misconduct.

1546 (c) Section 415.111, relating to adult abuse, neglect, or  
1547 exploitation of aged persons or disabled adults.

1548 (d) Section 782.04, relating to murder.

1549 (e) Section 782.07, relating to manslaughter, aggravated  
1550 manslaughter of an elderly person or disabled adult, or  
1551 aggravated manslaughter of a child.

1552 (f) Section 782.071, relating to vehicular homicide.

1553 (g) Section 782.09, relating to killing of an unborn quick  
1554 child by injury to the mother.

1555 (h) Chapter 784, relating to assault, battery, and culpable  
1556 negligence, if the offense was a felony.

1557 (i)~~(h)~~ Section 784.011, relating to assault, if the victim  
1558 of the offense was a minor.

1559 ~~(i) Section 784.021, relating to aggravated assault.~~

1560 (j) Section 784.03, relating to battery, if the victim of  
1561 the offense was a minor.

1562 ~~(k) Section 784.045, relating to aggravated battery.~~

1563 ~~(l) Section 784.075, relating to battery on a detention or~~  
1564 ~~commitment facility staff.~~

1565 (k)~~(m)~~ Section 787.01, relating to kidnapping.

1566 (l)~~(n)~~ Section 787.02, relating to false imprisonment.

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1567 (m) Section 787.025, relating to luring or enticing a  
1568 child.

1569 (n)~~(e)~~ Section 787.04(2), relating to taking, enticing, or  
1570 removing a child beyond the state limits with criminal intent  
1571 pending custody proceedings.

1572 (o)~~(p)~~ Section 787.04(3), relating to carrying a child  
1573 beyond the state lines with criminal intent to avoid producing a  
1574 child at a custody hearing or delivering the child to the  
1575 designated person.

1576 (p)~~(q)~~ Section 790.115(1), relating to exhibiting firearms  
1577 or weapons within 1,000 feet of a school.

1578 (q)~~(r)~~ Section 790.115(2) (b), relating to possessing an  
1579 electric weapon or device, destructive device, or other weapon  
1580 on school property.

1581 (r)~~(s)~~ Section 794.011, relating to sexual battery.

1582 (s)~~(t)~~ Former s. 794.041, relating to prohibited acts of  
1583 persons in familial or custodial authority.

1584 (t) Section 794.05, relating to unlawful sexual activity  
1585 with certain minors.

1586 (u) Chapter 796, relating to prostitution.

1587 (v) Section 798.02, relating to lewd and lascivious  
1588 behavior.

1589 (w) Chapter 800, relating to lewdness and indecent  
1590 exposure.

1591 (x) Section 806.01, relating to arson.

1592 (y) Section 810.02, relating to burglary.

1593 (z) Section 810.14, relating to voyeurism, if the offense  
1594 is a felony.

1595 (aa) Section 810.145, relating to video voyeurism, if the

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1596 offense is a felony.

1597 (bb)~~(y)~~ Chapter 812, relating to theft, robbery, and  
1598 related crimes, if the offense is a felony.

1599 (cc)~~(z)~~ Section 817.563, relating to fraudulent sale of  
1600 controlled substances, only if the offense was a felony.

1601 (dd)~~(aa)~~ Section 825.102, relating to abuse, aggravated  
1602 abuse, or neglect of an elderly person or disabled adult.

1603 (ee)~~(bb)~~ Section 825.1025, relating to lewd or lascivious  
1604 offenses committed upon or in the presence of an elderly person  
1605 or disabled adult.

1606 (ff)~~(ee)~~ Section 825.103, relating to exploitation of an  
1607 elderly person or disabled adult, if the offense was a felony.

1608 (gg)~~(dd)~~ Section 826.04, relating to incest.

1609 (hh)~~(ee)~~ Section 827.03, relating to child abuse,  
1610 aggravated child abuse, or neglect of a child.

1611 (ii)~~(ff)~~ Section 827.04, relating to contributing to the  
1612 delinquency or dependency of a child.

1613 (jj)~~(gg)~~ Former s. 827.05, relating to negligent treatment  
1614 of children.

1615 (kk)~~(hh)~~ Section 827.071, relating to sexual performance by  
1616 a child.

1617 (ll)~~(ii)~~ Section 843.01, relating to resisting arrest with  
1618 violence.

1619 (mm)~~(jj)~~ Section 843.025, relating to depriving a law  
1620 enforcement, correctional, or correctional probation officer  
1621 means of protection or communication.

1622 (nn)~~(kk)~~ Section 843.12, relating to aiding in an escape.

1623 (oo)~~(ll)~~ Section 843.13, relating to aiding in the escape  
1624 of juvenile inmates in correctional institutions.

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1625        (pp)~~(mm)~~ Chapter 847, relating to obscene literature.

1626        (qq)~~(nn)~~ Section 874.05(1), relating to encouraging or

1627 recruiting another to join a criminal gang.

1628        (rr)~~(oo)~~ Chapter 893, relating to drug abuse prevention and

1629 control, only if the offense was a felony or if any other person

1630 involved in the offense was a minor.

1631        (ss)~~(pp)~~ Section 916.1075, relating to sexual misconduct

1632 with certain forensic clients and reporting of such sexual

1633 misconduct.

1634        (tt)~~(qq)~~ Section 944.35(3), relating to inflicting cruel or

1635 inhuman treatment on an inmate resulting in great bodily harm.

1636        (uu) Section 944.40, relating to escape.

1637        (vv)~~(rr)~~ Section 944.46, relating to harboring, concealing,

1638 or aiding an escaped prisoner.

1639        (ww)~~(ss)~~ Section 944.47, relating to introduction of

1640 contraband into a correctional facility.

1641        (xx)~~(tt)~~ Section 985.701, relating to sexual misconduct in

1642 juvenile justice programs.

1643        (yy)~~(uu)~~ Section 985.711, relating to contraband introduced

1644 into detention facilities.

