

**By** the Committees on Health and Human Services Appropriations;  
Criminal Justice; and Children, Families, and Elder Affairs; and  
Senators Storms and Crist

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1                   A bill to be entitled  
2           An act relating to screening; amending s. 39.001,  
3           F.S.; revising an exemption from screening  
4           requirements for volunteers who assist providers under  
5           contract with the Department of Children and Family  
6           Services; amending s. 39.821, F.S.; revising  
7           background screening requirements for the Guardian Ad  
8           Litem Program; amending s. 215.5586, F.S.; removing  
9           reference to ch. 435, F.S., for background screening  
10          of hurricane mitigation inspectors; amending s.  
11          393.0655, F.S.; revising an exemption from screening  
12          requirements for volunteers; removing a temporary  
13          exemption from screening requirements for direct  
14          service providers awaiting completion of a background  
15          screening; adding additional disqualifying offenses  
16          for the screening of direct service providers for  
17          persons with developmental disabilities; amending s.  
18          394.4572, F.S.; revising background screening  
19          requirements for mental health personnel; amending s.  
20          400.215, F.S.; revising background screening  
21          requirements for nursing home personnel; amending s.  
22          400.506, F.S.; conforming provisions to changes made  
23          by the act; amending s. 400.512, F.S.; revising  
24          background screening requirements for home health  
25          agency personnel, nurse registry personnel, and  
26          companions and homemakers; amending s. 400.6065, F.S.;  
27          revising background screening requirements for hospice  
28          personnel; amending s. 400.801, F.S.; revising  
29          background screening requirements for personnel at

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30 homes for special services; amending s. 400.805, F.S.;

31 revising background screening requirements for

32 transitional living facility personnel; creating s.

33 400.9065, F.S.; providing background screening

34 requirements for prescribed pediatric extended care

35 center personnel; amending s. 400.934, F.S.; revising

36 minimum standards for home medical equipment

37 providers; amending s. 400.953, F.S.; revising

38 background screening requirements for home medical

39 equipment provider personnel; repealing s. 400.955,

40 F.S., relating to the procedures for screening of home

41 medical equipment provider personnel; amending s.

42 400.964, F.S.; revising background screening

43 requirements for personnel at intermediate care

44 facilities for developmentally disabled persons;

45 amending s. 400.980, F.S.; revising background

46 screening requirements for personnel at health care

47 services pools; amending s. 400.991, F.S.; revising

48 background screening requirements for applicants and

49 personnel at health care clinics; amending s. 408.806,

50 F.S.; adding a requirement for an affidavit relating

51 to background screening to the license application

52 process under the Agency for Health Care

53 Administration; amending s. 408.808, F.S.; conforming

54 provisions to changes made by the act; amending s.

55 408.809, F.S.; revising background screening

56 requirements under the Agency for Health Care

57 Administration; requiring electronic submission of

58 fingerprints; amending s. 402.302, F.S.; revising

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59 exemptions from screening requirements for volunteers  
60 and students; amending s. 409.175, F.S.; revising an  
61 exemption from screening requirements for volunteers;  
62 revising background screening requirements for  
63 employees and volunteers in summer day camps and  
64 summer 24-hour camps; requiring periodic drug testing  
65 for licensed foster parents; requiring payment by the  
66 foster parent; amending s. 409.221, F.S.; revising  
67 background screening requirements for persons who  
68 render consumer-directed care; amending s. 409.907,  
69 F.S.; revising background screening requirements for  
70 Medicaid providers; amending s. 409.912, F.S.;  
71 requiring Medicaid providers to obtain a level 2  
72 background screening for each provider employee in  
73 direct contact with or providing direct services to  
74 Medicaid recipients; amending s. 411.01, F.S.;  
75 requiring school districts to make a list of eligible  
76 substitute teachers available to early learning  
77 coalitions; amending s. 429.14, F.S.; revising  
78 administrative penalty provisions relating to assisted  
79 living facilities; amending s. 429.174, F.S.; revising  
80 background screening requirements for assisted living  
81 facility personnel; amending s. 429.67, F.S.; revising  
82 licensure requirements for adult family-care home  
83 personnel and household members; amending s. 429.69,  
84 F.S.; revising background screening requirements for  
85 adult family-care home personnel; amending s. 429.911,  
86 F.S.; revising administrative penalty provisions  
87 relating to adult day care centers; amending s.

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88 429.919, F.S.; revising background screening  
89 requirements for adult day care center personnel;  
90 creating s. 430.0402, F.S.; providing background  
91 screening requirements for direct service providers  
92 under the Department of Elderly Affairs; amending s.  
93 435.01, F.S.; revising provisions related to the  
94 applicability of ch. 435, F.S., statutory references  
95 to the chapter, and rulemaking; providing construction  
96 with respect to the doctrine of incorporation by  
97 reference; amending s. 435.02, F.S.; revising and  
98 adding definitions; amending s. 435.03, F.S.; revising  
99 level 1 screening standards; adding disqualifying  
100 offenses; amending s. 435.04, F.S.; revising level 2  
101 screening standards; requiring electronic submission  
102 of fingerprints after a certain date; authorizing  
103 agencies to contract for electronic fingerprinting;  
104 adding disqualifying offenses; amending s. 435.05,  
105 F.S.; revising background check requirements for  
106 covered employees and employers; amending s. 435.06,  
107 F.S.; revising provisions relating to exclusion from  
108 employment; providing that an employer may not hire,  
109 select, or otherwise allow an employee contact with  
110 any vulnerable person until the screening process is  
111 completed; requiring removal of an employee arrested  
112 for disqualifying offenses from roles requiring  
113 background screening until the employee's eligibility  
114 for employment is determined; amending s. 435.07,  
115 F.S.; revising provisions relating to exemptions from  
116 disqualification; amending s. 435.08, F.S.; revising

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117 provisions relating to the payment for processing of  
118 fingerprints and criminal history records checks;  
119 amending s. 464.203, F.S.; conforming provisions to  
120 changes made by the act; amending s. 489.115, F.S.;  
121 removing reference to ch. 435, F.S., for background  
122 screening of construction contractors; amending s.  
123 943.05, F.S.; revising provisions relating to the  
124 Criminal Justice Information Program under the  
125 Department of Law Enforcement; authorizing agencies to  
126 request the retention of certain fingerprints by the  
127 department; providing for rulemaking to require  
128 employers to keep the agencies informed of any change  
129 in the affiliation, employment, or contractual status  
130 of each person whose fingerprints are retained in  
131 certain circumstances; providing departmental duties  
132 upon notification that a federal fingerprint retention  
133 program is in effect; amending s. 943.053, F.S.;  
134 removing obsolete references relating to the  
135 dissemination of criminal justice information;  
136 amending s. 984.01, F.S.; revising an exemption from  
137 screening requirements for volunteers who assist with  
138 programs for children; amending s. 985.644, F.S.;  
139 revising background screening requirements for the  
140 Department of Juvenile Justice; authorizing  
141 rulemaking; amending ss. 381.60225, 409.912, 464.018,  
142 468.3101, 744.309, 744.474, and 985.04, F.S.;  
143 conforming provisions to changes made to ch. 435,  
144 F.S., by the act; repealing s. 409.1758, F.S.,  
145 relating to screening of summer camp personnel;

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146       repealing s. 456.039(4) (d), F.S., relating to  
147       information required for licensure of designated  
148       health care professionals; providing for prospective  
149       application of the act; providing an effective date.

150

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

152

153       Section 1. Paragraph (a) of subsection (2) of section  
154       39.001, Florida Statutes, is amended to read:

155       39.001 Purposes and intent; personnel standards and  
156       screening.—

157       (2) DEPARTMENT CONTRACTS.—The department may contract with  
158       the Federal Government, other state departments and agencies,  
159       county and municipal governments and agencies, public and  
160       private agencies, and private individuals and corporations in  
161       carrying out the purposes of, and the responsibilities  
162       established in, this chapter.

163       (a) When the department contracts with a provider for any  
164       program for children, all personnel, including owners,  
165       operators, employees, and volunteers, in the facility must be of  
166       good moral character. A volunteer who assists on an intermittent  
167       basis for less than 10 ~~40~~ hours per month need not be screened,  
168       provided a person who meets the screening requirement of this  
169       section is always present and has the volunteer within his or  
170       her line of sight if the volunteer is under direct and constant  
171       ~~supervision by persons who meet the screening requirements.~~

172       Section 2. Subsection (1) of section 39.821, Florida  
173       Statutes, is amended to read:

174       39.821 Qualifications of guardians ad litem.—

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175 (1) Because of the special trust or responsibility placed  
176 in a guardian ad litem, the Guardian Ad Litem Program may use  
177 any private funds collected by the program, or any state funds  
178 so designated, to conduct a security background investigation  
179 before certifying a volunteer to serve. A security background  
180 investigation must include, but need not be limited to,  
181 employment history checks, checks of references, local criminal  
182 records checks through local law enforcement agencies, and  
183 statewide criminal records checks through the Department of Law  
184 Enforcement. Upon request, an employer shall furnish a copy of  
185 the personnel record for the employee or former employee who is  
186 the subject of a security background investigation conducted  
187 under this section. The information contained in the personnel  
188 record may include, but need not be limited to, disciplinary  
189 matters and the reason why the employee was terminated from  
190 employment. An employer who releases a personnel record for  
191 purposes of a security background investigation is presumed to  
192 have acted in good faith and is not liable for information  
193 contained in the record without a showing that the employer  
194 maliciously falsified the record. A security background  
195 investigation conducted under this section must ensure that a  
196 person is not certified as a guardian ad litem if the person has  
197 been convicted of, regardless of adjudication, or entered a plea  
198 of nolo contendere or guilty to, any offense prohibited under  
199 the provisions listed in s. 435.04. All applicants certified on  
200 or after August 1, 2010, must undergo a level 2 background  
201 screening pursuant to chapter 435 before being certified ~~the~~  
202 ~~provisions of the Florida Statutes specified in s. 435.04(2) or~~  
203 ~~under any similar law in another jurisdiction. Before certifying~~

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204 ~~an applicant to serve as a guardian ad litem, the Guardian Ad~~  
205 ~~Litem Program may request a federal criminal records check of~~  
206 ~~the applicant through the Federal Bureau of Investigation.~~ In  
207 analyzing and evaluating the information obtained in the  
208 security background investigation, the program must give  
209 particular emphasis to past activities involving children,  
210 including, but not limited to, child-related criminal offenses  
211 or child abuse. The program has the sole discretion in  
212 determining whether to certify a person based on his or her  
213 security background investigation. The information collected  
214 pursuant to the security background investigation is  
215 confidential and exempt from s. 119.07(1).

216 Section 3. Paragraph (b) of subsection (1) of section  
217 215.5586, Florida Statutes, is amended to read:

218 215.5586 My Safe Florida Home Program.—There is established  
219 within the Department of Financial Services the My Safe Florida  
220 Home Program. The department shall provide fiscal  
221 accountability, contract management, and strategic leadership  
222 for the program, consistent with this section. This section does  
223 not create an entitlement for property owners or obligate the  
224 state in any way to fund the inspection or retrofitting of  
225 residential property in this state. Implementation of this  
226 program is subject to annual legislative appropriations. It is  
227 the intent of the Legislature that the My Safe Florida Home  
228 Program provide trained and certified inspectors to perform  
229 inspections for owners of site-built, single-family, residential  
230 properties and grants to eligible applicants as funding allows.  
231 The program shall develop and implement a comprehensive and  
232 coordinated approach for hurricane damage mitigation that may

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233 include the following:

234 (1) HURRICANE MITIGATION INSPECTIONS.—

235 (b) To qualify for selection by the department as a wind  
236 certification entity to provide hurricane mitigation  
237 inspections, the entity shall, at a minimum, meet the following  
238 requirements:

239 1. Use hurricane mitigation inspectors who:

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

241 b. Are licensed as a general or residential contractor  
242 under s. 489.111;

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

246 d. Are licensed as a professional architect under s.  
247 481.213; or

248 e. Have at least 2 years of experience in residential  
249 construction or residential building inspection and have  
250 received specialized training in hurricane mitigation  
251 procedures. Such training may be provided by a class offered  
252 online or in person.

253 2. Use hurricane mitigation inspectors who also:

254 a. Have undergone drug testing and a level 2 background  
255 screening checks pursuant to ~~s. 435.04~~. The department may  
256 conduct criminal record checks of inspectors used by wind  
257 certification entities. Inspectors must submit a set of the  
258 fingerprints to the department for state and national criminal  
259 history checks and must pay the fingerprint processing fee set  
260 forth in s. 624.501. The fingerprints shall be sent by the  
261 department to the Department of Law Enforcement and forwarded to

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262 the Federal Bureau of Investigation for processing. The results  
263 shall be returned to the department for screening. The  
264 fingerprints shall be taken by a law enforcement agency,  
265 designated examination center, or other department-approved  
266 entity; and

267 b. Have been certified, in a manner satisfactory to the  
268 department, to conduct the inspections.

269 3. Provide a quality assurance program including a  
270 reinspection component.

271 Section 4. Paragraphs (a) and (e) of subsection (1) of  
272 section 393.0655, Florida Statutes, are amended, and subsection  
273 (5) is added to that section, to read:

274 393.0655 Screening of direct service providers.—

275 (1) MINIMUM STANDARDS.—The agency shall require level 2  
276 employment screening pursuant to chapter 435 for direct service  
277 providers who are unrelated to their clients, including support  
278 coordinators, and managers and supervisors of residential  
279 facilities or comprehensive transitional education programs  
280 licensed under this chapter and any other person, including  
281 volunteers, who provide care or services, who have access to a  
282 client's living areas, or who have access to a client's funds or  
283 personal property. Background screening shall include employment  
284 history checks as provided in s. 435.03(1) and local criminal  
285 records checks through local law enforcement agencies.