1645        (3) The security background investigations under this

1646 section must ensure that no person subject to this section has

1647 been found guilty of, regardless of adjudication, or entered a

1648 plea of nolo contendere or guilty to, any offense that

1649 constitutes domestic violence as defined in s. 741.28, whether

1650 such act was committed in this state or in another jurisdiction.

1651 ~~The security background investigations conducted under this~~

1652 ~~section for employees of the Department of Juvenile Justice must~~

1653 ~~ensure that no persons subject to the provisions of this section~~

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1654 ~~have been found guilty of, regardless of adjudication, or~~  
1655 ~~entered a plea of nolo contendere or guilty to, any offense~~  
1656 ~~prohibited under any of the following provisions of the Florida~~  
1657 ~~Statutes or under any similar statute of another jurisdiction:~~

1658 ~~(a) Section 784.07, relating to assault or battery of law~~  
1659 ~~enforcement officers, firefighters, emergency medical care~~  
1660 ~~providers, public transit employees or agents, or other~~  
1661 ~~specified officers.~~

1662 ~~(b) Section 810.02, relating to burglary, if the offense is~~  
1663 ~~a felony.~~

1664 ~~(c) Section 944.40, relating to escape.~~

1665  
1666 ~~The Department of Juvenile Justice may not remove a~~  
1667 ~~disqualification from employment or grant an exemption to any~~  
1668 ~~person who is disqualified under this section for any offense~~  
1669 ~~disposed of during the most recent 7-year period.~~

1670 ~~(4) Standards must also ensure that the person:~~

1671 ~~(a) For employees or employers licensed or registered~~  
1672 ~~pursuant to chapter 400 or chapter 429, does not have a~~  
1673 ~~confirmed report of abuse, neglect, or exploitation as defined~~  
1674 ~~in s. 415.102(6), which has been uncontested or upheld under s.~~  
1675 ~~415.103.~~

1676 ~~(b) Has not committed an act that constitutes domestic~~  
1677 ~~violence as defined in s. 741.30.~~

1678 ~~(5) Under penalty of perjury, all employees in such~~  
1679 ~~positions of trust or responsibility shall attest to meeting the~~  
1680 ~~requirements for qualifying for employment and agreeing to~~  
1681 ~~inform the employer immediately if convicted of any of the~~  
1682 ~~disqualifying offenses while employed by the employer. Each~~

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1683 ~~employer of employees in such positions of trust or~~  
1684 ~~responsibilities which is licensed or registered by a state~~  
1685 ~~agency shall submit to the licensing agency annually or at the~~  
1686 ~~time of license renewal, under penalty of perjury, an affidavit~~  
1687 ~~of compliance with the provisions of this section.~~

1688 Section 35. Section 435.05, Florida Statutes, is amended to  
1689 read:

1690 435.05 Requirements for covered employees and employers.-  
1691 Except as otherwise provided by law, the following requirements  
1692 shall apply to covered employees and employers:

1693 (1) (a) Every person required by law to be screened pursuant  
1694 to the provisions of this chapter must ~~employed in a position~~  
1695 ~~for which employment screening is required must, within 5~~  
1696 ~~working days after starting to work,~~ submit to the employer a  
1697 complete set of information necessary to conduct a screening  
1698 under this chapter section.

1699 (b) For level 1 screening, the employer must submit the  
1700 information necessary for screening to the ~~Florida~~ Department of  
1701 Law Enforcement within 5 working days after receiving it. The  
1702 ~~Florida~~ Department of Law Enforcement will conduct a search of  
1703 its records and will respond to the employer or agency. The  
1704 employer will inform the employee whether screening has revealed  
1705 any disqualifying information.

1706 (c) For level 2 screening, the employer or ~~licensing~~ agency  
1707 must submit the information necessary for screening to the  
1708 ~~Florida~~ Department of Law Enforcement within 5 working days  
1709 after receiving it. The ~~Florida~~ Department of Law Enforcement  
1710 will perform a criminal history record check of its ~~conduct a~~  
1711 ~~search of its criminal and juvenile records and will request~~

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1712 that the Federal Bureau of Investigation perform a national  
1713 criminal history record check ~~conduct a search~~ of its records  
1714 for each employee for whom the request is made. The ~~Florida~~  
1715 Department of Law Enforcement will respond to the employer or  
1716 ~~licensing~~ agency, and the employer or ~~licensing~~ agency will  
1717 inform the employee whether screening has revealed disqualifying  
1718 information.

1719 (d) The person whose background is being checked must  
1720 supply any missing criminal or other necessary information upon  
1721 request to the requesting employer or agency within 30 days  
1722 after receiving the ~~employer makes a~~ request for the information  
1723 ~~or be subject to automatic disqualification.~~

1724 (2) Every employee must attest, subject to penalty of  
1725 perjury, to meeting the requirements for qualifying for  
1726 employment pursuant to this chapter and agreeing to inform the  
1727 employer immediately if arrested for any of the disqualifying  
1728 offenses while employed by the employer. ~~Unless otherwise~~  
1729 ~~prohibited by state or federal law, new employees may be placed~~  
1730 ~~on probationary status pending a determination of compliance~~  
1731 ~~with minimum standards set forth in this chapter.~~

1732 (3) Each employer that is licensed or registered with an  
1733 agency and is required by law to conduct level 2 background  
1734 screening must submit to the agency ~~sign an affidavit~~ annually  
1735 or at the time of license renewal, under penalty of perjury, a  
1736 signed affidavit attesting to compliance with the provisions of  
1737 this chapter stating that all covered employees have been  
1738 ~~screened or are newly hired and are awaiting the results of the~~  
1739 ~~required screening checks.~~

1740 Section 36. Section 435.06, Florida Statutes, is amended to

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1741 read:

1742 435.06 Exclusion from employment.-

1743 (1) When an employer or ~~licensing~~ agency has reasonable  
1744 cause to believe that grounds exist for the denial or  
1745 termination of employment of any employee as a result of  
1746 background screening, it shall notify the employee in writing,  
1747 stating the specific record that ~~which~~ indicates noncompliance  
1748 with the standards in this chapter ~~section~~. It shall be the  
1749 responsibility of the affected employee to contest his or her  
1750 disqualification or to request exemption from disqualification.  
1751 The only basis for contesting the disqualification shall be  
1752 proof of mistaken identity.

1753 (2) (a) An employer may not hire, select, or otherwise allow  
1754 an employee to have contact with any vulnerable person that  
1755 would place the employee in a role that would require background  
1756 screening until such time as the screening process is completed  
1757 and demonstrates the absence of any grounds for the denial or  
1758 termination of employment. If the screening process shows any  
1759 grounds for the denial or termination of employment, the  
1760 employer may not hire, select, or otherwise allow the employee  
1761 to have contact with any vulnerable person that would place the  
1762 employee in a role that would require background screening  
1763 unless the employee is granted an exemption for the  
1764 disqualification by the agency as provided under s. 435.07.

1765 (b) If at any time an employer becomes aware that an  
1766 employee has been arrested for a disqualifying offense, the  
1767 employer must remove the employee from contact with any  
1768 vulnerable person that would place the employee in a role that  
1769 would require background screening until such time as the arrest

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1770 is resolved in such a way that the employer determines that the  
1771 employee is still eligible for employment under this chapter.

1772 (c) The employer must either terminate the employment of  
1773 any of its personnel found to be in noncompliance with the  
1774 minimum standards of this chapter ~~for good moral character~~  
1775 ~~contained in this section~~ or place the employee in a position  
1776 for which background screening is not required unless the  
1777 employee is granted an exemption from disqualification pursuant  
1778 to s. 435.07.

1779 (3) Any employee ~~person who is required to undergo~~  
1780 ~~employment screening~~ and who refuses to cooperate in such  
1781 screening or refuses to timely submit the information necessary  
1782 to complete the screening, including fingerprints when required,  
1783 must ~~shall~~ be disqualified for employment in such position or,  
1784 if employed, must ~~shall~~ be dismissed.

1785 (4) There is no unemployment compensation or other monetary  
1786 liability on the part of, and no cause of action for damages  
1787 arising against, an employer that, upon notice of a conviction  
1788 or arrest for a disqualifying offense listed under this chapter,  
1789 terminates the person against whom the report was issued or who  
1790 was arrested, regardless of whether or not that person has filed  
1791 for an exemption pursuant to this chapter.

1792 Section 37. Section 435.07, Florida Statutes, is amended to  
1793 read:

1794 435.07 Exemptions from disqualification.—Unless otherwise  
1795 provided by law, the provisions of this section shall apply to  
1796 exemptions from disqualification for disqualifying offenses  
1797 revealed pursuant to background screenings required by law to be  
1798 conducted pursuant to this chapter, regardless of whether those

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1799 disqualifying offenses are listed in this chapter or are  
1800 codified in other statutes.

1801 (1) The head of the appropriate ~~licensing~~ agency may grant  
1802 to any employee otherwise disqualified from employment an  
1803 exemption from disqualification for:

1804 (a) Felonies for which at least 3 years have elapsed since  
1805 the applicant for the exemption has completed or been lawfully  
1806 released from confinement, supervision, or sanction for the  
1807 disqualifying felony committed more than 3 years prior to the  
1808 date of disqualification;

1809 (b) Misdemeanors prohibited under any of the Florida  
1810 Statutes cited in this chapter or under similar statutes of  
1811 other jurisdictions for which the applicant for the exemption  
1812 has completed or been lawfully released from confinement,  
1813 supervision, or sanction;

1814 (c) Offenses that were felonies when committed but that are  
1815 now misdemeanors and for which the applicant for the exemption  
1816 has completed or been lawfully released from confinement,  
1817 supervision, or sanction; or

1818 (d) Findings of delinquency. For offenses that would be  
1819 felonies if committed by an adult and the record has not been  
1820 sealed or expunged, the exemption may not be granted until at  
1821 least 3 years have elapsed since the applicant for the exemption  
1822 has completed or been lawfully released from confinement,  
1823 supervision, or sanction for the disqualifying offense; ~~or~~

1824 ~~(e) Commissions of acts of domestic violence as defined in~~  
1825 ~~s. 741.30.~~

1826  
1827 For the purposes of this subsection, the term "felonies" means

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1828 both felonies prohibited under any of the Florida Statutes cited  
1829 in this chapter or under similar statutes of other  
1830 jurisdictions.

1831 (2) Persons employed, or applicants for employment, by  
1832 treatment providers who treat adolescents 13 years of age and  
1833 older who are disqualified from employment solely because of  
1834 crimes under s. 817.563, s. 893.13, or s. 893.147 may be  
1835 exempted from disqualification from employment pursuant to this  
1836 chapter section without application of the ~~3-year~~ waiting period  
1837 in paragraph (1) (a).

1838 (3) (a) In order for the head of an agency ~~a licensing~~  
1839 ~~department~~ to grant an exemption to any employee, the employee  
1840 must demonstrate by clear and convincing evidence that the  
1841 employee should not be disqualified from employment. Employees  
1842 seeking an exemption have the burden of setting forth clear and  
1843 convincing ~~sufficient~~ evidence of rehabilitation, including, but  
1844 not limited to, the circumstances surrounding the criminal  
1845 incident for which an exemption is sought, the time period that  
1846 has elapsed since the incident, the nature of the harm caused to  
1847 the victim, and the history of the employee since the incident,  
1848 or any other evidence or circumstances indicating that the  
1849 employee will not present a danger if employment or continued  
1850 employment is allowed.

1851 (b) The agency may consider as part of its deliberations of  
1852 the employee's rehabilitation the fact that the employee has,  
1853 subsequent to the conviction for the disqualifying offense for  
1854 which the exemption is being sought, been arrested for or  
1855 convicted of another crime, even if that crime is not a  
1856 disqualifying offense.