286 (a) A volunteer who assists on an intermittent basis for  
287 less than 10 ~~40~~ hours per month does not have to be screened,  
288 provided a person who meets the screening requirement of this  
289 section is always present and has the volunteer within his or  
290 her line of sight ~~if the volunteer is under the direct and~~

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291 ~~constant visual supervision of persons who meet the screening~~  
292 ~~requirements of this section.~~

293 ~~(e) A direct service provider who is awaiting the~~  
294 ~~completion of background screening is temporarily exempt from~~  
295 ~~the screening requirements under this section if the provider is~~  
296 ~~under the direct and constant visual supervision of persons who~~  
297 ~~meet the screening requirements of this section. Such exemption~~  
298 ~~expires 90 days after the direct service provider first provides~~  
299 ~~care or services to clients, has access to a client's living~~  
300 ~~areas, or has access to a client's funds or personal property.~~

301 (5) DISQUALIFYING OFFENSES.—The background screening  
302 conducted under this section must ensure that, in addition to  
303 the disqualifying offenses listed in s. 435.04, no person  
304 subject to the provisions of this section has an arrest awaiting  
305 final disposition for, has been found guilty of, regardless of  
306 adjudication, or entered a plea of nolo contendere or guilty to,  
307 or has been adjudicated delinquent and the record has not been  
308 sealed or expunged for, any offense prohibited under any of the  
309 following provisions of the Florida Statutes or under any  
310 similar statute of another jurisdiction:

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

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

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

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

315 (e) Section 817.034, relating to fraudulent acts through  
316 mail, wire, radio, electromagnetic, photoelectronic, or  
317 photooptical systems.

318 (f) Section 817.234, relating to false and fraudulent  
319 insurance claims.

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- 320       (g) Section 817.505, relating to patient brokering.
- 321       (h) Section 817.568, relating to criminal use of personal  
322 identification information.
- 323       (i) Section 817.60, relating to obtaining a credit card  
324 through fraudulent means.
- 325       (j) Section 817.61, relating to fraudulent use of credit  
326 cards, if the offense was a felony.
- 327       (k) Section 831.01, relating to forgery.
- 328       (l) Section 831.02, relating to uttering forged  
329 instruments.
- 330       (m) Section 831.07, relating to forging bank bills, checks,  
331 drafts, or promissory notes.
- 332       (n) Section 831.09, relating to uttering forged bank bills,  
333 checks, drafts, or promissory notes.
- 334       Section 5. Section 394.4572, Florida Statutes, is amended  
335 to read:
- 336       394.4572 Screening of mental health personnel.—
- 337       (1) (a) The department and the Agency for Health Care  
338 Administration shall require level 2 background ~~employment~~  
339 screening pursuant to chapter 435 for mental health personnel  
340 ~~using the standards for level 2 screening set forth in chapter~~  
341 ~~435.~~ “Mental health personnel” includes all program directors,  
342 professional clinicians, staff members, and volunteers working  
343 in public or private mental health programs and facilities who  
344 have direct contact with individuals held for examination or  
345 admitted for mental health treatment ~~unmarried patients under~~  
346 ~~the age of 18 years.~~ For purposes of this chapter, employment  
347 screening of mental health personnel shall also include, but is  
348 not limited to, employment screening as provided under chapter

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349 435 and s. 408.809.

350 (b) Students in the health care professions who are  
351 interning in a mental health facility licensed under chapter  
352 395, where the primary purpose of the facility is not the  
353 treatment of minors, are exempt from the fingerprinting and  
354 screening requirements if, ~~provided~~ they are under direct  
355 supervision in the actual physical presence of a licensed health  
356 care professional.

357 ~~(c) Mental health personnel working in a facility licensed~~  
358 ~~under chapter 395 who have less than 15 hours per week of direct~~  
359 ~~contact with patients or who are health care professionals~~  
360 ~~licensed by the Agency for Health Care Administration or a board~~  
361 ~~thereunder are exempt from the fingerprinting and screening~~  
362 ~~requirements, except for persons working in mental health~~  
363 ~~facilities where the primary purpose of the facility is the~~  
364 ~~treatment of minors.~~

365 (c) ~~(d)~~ A volunteer who assists on an intermittent basis for  
366 less than 10 ~~40~~ hours per month is exempt from the  
367 fingerprinting and screening requirements, provided a person who  
368 meets the screening requirement of paragraph (a) is always  
369 present and has the volunteer within his or her line of sight  
370 ~~the volunteer is under direct and constant supervision by~~  
371 ~~persons who meet the screening requirements of paragraph (a).~~

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

375 ~~(3) Prospective mental health personnel who have previously~~  
376 ~~been fingerprinted or screened pursuant to this chapter, chapter~~  
377 ~~393, chapter 397, chapter 402, or chapter 409, or teachers who~~

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378 ~~have been fingerprinted pursuant to chapter 1012, who have not~~  
379 ~~been unemployed for more than 90 days thereafter, and who under~~  
380 ~~the penalty of perjury attest to the completion of such~~  
381 ~~fingerprinting or screening and to compliance with the~~  
382 ~~provisions of this section and the standards for level 1~~  
383 ~~screening contained in chapter 435, shall not be required to be~~  
384 ~~refingerprinted or rescreened in order to comply with any~~  
385 ~~screening requirements of this part.~~

386 Section 6. Section 400.215, Florida Statutes, is amended to  
387 read:

388 400.215 Personnel screening requirement.—

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

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

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

396 ~~(c) Have access to resident funds or other personal~~  
397 ~~property.~~

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

400 ~~(a) Notwithstanding the provisions of s. 435.05(1),~~  
401 ~~facilities must have in their possession evidence that level 1~~  
402 ~~screening has been completed before allowing an employee to~~  
403 ~~begin working with patients as provided in subsection (1). All~~  
404 ~~information necessary for conducting background screening using~~  
405 ~~level 1 standards as specified in s. 435.03 shall be submitted~~  
406 ~~by the nursing facility to the agency. Results of the background~~

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407 ~~screening shall be provided by the agency to the requesting~~  
408 ~~nursing facility.~~

409 ~~(b) Employees qualified under the provisions of paragraph~~  
410 ~~(a) who have not maintained continuous residency within the~~  
411 ~~state for the 5 years immediately preceding the date of request~~  
412 ~~for background screening must complete level 2 screening, as~~  
413 ~~provided in chapter 435. Such employees may work in a~~  
414 ~~conditional status up to 180 days pending the receipt of written~~  
415 ~~findings evidencing the completion of level 2 screening. Level 2~~  
416 ~~screening shall not be required of employees or prospective~~  
417 ~~employees who attest in writing under penalty of perjury that~~  
418 ~~they meet the residency requirement. Completion of level 2~~  
419 ~~screening shall require the employee or prospective employee to~~  
420 ~~furnish to the nursing facility a full set of fingerprints to~~  
421 ~~enable a criminal background investigation to be conducted. The~~  
422 ~~nursing facility shall submit the completed fingerprint card to~~  
423 ~~the agency. The agency shall establish a record of the request~~  
424 ~~in the database provided for in paragraph (c) and forward the~~  
425 ~~request to the Department of Law Enforcement, which is~~  
426 ~~authorized to submit the fingerprints to the Federal Bureau of~~  
427 ~~Investigation for a national criminal history records check. The~~  
428 ~~results of the national criminal history records check shall be~~  
429 ~~returned to the agency, which shall maintain the results in the~~  
430 ~~database provided for in paragraph (c). The agency shall notify~~  
431 ~~the administrator of the requesting nursing facility or the~~  
432 ~~administrator of any other facility licensed under chapter 393,~~  
433 ~~chapter 394, chapter 395, chapter 397, chapter 429, or this~~  
434 ~~chapter, as requested by such facility, as to whether or not the~~  
435 ~~employee has qualified under level 1 or level 2 screening. An~~

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436 ~~employee or prospective employee who has qualified under level 2~~  
437 ~~screening and has maintained such continuous residency within~~  
438 ~~the state shall not be required to complete a subsequent level 2~~  
439 ~~screening as a condition of employment at another facility.~~

440 ~~(c) The agency shall establish and maintain a database of~~  
441 ~~background screening information which shall include the results~~  
442 ~~of both level 1 and level 2 screening. The Department of Law~~  
443 ~~Enforcement shall timely provide to the agency, electronically,~~  
444 ~~the results of each statewide screening for incorporation into~~  
445 ~~the database. The agency shall, upon request from any facility,~~  
446 ~~agency, or program required by or authorized by law to screen~~  
447 ~~its employees or applicants, notify the administrator of the~~  
448 ~~facility, agency, or program of the qualifying or disqualifying~~  
449 ~~status of the employee or applicant named in the request.~~

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

452 ~~(3) The applicant is responsible for paying the fees~~  
453 ~~associated with obtaining the required screening. Payment for~~  
454 ~~the screening shall be submitted to the agency. The agency shall~~  
455 ~~establish a schedule of fees to cover the costs of level 1 and~~  
456 ~~level 2 screening. Facilities may reimburse employees for these~~  
457 ~~costs. The Department of Law Enforcement shall charge the agency~~  
458 ~~for a level 1 or level 2 screening a rate sufficient to cover~~  
459 ~~the costs of such screening pursuant to s. 943.053(3). The~~  
460 ~~agency shall, as allowable, reimburse nursing facilities for the~~  
461 ~~cost of conducting background screening as required by this~~  
462 ~~section. This reimbursement will not be subject to any rate~~  
463 ~~ceilings or payment targets in the Medicaid Reimbursement plan.~~

464 ~~(4)(a) As provided in s. 435.07, the agency may grant an~~

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465 ~~exemption from disqualification to an employee or prospective~~  
466 ~~employee who is subject to this section and who has not received~~  
467 ~~a professional license or certification from the Department of~~  
468 ~~Health.~~

469 ~~(b) As provided in s. 435.07, the appropriate regulatory~~  
470 ~~board within the Department of Health, or that department itself~~  
471 ~~when there is no board, may grant an exemption from~~  
472 ~~disqualification to an employee or prospective employee who is~~  
473 ~~subject to this section and who has received a professional~~  
474 ~~license or certification from the Department of Health or a~~  
475 ~~regulatory board within that department.~~

476 ~~(5) Any provision of law to the contrary notwithstanding,~~  
477 ~~persons who have been screened and qualified as required by this~~  
478 ~~section and who have not been unemployed for more than 180 days~~  
479 ~~thereafter, and who under penalty of perjury attest to not~~  
480 ~~having been convicted of a disqualifying offense since the~~  
481 ~~completion of such screening, shall not be required to be~~  
482 ~~rescreened. An employer may obtain, pursuant to s. 435.10,~~  
483 ~~written verification of qualifying screening results from the~~  
484 ~~previous employer or other entity which caused such screening to~~  
485 ~~be performed.~~

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

489 ~~(7) All employees shall comply with the requirements of~~  
490 ~~this section by October 1, 1998. No current employee of a~~  
491 ~~nursing facility as of the effective date of this act shall be~~  
492 ~~required to submit to rescreening if the nursing facility has in~~  
493 ~~its possession written evidence that the person has been~~

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494 ~~screened and qualified according to level 1 standards as~~  
495 ~~specified in s. 435.03(1). Any current employee who meets the~~  
496 ~~level 1 requirement but does not meet the 5-year residency~~  
497 ~~requirement as specified in this section must provide to the~~  
498 ~~employing nursing facility written attestation under penalty of~~  
499 ~~perjury that the employee has not been convicted of a~~  
500 ~~disqualifying offense in another state or jurisdiction. All~~  
501 ~~applicants hired on or after October 1, 1998, shall comply with~~  
502 ~~the requirements of this section.~~

503 ~~(8) There is no monetary or unemployment liability on the~~  
504 ~~part of, and no cause of action for damages arising against an~~  
505 ~~employer that, upon notice of a disqualifying offense listed~~  
506 ~~under chapter 435 or an act of domestic violence, terminates the~~  
507 ~~employee against whom the report was issued, whether or not the~~  
508 ~~employee has filed for an exemption with the Department of~~  
509 ~~Health or the Agency for Health Care Administration.~~

510 Section 7. Subsection (9) of section 400.506, Florida  
511 Statutes, is amended to read:

512 400.506 Licensure of nurse registries; requirements;  
513 penalties.—

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

521 Section 8. Section 400.512, Florida Statutes, is amended to  
522 read:

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523           400.512 Screening of home health agency personnel; nurse  
524 registry personnel and contractors; and companions and  
525 homemakers.—The agency, registry, or service shall require level  
526 2 background screening for employees or contractors as required  
527 in s. 408.809(1)(e) pursuant to chapter 435 and s. 408.809  
528 ~~employment or contractor screening as provided in chapter 435,~~  
529 ~~using the level 1 standards for screening set forth in that~~  
530 ~~chapter, for home health agency personnel; persons referred for~~  
531 ~~employment by nurse registries; and persons employed by~~  
532 ~~companion or homemaker services registered under s. 400.509.~~

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

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

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

550           ~~(3) As a prerequisite to operating as a home health agency,~~  
551 ~~nurse registry, or companion or homemaker service under s.~~

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552 ~~400.509, the administrator or managing employee, respectively,~~  
553 ~~must submit to the agency his or her name and any other~~  
554 ~~information necessary to conduct a complete screening according~~  
555 ~~to this section. The agency shall submit the information to the~~  
556 ~~Department of Law Enforcement for state processing. The agency~~  
557 ~~shall review the record of the administrator or manager with~~  
558 ~~respect to the offenses specified in this section and shall~~  
559 ~~notify the owner of its findings. If disposition information is~~  
560 ~~missing on a criminal record, the administrator or manager, upon~~  
561 ~~request of the agency, must obtain and supply within 30 days the~~  
562 ~~missing disposition information to the agency. Failure to supply~~  
563 ~~missing information within 30 days or to show reasonable efforts~~  
564 ~~to obtain such information will result in automatic~~  
565 ~~disqualification.~~