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1857        (c) The decision of the head of an agency licensing  
1858 ~~department~~ regarding an exemption may be contested through the  
1859 hearing procedures set forth in chapter 120. The standard of  
1860 review by the administrative law judge is whether the agency's  
1861 intended action is an abuse of discretion.

1862        (4) (a) Disqualification from employment under this chapter  
1863 ~~subsection (1)~~ may not be removed from, nor may an exemption be  
1864 granted to, any personnel who is found guilty of, regardless of  
1865 adjudication, or who has entered a plea of nolo contendere or  
1866 guilty to, any felony covered by s. 435.03 or s. 435.04 solely  
1867 by reason of any pardon, executive clemency, or restoration of  
1868 civil rights.

1869        (b) Disqualification from employment under this chapter may  
1870 not be removed from, nor may an exemption be granted to, any  
1871 person who has been designated as a:

1872            1. Sexual predator pursuant to s. 775.21;  
1873            2. Career offender pursuant to s. 775.261; or  
1874            3. Sexual offender pursuant to s. 943.0435, unless the  
1875 person has had the sexual offender designation removed pursuant  
1876 to s. 943.04354.

1877        (5) Exemptions granted by one ~~licensing~~ agency shall be  
1878 considered by subsequent ~~licensing~~ agencies, but are not binding  
1879 on the subsequent ~~licensing~~ agency.

1880        Section 38. Section 435.08, Florida Statutes, is amended to  
1881 read:

1882        435.08 Payment for processing of fingerprints and state  
1883 criminal records checks.—Either the employer or the employee is  
1884 responsible for paying the costs of screening. Payment shall be  
1885 submitted to the ~~Florida~~ Department of Law Enforcement with the

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1886 request for screening. The appropriate agency is responsible for  
1887 collecting and paying any fee related to fingerprints retained  
1888 on its behalf to the Department of Law Enforcement for costs  
1889 resulting from the fingerprint information retention services.  
1890 The amount of the annual fee and procedures for the submission  
1891 and retention of fingerprint information and for the  
1892 dissemination of search results shall be established by rule of  
1893 the Department of Law Enforcement.

1894 Section 39. Subsection (1) of section 464.203, Florida  
1895 Statutes, is amended to read:

1896 464.203 Certified nursing assistants; certification  
1897 requirement.—

1898 (1) The board shall issue a certificate to practice as a  
1899 certified nursing assistant to any person who demonstrates a  
1900 minimum competency to read and write and successfully passes the  
1901 required background ~~Level I or Level II~~ screening pursuant to s.  
1902 400.215 and meets one of the following requirements:

1903 (a) Has successfully completed an approved training program  
1904 and achieved a minimum score, established by rule of the board,  
1905 on the nursing assistant competency examination, which consists  
1906 of a written portion and skills-demonstration portion approved  
1907 by the board and administered at a site and by personnel  
1908 approved by the department.

1909 (b) Has achieved a minimum score, established by rule of  
1910 the board, on the nursing assistant competency examination,  
1911 which consists of a written portion and skills-demonstration  
1912 portion, approved by the board and administered at a site and by  
1913 personnel approved by the department and:

1914 1. Has a high school diploma, or its equivalent; or

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1915 2. Is at least 18 years of age.

1916 (c) Is currently certified in another state; is listed on  
1917 that state's certified nursing assistant registry; and has not  
1918 been found to have committed abuse, neglect, or exploitation in  
1919 that state.

1920 (d) Has completed the curriculum developed under the  
1921 Enterprise Florida Jobs and Education Partnership Grant and  
1922 achieved a minimum score, established by rule of the board, on  
1923 the nursing assistant competency examination, which consists of  
1924 a written portion and skills-demonstration portion, approved by  
1925 the board and administered at a site and by personnel approved  
1926 by the department.

1927 Section 40. Subsection (9) of section 489.115, Florida  
1928 Statutes, is amended to read:

1929 489.115 Certification and registration; endorsement;  
1930 reciprocity; renewals; continuing education.—

1931 (9) An initial applicant shall submit, along with the  
1932 application, a complete set of fingerprints to ~~in a form and~~  
1933 ~~manner required by~~ the department. The fingerprints shall be  
1934 submitted to the Department of Law Enforcement for state  
1935 processing, and the Department of Law Enforcement shall forward  
1936 them to the Federal Bureau of Investigation for national  
1937 processing for the purpose of determining if the applicant has a  
1938 criminal history record ~~conducting a level 2 background check~~  
1939 ~~pursuant to s. 435.04~~. The department shall and the board may  
1940 review the background results to determine if an applicant meets  
1941 licensure requirements. The cost for the fingerprint processing  
1942 shall be borne by the person subject to the background  
1943 screening. These fees are to be collected by the authorized

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1944 agencies or vendors. The authorized agencies or vendors are  
1945 responsible for paying the processing costs to the Department of  
1946 Law Enforcement.

1947 Section 41. Paragraphs (g) and (h) of subsection (2) of  
1948 section 943.05, Florida Statutes, are amended, and subsection  
1949 (4) is added to that section, to read:

1950 943.05 Criminal Justice Information Program; duties; crime  
1951 reports.-

1952 (2) The program shall:

1953 (g) Upon official written request, and subject to the  
1954 department having sufficient funds and equipment to participate  
1955 in such a request, from the agency executive director or  
1956 secretary, or from his or her designee, or from qualified  
1957 entities participating in the volunteer and employee criminal  
1958 history screening system under s. 943.0542, or as otherwise  
1959 required ~~As authorized~~ by law, retain fingerprints submitted by  
1960 criminal and noncriminal justice agencies to the department for  
1961 a criminal history background screening in a manner provided by  
1962 rule and enter the fingerprints in the statewide automated  
1963 fingerprint identification system authorized by paragraph (b).  
1964 Such fingerprints shall thereafter be available for all purposes  
1965 and uses authorized for arrest fingerprint submissions ~~cards~~  
1966 entered into the statewide automated fingerprint identification  
1967 system pursuant to s. 943.051.

1968 (h) ~~1.~~ For each agency or qualified entity that officially  
1969 requests retention of fingerprints or for which retention is  
1970 otherwise required ~~As authorized~~ by law, search all arrest  
1971 fingerprint submissions ~~cards~~ received under s. 943.051 against  
1972 the fingerprints retained in the statewide automated fingerprint

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1973 identification system under paragraph (g).

1974 1. Any arrest record that is identified with the retained  
1975 fingerprints of a person subject to background screening as  
1976 provided in paragraph (g) shall be reported to the appropriate  
1977 agency or qualified entity.

1978 2. ~~To Agencies may~~ participate in this search process,  
1979 agencies or qualified entities must notify each person  
1980 fingerprinted that his or her fingerprints will be retained, pay  
1981 ~~by payment of~~ an annual fee to the department, and inform by  
1982 ~~informing~~ the department of any change in the affiliation,  
1983 employment, or contractual status ~~or place of affiliation,~~  
1984 ~~employment, or contracting of~~ each person ~~the persons~~ whose  
1985 fingerprints are retained under paragraph (g) when such change  
1986 removes or eliminates the agency or qualified entity's basis or  
1987 need for receiving reports of any arrest of that person, so that  
1988 the agency or qualified entity will not be obligated to pay the  
1989 upcoming annual fee for the retention and searching of that  
1990 person's fingerprints to the department. The department shall  
1991 adopt a rule setting the amount of the annual fee to be imposed  
1992 upon each participating agency or qualified entity for  
1993 performing these searches and establishing the procedures for  
1994 the retention of fingerprints and the dissemination of search  
1995 results. The fee may be borne by the agency, qualified entity,  
1996 or person subject to fingerprint retention or as otherwise  
1997 provided by law. ~~Fees may be waived or reduced by the executive~~  
1998 ~~director for good cause shown.~~ Consistent with the recognition  
1999 of criminal justice agencies expressed in s. 943.053(3), these  
2000 services will be provided to criminal justice agencies for  
2001 criminal justice purposes free of charge.

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2002       3. Agencies that participate in the fingerprint retention  
2003 and search process may adopt rules pursuant to ss. 120.536(1)  
2004 and 120.54 to require employers to keep the agency informed of  
2005 any change in the affiliation, employment, or contractual status  
2006 of each person whose fingerprints are retained under paragraph  
2007 (g) when such change removes or eliminates the agency's basis or  
2008 need for receiving reports of any arrest of that person, so that  
2009 the agency will not be obligated to pay the upcoming annual fee  
2010 for the retention and searching of that person's fingerprints to  
2011 the department.

2012       (4) Upon notification that a federal fingerprint retention  
2013 program is in effect, and subject to the department being funded  
2014 and equipped to participate in such a program, the department  
2015 shall, when state and national criminal history records checks  
2016 and retention of submitted prints are authorized or required by  
2017 law, retain the fingerprints as provided in paragraphs (2) (g)  
2018 and (h) and advise the Federal Bureau of Investigation to retain  
2019 the fingerprints at the national level for searching against  
2020 arrest fingerprint submissions received at the national level.

2021       Section 42. Subsections (6) and (11) of section 943.053,  
2022 Florida Statutes, are amended to read:

2023       943.053 Dissemination of criminal justice information;  
2024 fees.—

2025       (6) Notwithstanding any other provision of law, the  
2026 department shall provide to the ~~Florida~~ Department of Revenue  
2027 ~~Child Support Enforcement~~ access to Florida criminal records  
2028 which are not exempt from disclosure under chapter 119, and to  
2029 such information as may be lawfully available from other states  
2030 via the National Law Enforcement Telecommunications System, for

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2031 the purpose of locating subjects who owe or potentially owe  
2032 support, as defined in s. 409.2554, or to whom such obligation  
2033 is owed pursuant to Title IV-D of the Social Security Act. Such  
2034 information may be provided to child support enforcement  
2035 authorities in other states for these specific purposes.

2036 (11) A criminal justice agency that is authorized under  
2037 federal rules or law to conduct a criminal history background  
2038 check on an agency employee who is not certified by the Criminal  
2039 Justice Standards and Training Commission under s. 943.12 may  
2040 submit to the department the fingerprints of the noncertified  
2041 employee to obtain state and national criminal history  
2042 information. ~~Effective January 15, 2007,~~ The fingerprints  
2043 submitted shall be retained and entered in the statewide  
2044 automated fingerprint identification system authorized by s.  
2045 943.05 and shall be available for all purposes and uses  
2046 authorized for arrest fingerprint submissions ~~cards~~ entered in  
2047 the statewide automated fingerprint identification system  
2048 pursuant to s. 943.051. The department shall search all arrest  
2049 fingerprint submissions ~~cards~~ received pursuant to s. 943.051  
2050 against the fingerprints retained in the statewide automated  
2051 fingerprint identification system pursuant to this section. In  
2052 addition to all purposes and uses authorized for arrest  
2053 fingerprint submissions ~~cards~~ for which submitted fingerprints  
2054 may be used, any arrest record that is identified with the  
2055 retained employee fingerprints must be reported to the  
2056 submitting employing agency.

2057 Section 43. Section 985.644, Florida Statutes, is amended  
2058 to read:

2059 985.644 Departmental contracting powers; personnel

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2060 standards and screening.—

2061 (1) The department ~~of Juvenile Justice or the Department of~~  
2062 ~~Children and Family Services, as appropriate,~~ may contract with  
2063 the Federal Government, other state departments and agencies,  
2064 county and municipal governments and agencies, public and  
2065 private agencies, and private individuals and corporations in  
2066 carrying out the purposes of, and the responsibilities  
2067 established in, this chapter.