566 ~~(4) Proof of compliance with the screening requirements of~~  
567 ~~chapter 435 shall be accepted in lieu of the requirements of~~  
568 ~~this section if the person has been continuously employed or~~  
569 ~~registered without a breach in service that exceeds 180 days,~~  
570 ~~the proof of compliance is not more than 2 years old, and the~~  
571 ~~person has been screened by the Department of Law Enforcement. A~~  
572 ~~home health agency, nurse registry, or companion or homemaker~~  
573 ~~service registered under s. 400.509 shall directly provide proof~~  
574 ~~of compliance to another home health agency, nurse registry, or~~  
575 ~~companion or homemaker service registered under s. 400.509. The~~  
576 ~~recipient home health agency, nurse registry, or companion or~~  
577 ~~homemaker service registered under s. 400.509 may not accept any~~  
578 ~~proof of compliance directly from the person who requires~~  
579 ~~screening. Proof of compliance with the screening requirements~~  
580 ~~of this section shall be provided upon request to the person~~

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581 ~~screened by the home health agencies; nurse registries; or~~  
582 ~~companion or homemaker services registered under s. 400.509.~~

583 ~~(5) There is no monetary liability on the part of, and no~~  
584 ~~cause of action for damages arises against, a licensed home~~  
585 ~~health agency, licensed nurse registry, or companion or~~  
586 ~~homemaker service registered under s. 400.509, that, upon notice~~  
587 ~~that the employee or contractor has been found guilty of,~~  
588 ~~regardless of adjudication, or entered a plea of nolo contendere~~  
589 ~~or guilty to, any offense prohibited under s. 435.03 or under~~  
590 ~~any similar statute of another jurisdiction, terminates the~~  
591 ~~employee or contractor, whether or not the employee or~~  
592 ~~contractor has filed for an exemption with the agency in~~  
593 ~~accordance with chapter 435 and whether or not the time for~~  
594 ~~filing has expired.~~

595 ~~(6) The costs of processing the statewide correspondence~~  
596 ~~criminal records checks must be borne by the home health agency;~~  
597 ~~the nurse registry; or the companion or homemaker service~~  
598 ~~registered under s. 400.509, or by the person being screened, at~~  
599 ~~the discretion of the home health agency, nurse registry, or s.~~  
600 ~~400.509 registrant.~~

601 Section 9. Section 400.6065, Florida Statutes, is amended  
602 to read:

603 400.6065 Background screening.—The agency shall require  
604 level 2 background employment or contractor screening for  
605 personnel as required in s. 408.809(1)(e) pursuant to chapter  
606 435 and s. 408.809 as provided in chapter 435, using the level 1  
607 standards for screening set forth in that chapter, for hospice  
608 personnel.

609 Section 10. Subsection (2) of section 400.801, Florida

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610 Statutes, is amended to read:

611 400.801 Homes for special services.—

612 (2) (a) The requirements of part II of chapter 408 apply to  
613 the provision of services that require licensure pursuant to  
614 this section and part II of chapter 408 and entities licensed by  
615 or applying for such licensure from the agency pursuant to this  
616 section. A license issued by the agency is required in order to  
617 operate a home for special services in this state.

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

621 Section 11. Paragraph (d) is added to subsection (2) of  
622 section 400.805, Florida Statutes, to read:

623 400.805 Transitional living facilities.—

624 (2)

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

628 Section 12. Section 400.9065, Florida Statutes, is created  
629 to read:

630 400.9065 Background screening.—The agency shall require  
631 level 2 background screening for personnel as required in s.  
632 408.809(1) (e) pursuant to chapter 435 and s. 408.809.

633 Section 13. Subsection (16) of section 400.934, Florida  
634 Statutes, is amended to read:

635 400.934 Minimum standards.—As a requirement of licensure,  
636 home medical equipment providers shall:

637 (16) Establish procedures for maintaining a record of the  
638 employment history, including background screening as required

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639 by ss. ~~s.~~ 400.953 and 408.809(1) and chapter 435~~r~~ of all home  
640 medical equipment provider personnel. A home medical equipment  
641 provider must require its personnel to submit an employment  
642 history to the home medical equipment provider and must verify  
643 the employment history for at least the previous 5 years, unless  
644 through diligent efforts such verification is not possible.  
645 There is no monetary liability on the part of, and no cause of  
646 action for damages arising against a former employer, a  
647 prospective employee, or a prospective independent contractor  
648 with a licensed home medical equipment provider, who reasonably  
649 and in good faith communicates his or her honest opinions about  
650 a former employee's job performance. This subsection does not  
651 affect the official immunity of an officer or employee of a  
652 public corporation.

653 Section 14. Section 400.953, Florida Statutes, is amended  
654 to read:

655 400.953 Background screening of home medical equipment  
656 provider personnel.—The agency shall require level 2 background  
657 screening for personnel as required in s. 408.809(1)(e) pursuant  
658 to chapter 435 and s. 408.809 ~~employment screening as provided~~  
659 ~~in chapter 435, using the level 1 standards for screening set~~  
660 ~~forth in that chapter, for home medical equipment provider~~  
661 ~~personnel.~~

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

664 ~~(2) The general manager of each home medical equipment~~  
665 ~~provider must sign an affidavit annually, under penalty of~~  
666 ~~perjury, stating that all home medical equipment provider~~  
667 ~~personnel hired on or after July 1, 1999, who enter the home of~~

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668 ~~a patient in the capacity of their employment have been screened~~  
669 ~~and that its remaining personnel have worked for the home~~  
670 ~~medical equipment provider continuously since before July 1,~~  
671 ~~1999.~~

672 ~~(3) Proof of compliance with the screening requirements of~~  
673 ~~s. 110.1127, s. 393.0655, s. 394.4572, s. 397.451, s. 402.305,~~  
674 ~~s. 402.313, s. 409.175, s. 464.008, or s. 985.644 or this part~~  
675 ~~must be accepted in lieu of the requirements of this section if~~  
676 ~~the person has been continuously employed in the same type of~~  
677 ~~occupation for which he or she is seeking employment without a~~  
678 ~~breach in service that exceeds 180 days, the proof of compliance~~  
679 ~~is not more than 2 years old, and the person has been screened~~  
680 ~~by the Department of Law Enforcement. An employer or contractor~~  
681 ~~shall directly provide proof of compliance to another employer~~  
682 ~~or contractor, and a potential employer or contractor may not~~  
683 ~~accept any proof of compliance directly from the person~~  
684 ~~requiring screening. Proof of compliance with the screening~~  
685 ~~requirements of this section shall be provided, upon request, to~~  
686 ~~the person screened by the home medical equipment provider.~~

687 ~~(4) There is no monetary liability on the part of, and no~~  
688 ~~cause of action for damages arising against, a licensed home~~  
689 ~~medical equipment provider that, upon notice that an employee~~  
690 ~~has been found guilty of, regardless of adjudication, or entered~~  
691 ~~a plea of nolo contendere or guilty to, any offense prohibited~~  
692 ~~under s. 435.03 or under any similar statute of another~~  
693 ~~jurisdiction, terminates the employee, whether or not the~~  
694 ~~employee has filed for an exemption with the agency and whether~~  
695 ~~or not the time for filing has expired.~~

696 ~~(5) The costs of processing the statewide correspondence~~

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697 ~~riminal records checks must be borne by the home medical~~  
698 ~~equipment provider or by the person being screened, at the~~  
699 ~~discretion of the home medical equipment provider.~~

700 ~~(6) Neither the agency nor the home medical equipment~~  
701 ~~provider may use the criminal records or juvenile records of a~~  
702 ~~person for any purpose other than determining whether that~~  
703 ~~person meets minimum standards of good moral character for home~~  
704 ~~medical equipment provider personnel.~~

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

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

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

716 ~~3. Use information from the criminal records obtained under~~  
717 ~~this section for any purpose other than screening that person~~  
718 ~~for employment as specified in this section, or release such~~  
719 ~~information to any other person for any purpose other than~~  
720 ~~screening for employment under this section.~~

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

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726 ~~under this section.~~

727 Section 15. Section 400.955, Florida Statutes, is repealed.

728 Section 16. Section 400.964, Florida Statutes, is amended  
729 to read:

730 400.964 Personnel screening requirement.—

731 ~~(1) The agency shall require level 2 background screening~~  
732 ~~for personnel as required in s. 408.809(1)(e) pursuant to~~  
733 ~~chapter 435 and s. 408.809 as provided in chapter 435 for all~~  
734 ~~employees or prospective employees of facilities licensed under~~  
735 ~~this part who are expected to be, or whose responsibilities are~~  
736 ~~such that they would be considered to be, a direct service~~  
737 ~~provider.~~

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

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

742 ~~(4) The applicant is responsible for paying the fees~~  
743 ~~associated with obtaining the required screening. Payment for~~  
744 ~~the screening must be submitted to the agency as prescribed by~~  
745 ~~the agency.~~

746 ~~(5) Notwithstanding any other provision of law, persons who~~  
747 ~~have been screened and qualified as required by this section and~~  
748 ~~who have not been unemployed for more than 180 days thereafter,~~  
749 ~~and who under penalty of perjury attest to not having been~~  
750 ~~convicted of a disqualifying offense since the completion of~~  
751 ~~such screening are not required to be rescreened. An employer~~  
752 ~~may obtain, pursuant to s. 435.10, written verification of~~  
753 ~~qualifying screening results from the previous employer or other~~  
754 ~~entity that caused such screening to be performed.~~

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

756 ~~(7) All employees must comply with the requirements of this~~  
757 ~~section by October 1, 2000. A person employed by a facility~~  
758 ~~licensed pursuant to this part as of the effective date of this~~  
759 ~~act is not required to submit to rescreening if the facility has~~  
760 ~~in its possession written evidence that the person has been~~  
761 ~~screened and qualified according to level 1 standards as~~  
762 ~~specified in s. 435.03. Any current employee who meets the level~~  
763 ~~1 requirement but does not meet the 5-year residency requirement~~  
764 ~~must provide to the employing facility written attestation under~~  
765 ~~penalty of perjury that the employee has not been convicted of a~~  
766 ~~disqualifying offense in another state or jurisdiction. All~~  
767 ~~applicants hired on or after October 1, 1999, must comply with~~  
768 ~~the requirements of this section.~~

769 ~~(8) There is no monetary or unemployment liability on the~~  
770 ~~part of, and no cause of action for damages arises against an~~  
771 ~~employer that, upon notice of a disqualifying offense listed~~  
772 ~~under chapter 435 or an act of domestic violence, terminates the~~  
773 ~~employee, whether or not the employee has filed for an exemption~~  
774 ~~with the Department of Health or the Agency for Health Care~~  
775 ~~Administration.~~

776 Section 17. Subsection (3) of section 400.980, Florida  
777 Statutes, is amended to read:

778 400.980 Health care services pools.—

779 ~~(3) Upon receipt of a completed, signed, and dated~~  
780 ~~application, The agency shall require level 2 background~~  
781 ~~screening for personnel as required in s. 408.809(1)(e) pursuant~~  
782 ~~to chapter 435 and s. 408.809, in accordance with the level 1~~  
783 ~~standards for screening set forth in chapter 435, of every~~

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784 ~~individual who will have contact with patients.~~

785 Section 18. Subsection (5) of section 400.991, Florida  
786 Statutes, is amended to read:

787 400.991 License requirements; background screenings;  
788 prohibitions.—

789 (5) ~~Each applicant for licensure shall comply with the~~  
790 ~~following requirements:~~

791 (a) As used in this subsection, the term "applicant" means  
792 individuals owning or controlling, directly or indirectly, 5  
793 percent or more of an interest in a clinic; the medical or  
794 clinic director, or a similarly titled person who is responsible  
795 for the day-to-day operation of the licensed clinic; the  
796 financial officer or similarly titled individual who is  
797 responsible for the financial operation of the clinic; and  
798 licensed health care practitioners at the clinic.

799 (b) ~~Upon receipt of a completed, signed, and dated~~  
800 ~~application,~~ The agency shall require level 2 background  
801 screening for applicants and personnel as required in s.  
802 408.809(1)(e) pursuant to chapter 435 and s. 408.809 ~~of the~~  
803 ~~applicant, in accordance with the level 2 standards for~~  
804 ~~screening set forth in chapter 435. Proof of compliance with the~~  
805 ~~level 2 background screening requirements of chapter 435 which~~  
806 ~~has been submitted within the previous 5 years in compliance~~  
807 ~~with any other health care licensure requirements of this state~~  
808 ~~is acceptable in fulfillment of this paragraph. Applicants who~~  
809 ~~own less than 10 percent of a health care clinic are not~~  
810 ~~required to submit fingerprints under this section.~~

811 (c) Each applicant must submit to the agency, with the  
812 application, a description and explanation of any exclusions,

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813 permanent suspensions, or terminations of an applicant from the  
814 Medicare or Medicaid programs. Proof of compliance with the  
815 requirements for disclosure of ownership and control interest  
816 under the Medicaid or Medicare programs may be accepted in lieu  
817 of this submission. The description and explanation may indicate  
818 whether such exclusions, suspensions, or terminations were  
819 voluntary or not voluntary on the part of the applicant.