2068 ~~(a) When the Department of Juvenile Justice or the~~  
2069 ~~Department of Children and Family Services contracts with a~~  
2070 ~~provider for any program for children, all personnel, including~~  
2071 ~~owners, operators, employees, and volunteers, in the facility~~  
2072 ~~must be of good moral character. Each contract entered into by~~  
2073 ~~the either~~ department for services delivered on an appointment  
2074 or intermittent basis by a provider that does not have regular  
2075 custodial responsibility for children and each contract with a  
2076 school for before or aftercare services must ensure that the all  
2077 owners, operators, and all personnel who have direct contact  
2078 with children are subject to level 2 background screening  
2079 pursuant to chapter 435 ~~of good moral character. A volunteer who~~  
2080 ~~assists on an intermittent basis for less than 40 hours per~~  
2081 ~~month need not be screened if the volunteer is under direct and~~  
2082 ~~constant supervision by persons who meet the screening~~  
2083 ~~requirements.~~

2084 ~~(b) The Department of Juvenile Justice and the Department~~  
2085 ~~of Children and Family Services shall require employment~~  
2086 ~~screening pursuant to chapter 435, using the level 2 standards~~  
2087 ~~set forth in that chapter for personnel in programs for children~~  
2088 ~~or youths.~~

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2089 ~~(c) The Department of Juvenile Justice or the Department of~~  
2090 ~~Children and Family Services may grant exemptions from~~  
2091 ~~disqualification from working with children as provided in s.~~  
2092 ~~435.07.~~

2093 ~~(2) The department may contract with the Federal~~  
2094 ~~Government, other state departments and agencies, county and~~  
2095 ~~municipal governments and agencies, public and private agencies,~~  
2096 ~~and private individuals and corporations in carrying out the~~  
2097 ~~purposes and the responsibilities of the delinquency services~~  
2098 ~~and programs of the department.~~

2099 (2)~~(3)~~ The department shall adopt a rule pursuant to  
2100 chapter 120 establishing a procedure to provide notice of policy  
2101 changes that affect contracted delinquency services and  
2102 programs. A policy is defined as an operational requirement that  
2103 applies to only the specified contracted delinquency service or  
2104 program. The procedure shall include:

2105 (a) Public notice of policy development.

2106 (b) Opportunity for public comment on the proposed policy.

2107 (c) Assessment for fiscal impact upon the department and  
2108 providers.

2109 (d) The department's response to comments received.

2110 ~~(4) When the department contracts with a provider for any~~  
2111 ~~delinquency service or program, all personnel, including all~~  
2112 ~~owners, operators, employees, and volunteers in the facility or~~  
2113 ~~providing the service or program shall be of good moral~~  
2114 ~~character. A volunteer who assists on an intermittent basis for~~  
2115 ~~less than 40 hours per month is not required to be screened if~~  
2116 ~~the volunteer is under direct and constant supervision by~~  
2117 ~~persons who meet the screening requirements.~~

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2118        (3)(5)(a) All employees of the department and all personnel  
2119 of contract providers for any program for children, including  
2120 all owners, operators, employees, persons who have access to  
2121 confidential juvenile records, and volunteers, must complete ~~For~~  
2122 ~~any person employed by the department, or by a provider under~~  
2123 ~~contract with the department, in delinquency facilities,~~  
2124 ~~services, or programs, the department shall require:~~

2125        1. A level 2 employment screening pursuant to chapter 435  
2126 prior to employment. The security background investigations  
2127 conducted under this section must ensure that, in addition to  
2128 the disqualifying offenses listed in s. 435.04, no person  
2129 subject to the background screening provisions of this section  
2130 has been found guilty of, regardless of adjudication, or entered  
2131 a plea of nolo contendere or guilty to, any offense prohibited  
2132 under any of the following provisions of the Florida Statutes or  
2133 under any similar statute of another jurisdiction:

2134        a. Section 784.07, relating to assault or battery of law  
2135 enforcement officers, firefighters, emergency medical care  
2136 providers, public transit employees or agents, or other  
2137 specified officers.

2138        b. Section 817.568, relating to criminal use of personal  
2139 identification information.

2140        2. A national ~~federal~~ criminal records check by the Federal  
2141 Bureau of Investigation every 5 years following the date of the  
2142 person's employment.

2143        (b) Except for law enforcement, correctional, and  
2144 correctional probation officers, to whom s. 943.13(5) applies,  
2145 the department shall electronically submit to the Department of  
2146 Law Enforcement:

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2147 1. Fingerprint information obtained during the employment  
2148 screening required by subparagraph (a)1.

2149 2. ~~Beginning on December 15, 2005,~~ Fingerprint information  
2150 for all persons employed by the department, or by a provider  
2151 under contract with the department, in delinquency facilities,  
2152 services, or programs if such fingerprint information has not  
2153 previously been electronically submitted to the Department of  
2154 Law Enforcement under this paragraph.

2155 (c) All fingerprint information electronically submitted to  
2156 the Department of Law Enforcement under paragraph (b) shall be  
2157 retained by the Department of Law Enforcement and entered into  
2158 the statewide automated fingerprint identification system  
2159 authorized by s. 943.05(2)(b). Thereafter, such fingerprint  
2160 information shall be available for all purposes and uses  
2161 authorized for arrest fingerprint information entered into the  
2162 statewide automated fingerprint identification system pursuant  
2163 to s. 943.051 until the fingerprint information is removed  
2164 pursuant to paragraph (e). The Department of Law Enforcement  
2165 shall search all arrest fingerprint information received  
2166 pursuant to s. 943.051 against the fingerprint information  
2167 entered into the statewide automated fingerprint system pursuant  
2168 to this subsection. Any arrest records identified as a result of  
2169 the search shall be reported to the department in the manner and  
2170 timeframe established by the Department of Law Enforcement by  
2171 rule.

2172 (d) The department shall pay an annual fee to the  
2173 Department of Law Enforcement for its costs resulting from the  
2174 fingerprint information retention services required by this  
2175 subsection. The amount of the annual fee and procedures for the

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2176 submission and retention of fingerprint information and for the  
2177 dissemination of search results shall be established by the  
2178 Department of Law Enforcement by a rule that is applicable to  
2179 the department individually pursuant to this subsection or that  
2180 is applicable to the department and other employing agencies  
2181 pursuant to rulemaking authority otherwise provided by law.

2182 (e) The department shall notify the Department of Law  
2183 Enforcement when a person whose fingerprint information is  
2184 retained by the Department of Law Enforcement under this  
2185 subsection is no longer employed by the department, or by a  
2186 provider under contract with the department, in a delinquency  
2187 facility, service, or program. This notice shall be provided by  
2188 the department to the Department of Law Enforcement no later  
2189 than 6 months after the date of the change in the person's  
2190 employment status. Fingerprint information for persons  
2191 identified by the department in the notice shall be removed from  
2192 the statewide automated fingerprint system.

2193 (6) The department may grant exemptions from  
2194 disqualification from working with children as provided in s.  
2195 435.07.

2196 (7) The department may adopt rules pursuant to ss.  
2197 120.536(1) and 120.54 to describe the procedure and requirements  
2198 necessary to implement the employment screening and fingerprint  
2199 retention services for all employees of the department and all  
2200 personnel of contract providers for any program for children,  
2201 including all owners, operators, employees, and volunteers,  
2202 including the collection of associated fees.

2203 Section 44. Paragraph (a) of subsection (1) of section  
2204 381.60225, Florida Statutes, is amended to read:

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2205 381.60225 Background screening.—

2206 (1) Each applicant for certification must comply with the  
2207 following requirements:

2208 (a) Upon receipt of a completed, signed, and dated  
2209 application, the Agency for Health Care Administration shall  
2210 require background screening, in accordance with the level 2  
2211 standards for screening set forth in chapter 435, of the  
2212 managing employee, or other similarly titled individual  
2213 responsible for the daily operation of the organization, agency,  
2214 or entity, and financial officer, or other similarly titled  
2215 individual who is responsible for the financial operation of the  
2216 organization, agency, or entity, including billings for  
2217 services. The applicant must comply with the procedures for  
2218 level 2 background screening as set forth in chapter 435, ~~as~~  
2219 ~~well as the requirements of s. 435.03(3).~~

2220 Section 45. Subsection (32) of section 409.912, Florida  
2221 Statutes, is amended to read:

2222 409.912 Cost-effective purchasing of health care.—The  
2223 agency shall purchase goods and services for Medicaid recipients  
2224 in the most cost-effective manner consistent with the delivery  
2225 of quality medical care. To ensure that medical services are  
2226 effectively utilized, the agency may, in any case, require a  
2227 confirmation or second physician's opinion of the correct  
2228 diagnosis for purposes of authorizing future services under the  
2229 Medicaid program. This section does not restrict access to  
2230 emergency services or poststabilization care services as defined  
2231 in 42 C.F.R. part 438.114. Such confirmation or second opinion  
2232 shall be rendered in a manner approved by the agency. The agency  
2233 shall maximize the use of prepaid per capita and prepaid

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2234 aggregate fixed-sum basis services when appropriate and other  
2235 alternative service delivery and reimbursement methodologies,  
2236 including competitive bidding pursuant to s. 287.057, designed  
2237 to facilitate the cost-effective purchase of a case-managed  
2238 continuum of care. The agency shall also require providers to  
2239 minimize the exposure of recipients to the need for acute  
2240 inpatient, custodial, and other institutional care and the  
2241 inappropriate or unnecessary use of high-cost services. The  
2242 agency shall contract with a vendor to monitor and evaluate the  
2243 clinical practice patterns of providers in order to identify  
2244 trends that are outside the normal practice patterns of a  
2245 provider's professional peers or the national guidelines of a  
2246 provider's professional association. The vendor must be able to  
2247 provide information and counseling to a provider whose practice  
2248 patterns are outside the norms, in consultation with the agency,  
2249 to improve patient care and reduce inappropriate utilization.  
2250 The agency may mandate prior authorization, drug therapy  
2251 management, or disease management participation for certain  
2252 populations of Medicaid beneficiaries, certain drug classes, or  
2253 particular drugs to prevent fraud, abuse, overuse, and possible  
2254 dangerous drug interactions. The Pharmaceutical and Therapeutics  
2255 Committee shall make recommendations to the agency on drugs for  
2256 which prior authorization is required. The agency shall inform  
2257 the Pharmaceutical and Therapeutics Committee of its decisions  
2258 regarding drugs subject to prior authorization. The agency is  
2259 authorized to limit the entities it contracts with or enrolls as  
2260 Medicaid providers by developing a provider network through  
2261 provider credentialing. The agency may competitively bid single-  
2262 source-provider contracts if procurement of goods or services

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2263 results in demonstrated cost savings to the state without  
2264 limiting access to care. The agency may limit its network based  
2265 on the assessment of beneficiary access to care, provider  
2266 availability, provider quality standards, time and distance  
2267 standards for access to care, the cultural competence of the  
2268 provider network, demographic characteristics of Medicaid  
2269 beneficiaries, practice and provider-to-beneficiary standards,  
2270 appointment wait times, beneficiary use of services, provider  
2271 turnover, provider profiling, provider licensure history,  
2272 previous program integrity investigations and findings, peer  
2273 review, provider Medicaid policy and billing compliance records,  
2274 clinical and medical record audits, and other factors. Providers  
2275 shall not be entitled to enrollment in the Medicaid provider  
2276 network. The agency shall determine instances in which allowing  
2277 Medicaid beneficiaries to purchase durable medical equipment and  
2278 other goods is less expensive to the Medicaid program than long-  
2279 term rental of the equipment or goods. The agency may establish  
2280 rules to facilitate purchases in lieu of long-term rentals in  
2281 order to protect against fraud and abuse in the Medicaid program  
2282 as defined in s. 409.913. The agency may seek federal waivers  
2283 necessary to administer these policies.