820 ~~(d) A license may not be granted to a clinic if the~~  
821 ~~applicant has been found guilty of, regardless of adjudication,~~  
822 ~~or has entered a plea of nolo contendere or guilty to, any~~  
823 ~~offense prohibited under the level 2 standards for screening set~~  
824 ~~forth in chapter 435, or a violation of insurance fraud under s.~~  
825 ~~817.234, within the past 5 years. If the applicant has been~~  
826 ~~convicted of an offense prohibited under the level 2 standards~~  
827 ~~or insurance fraud in any jurisdiction, the applicant must show~~  
828 ~~that his or her civil rights have been restored prior to~~  
829 ~~submitting an application.~~

830 Section 19. Paragraph (h) is added to subsection (1) of  
831 section 408.806, Florida Statutes, to read:

832 408.806 License application process.—

833 (1) An application for licensure must be made to the agency  
834 on forms furnished by the agency, submitted under oath, and  
835 accompanied by the appropriate fee in order to be accepted and  
836 considered timely. The application must contain information  
837 required by authorizing statutes and applicable rules and must  
838 include:

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

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842 Section 20. Subsection (2) of section 408.808, Florida  
843 Statutes, is amended to read:

844 408.808 License categories.—

845 (2) PROVISIONAL LICENSE. ~~A provisional license may be~~  
846 ~~issued to an applicant pursuant to s. 408.809(3).~~ An applicant  
847 against whom a proceeding denying or revoking a license is  
848 pending at the time of license renewal may be issued a  
849 provisional license effective until final action not subject to  
850 further appeal. A provisional license may also be issued to an  
851 applicant applying for a change of ownership. A provisional  
852 license shall be limited in duration to a specific period of  
853 time, not to exceed 12 months, as determined by the agency.

854 Section 21. Section 408.809, Florida Statutes, is amended  
855 to read:

856 408.809 Background screening; prohibited offenses.—

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

861 (a) The licensee, if an individual.

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

864 (c) The financial officer or similarly titled individual  
865 who is responsible for the financial operation of the licensee  
866 or provider.

867 (d) Any person who is a controlling interest if the agency  
868 has reason to believe that such person has been convicted of any  
869 offense prohibited by s. 435.04. For each controlling interest  
870 who has been convicted of any such offense, the licensee shall

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871 submit to the agency a description and explanation of the  
872 conviction at the time of license application.

873 (e) Any person, as required by authorizing statutes,  
874 seeking employment with a licensee or provider who is expected  
875 to, or whose responsibilities may require him or her to, provide  
876 personal care or services directly to clients or have access to  
877 client funds, personal property, or living areas; and any  
878 person, as required by authorizing statutes, contracting with a  
879 licensee or provider whose responsibilities require him or her  
880 to provide personal care or personal services directly to  
881 clients. Evidence of contractor screening may be retained by the  
882 contractor's employer or the licensee.

883 (2) Every 5 years following his or her licensure,  
884 employment, or entry into a contract in a capacity that under  
885 subsection (1) would require level 2 background screening under  
886 chapter 435, each such person must submit to level 2 background  
887 rescreening as a condition of retaining such license or  
888 continuing in such employment or contractual status. For any  
889 such rescreening, the agency shall request the Department of Law  
890 Enforcement to forward the person's fingerprints to the Federal  
891 Bureau of Investigation for a national criminal history record  
892 check. If the fingerprints of such a person are not retained by  
893 the Department of Law Enforcement under s. 943.05(2)(g), the  
894 person must file a complete set of fingerprints with the agency  
895 and the agency shall forward the fingerprints to the Department  
896 of Law Enforcement for state processing, and the Department of  
897 Law Enforcement shall forward the fingerprints to the Federal  
898 Bureau of Investigation for a national criminal history record  
899 check. The fingerprints may be retained by the Department of Law

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900 Enforcement under s. 943.05(2)(g). The cost of the state and  
901 national criminal history records checks required by level 2  
902 screening may be borne by the licensee or the person  
903 fingerprinted. Proof of compliance with level 2 screening  
904 standards submitted within the previous 5 years to meet any  
905 provider or professional licensure requirements of the agency,  
906 the Department of Health, the Agency for Persons with  
907 Disabilities, ~~or~~ the Department of Children and Family Services,  
908 or the Department of Financial Services for an applicant for a  
909 certificate of authority or provisional certificate of authority  
910 to operate a continuing care retirement community under chapter  
911 651 satisfies the requirements of this section, provided that  
912 the person subject to screening has not been unemployed for more  
913 than 90 days and such proof is accompanied, under penalty of  
914 perjury, by an affidavit of compliance with the provisions of  
915 chapter 435 and this section using forms provided by the agency.  
916 ~~Proof of compliance with the background screening requirements~~  
917 ~~of the Department of Financial Services submitted within the~~  
918 ~~previous 5 years for an applicant for a certificate of authority~~  
919 ~~to operate a continuing care retirement community under chapter~~  
920 ~~651 satisfies the Department of Law Enforcement and Federal~~  
921 ~~Bureau of Investigation portions of a level 2 background check.~~  
922 (3) All fingerprints must be provided in electronic format.  
923 Screening results shall be reviewed by the agency with respect  
924 to the offenses specified in s. 435.04 and this section, and the  
925 qualifying or disqualifying status of the person named in the  
926 request shall be maintained in a database. The qualifying or  
927 disqualifying status of the person named in the request shall be  
928 posted on a secure website for retrieval by the licensee or

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929 designated agent on the licensee's behalf. ~~A provisional license~~  
930 ~~may be granted to an applicant when each individual required by~~  
931 ~~this section to undergo background screening has met the~~  
932 ~~standards for the Department of Law Enforcement background check~~  
933 ~~but the agency has not yet received background screening results~~  
934 ~~from the Federal Bureau of Investigation. A standard license may~~  
935 ~~be granted to the licensee upon the agency's receipt of a report~~  
936 ~~of the results of the Federal Bureau of Investigation background~~  
937 ~~screening for each individual required by this section to~~  
938 ~~undergo background screening that confirms that all standards~~  
939 ~~have been met or upon the granting of an exemption from~~  
940 ~~disqualification by the agency as set forth in chapter 435.~~

941 ~~(4) When a person is newly employed in a capacity that~~  
942 ~~requires screening under this section, the licensee must notify~~  
943 ~~the agency of the change within the time period specified in the~~  
944 ~~authorizing statute or rules and must submit to the agency~~  
945 ~~information necessary to conduct level 2 screening or provide~~  
946 ~~evidence of compliance with background screening requirements of~~  
947 ~~this section. The person may serve in his or her capacity~~  
948 ~~pending the agency's receipt of the report from the Federal~~  
949 ~~Bureau of Investigation if he or she has met the standards for~~  
950 ~~the Department of Law Enforcement background check. However, the~~  
951 ~~person may not continue to serve in his or her capacity if the~~  
952 ~~report indicates any violation of background screening standards~~  
953 ~~unless an exemption from disqualification has been granted by~~  
954 ~~the agency as set forth in chapter 435.~~

955 ~~(4)(5) Effective October 1, 2009,~~ In addition to the  
956 offenses listed in s. ss. 435.03 and 435.04, all persons  
957 required to undergo background screening pursuant to this part

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958 or authorizing statutes must not have an arrest awaiting final  
959 disposition for, must not have been found guilty of, regardless  
960 of adjudication, or entered a plea of nolo contendere or guilty  
961 to, and must not have been adjudicated delinquent and the record  
962 not have been sealed or expunged for any of the following  
963 offenses or any similar offense of another jurisdiction:

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

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

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

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

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

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

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

974 (f)~~(h)~~ Section 817.034, relating to fraudulent acts through  
975 mail, wire, radio, electromagnetic, photoelectronic, or  
976 photooptical systems.