2284 (32) Each managed care plan that is under contract with the  
2285 agency to provide health care services to Medicaid recipients  
2286 shall annually conduct a background check with the Florida  
2287 Department of Law Enforcement of all persons with ownership  
2288 interest of 5 percent or more or executive management  
2289 responsibility for the managed care plan and shall submit to the  
2290 agency information concerning any such person who has been found  
2291 guilty of, regardless of adjudication, or has entered a plea of

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2292 nolo contendere or guilty to, any of the offenses listed in s.  
2293 435.04 ~~435.03~~.

2294 Section 46. Paragraph (e) of subsection (1) of section  
2295 464.018, Florida Statutes, is amended to read:

2296 464.018 Disciplinary actions.—

2297 (1) The following acts constitute grounds for denial of a  
2298 license or disciplinary action, as specified in s. 456.072(2):

2299 (e) 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; or having committed an  
2303 act which constitutes domestic violence as defined in s. 741.28.

2304 Section 47. Paragraph (m) of subsection (1) of section  
2305 468.3101, Florida Statutes, is amended to read:

2306 468.3101 Disciplinary grounds and actions.—

2307 (1) The department may make or require to be made any  
2308 investigations, inspections, evaluations, and tests, and require  
2309 the submission of any documents and statements, which it  
2310 considers necessary to determine whether a violation of this  
2311 part has occurred. The following acts shall be grounds for  
2312 disciplinary action as set forth in this section:

2313 (m) Having been found guilty of, regardless of  
2314 adjudication, or pleading guilty or nolo contendere to, any  
2315 offense prohibited under s. 435.04 ~~435.03~~ or under any similar  
2316 statute of another jurisdiction.

2317 Section 48. Subsection (3) of section 744.309, Florida  
2318 Statutes, is amended to read:

2319 744.309 Who may be appointed guardian of a resident ward.—

2320 (3) DISQUALIFIED PERSONS.—No person who has been convicted

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2321 of a felony or who, from any incapacity or illness, is incapable  
2322 of discharging the duties of a guardian, or who is otherwise  
2323 unsuitable to perform the duties of a guardian, shall be  
2324 appointed to act as guardian. Further, no person who has been  
2325 judicially determined to have committed abuse, abandonment, or  
2326 neglect against a child as defined in s. 39.01 or s. 984.03(1),  
2327 (2), and (37), or who has been found guilty of, regardless of  
2328 adjudication, or entered a plea of nolo contendere or guilty to,  
2329 any offense prohibited under s. 435.04 ~~435.03~~ or under any  
2330 similar statute of another jurisdiction, shall be appointed to  
2331 act as a guardian. Except as provided in subsection (5) or  
2332 subsection (6), a person who provides substantial services to  
2333 the proposed ward in a professional or business capacity, or a  
2334 creditor of the proposed ward, may not be appointed guardian and  
2335 retain that previous professional or business relationship. A  
2336 person may not be appointed a guardian if he or she is in the  
2337 employ of any person, agency, government, or corporation that  
2338 provides service to the proposed ward in a professional or  
2339 business capacity, except that a person so employed may be  
2340 appointed if he or she is the spouse, adult child, parent, or  
2341 sibling of the proposed ward or the court determines that the  
2342 potential conflict of interest is insubstantial and that the  
2343 appointment would clearly be in the proposed ward's best  
2344 interest. The court may not appoint a guardian in any other  
2345 circumstance in which a conflict of interest may occur.

2346 Section 49. Subsection (12) of section 744.474, Florida  
2347 Statutes, is amended to read:

2348 744.474 Reasons for removal of guardian.—A guardian may be  
2349 removed for any of the following reasons, and the removal shall

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2350 be in addition to any other penalties prescribed by law:

2351 (12) Having been found guilty of, regardless of  
2352 adjudication, or entered a plea of nolo contendere or guilty to,  
2353 any offense prohibited under s. 435.04 ~~435.03~~ or under any  
2354 similar statute of another jurisdiction.

2355 Section 50. Paragraph (a) of subsection (6) of section  
2356 985.04, Florida Statutes, is amended to read:

2357 985.04 Oaths; records; confidential information.—

2358 (6) (a) Records maintained by the department, including  
2359 copies of records maintained by the court, which pertain to a  
2360 child found to have committed a delinquent act which, if  
2361 committed by an adult, would be a crime specified in s. ~~ss.~~  
2362 ~~435.03~~ and 435.04 may not be destroyed under this section for a  
2363 period of 25 years after the youth's final referral to the  
2364 department, except in cases of the death of the child. Such  
2365 records, however, shall be sealed by the court for use only in  
2366 meeting the screening requirements for personnel in s. 402.3055  
2367 and the other sections cited above, or under departmental rule;  
2368 however, current criminal history information must be obtained  
2369 from the Department of Law Enforcement in accordance with s.  
2370 943.053. The information shall be released to those persons  
2371 specified in the above cited sections for the purposes of  
2372 complying with those sections. The court may punish by contempt  
2373 any person who releases or uses the records for any unauthorized  
2374 purpose.

2375 Section 51. Section 409.1758, Florida Statutes, is  
2376 repealed.

2377 Section 52. Paragraph (d) of subsection (4) of section  
2378 456.039, Florida Statutes, is repealed.

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2379           Section 53. The changes made by this act are intended to be  
2380 prospective in nature. It is not intended that persons who are  
2381 employed or licensed on the effective date of this act be  
2382 rescreened until such time as they are otherwise required to be  
2383 rescreened pursuant to law, at which time they must meet the  
2384 requirements for screening as set forth in this act.

2385           Section 54. This act shall take effect July 1, 2010.