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

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

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

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

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

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

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987 (m)~~(e)~~ Section 831.02, relating to uttering forged  
988 instruments.

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

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

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

995 (q)~~(s)~~ Section 831.31, relating to the sale, manufacture,  
996 delivery, or possession with the intent to sell, manufacture, or  
997 deliver any counterfeit controlled substance, if the offense was  
998 a felony.

999  
1000 A person who serves as a controlling interest of, ~~or~~ is employed  
1001 by, or contracts with a licensee on July 31, 2010 ~~September 30,~~  
1002 ~~2009,~~ who has been screened and qualified according to standards  
1003 specified in s. 435.03 or s. 435.04 must be rescreened by July  
1004 31, 2015. The agency may adopt rules pursuant to ss. 120.536(1)  
1005 and 120.54 to establish a schedule to stagger the implementation  
1006 of the required rescreening over the 5-year period, beginning  
1007 July 31, 2010, through July 31, 2015. If, upon rescreening, ~~is~~  
1008 ~~not required by law to submit to rescreening if that licensee~~  
1009 ~~has in its possession written evidence that the person has been~~  
1010 ~~screened and qualified according to the standards specified in~~  
1011 ~~s. 435.03 or s. 435.04. However, if such person has a~~  
1012 ~~disqualifying offense~~ that was not a disqualifying offense at  
1013 the time of the last screening, but is a current disqualifying  
1014 offense and was committed prior to the last screening ~~listed in~~  
1015 ~~this section,~~ he or she may apply for an exemption from the

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1016 appropriate licensing agency ~~before September 30, 2009,~~ and, if  
1017 agreed to by the employer, may continue to perform his or her  
1018 duties until the licensing agency renders a decision on the  
1019 application for exemption as long as the person is eligible to  
1020 apply for an exemption and the exemption request is received by  
1021 the agency within 30 days after receipt of the rescreening  
1022 results by the person ~~for offenses listed in this section.~~  
1023 ~~Exemptions from disqualification may be granted pursuant to s.~~  
1024 ~~435.07.~~

1025 (5) ~~(6)~~ The costs associated with obtaining the required  
1026 screening must be borne either by the licensee or the person  
1027 subject to screening. Licensees may reimburse persons for these  
1028 costs. The Department of Law Enforcement shall charge the agency  
1029 for screening pursuant to s. 943.053(3). The agency shall  
1030 establish a schedule of fees to cover the costs of screening ~~The~~  
1031 ~~attestations required under ss. 435.04(5) and 435.05(3) must be~~  
1032 ~~submitted at the time of license renewal, notwithstanding the~~  
1033 ~~provisions of ss. 435.04(5) and 435.05(3) which require annual~~  
1034 ~~submission of an affidavit of compliance with background~~  
1035 ~~screening requirements.~~

1036 (6) (a) As provided in chapter 435, the agency may grant an  
1037 exemption from disqualification to a person who is subject to  
1038 this section and who has not received a professional license or  
1039 certification from the Department of Health if that person is  
1040 providing a service that is within the scope of his or her  
1041 licensed or certified practice.

1042 (b) As provided in chapter 435, the appropriate regulatory  
1043 board within the Department of Health, or the department itself  
1044 when there is no board, may grant an exemption from

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1045 disqualification to a person who is subject to this section and  
1046 who has received a professional license or certification from  
1047 the Department of Health or a regulatory board within that  
1048 department and that person is providing a service within the  
1049 scope of his or her licensed or certified practice.

1050 (7) The agency and the Department of Health may adopt rules  
1051 pursuant to ss. 120.536(1) and 120.54 to implement this section,  
1052 chapter 435, and authorizing statutes requiring background  
1053 screening and to implement and adopt criteria relating to  
1054 retaining fingerprints pursuant to s. 943.05(2).

1055 (8) There is no unemployment compensation or other monetary  
1056 liability on the part of, and no cause of action for damages  
1057 arising against, an employer that, upon notice of a  
1058 disqualifying offense listed under chapter 435 or this section,  
1059 terminates the person against whom the report was issued,  
1060 whether or not that person has filed for an exemption with the  
1061 Department of Health or the agency.

1062 Section 22. Subsection (3) of section 402.302, Florida  
1063 Statutes, is amended to read:

1064 402.302 Definitions.—

1065 (3) "Child care personnel" means all owners, operators,  
1066 employees, and volunteers working in a child care facility. The  
1067 term does not include persons who work in a child care facility  
1068 after hours when children are not present or parents of children  
1069 in a child care facility ~~Head Start~~. For purposes of screening,  
1070 the term includes any member, over the age of 12 years, of a  
1071 child care facility operator's family, or person, over the age  
1072 of 12 years, residing with a child care facility operator if the  
1073 child care facility is located in or adjacent to the home of the

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1074 operator or if the  
1075 family member of, or person residing with, the child care  
1076 facility operator has any direct contact with the children in  
1077 the facility during its hours of operation. Members of the  
1078 operator's family or persons residing with the operator who are  
1079 between the ages of 12 years and 18 years shall not be required  
1080 to be fingerprinted but shall be screened for delinquency  
1081 records. For purposes of screening, the term shall also include  
1082 persons who work in child care programs which provide care for  
1083 children 15 hours or more each week in public or nonpublic  
1084 schools, ~~summer day camps,~~ family day care homes, or those  
1085 programs otherwise exempted under s. 402.316. The term does not  
1086 include public or nonpublic school personnel who are providing  
1087 care during regular school hours, or after hours for activities  
1088 related to a school's program for grades kindergarten through  
1089 12. A volunteer who assists on an intermittent basis for less  
1090 than 10 ~~40~~ hours per month is not included in the term  
1091 "personnel" for the purposes of screening and training, provided  
1092 a person who meets the screening requirement of s. 402.305(2) is  
1093 always present and has the volunteer in his or her line of sight  
1094 ~~that the volunteer is under direct and constant supervision by~~  
1095 ~~persons who meet the personnel requirements of s. 402.305(2).~~  
1096 Students who observe and participate in a child care facility as  
1097 a part of their required coursework shall not be considered  
1098 child care personnel, provided such observation and  
1099 participation are on an intermittent basis and a person who  
1100 meets the screening requirement of s. 402.305(2) is always  
1101 present and has the student in his or her line of sight ~~the~~  
1102 ~~students are under direct and constant supervision of child care~~

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1103 ~~personnel.~~

1104 Section 23. Paragraphs (i) and (k) of subsection (2) of  
1105 section 409.175, Florida Statutes, are amended, present  
1106 paragraphs (b) and (c) of subsection (5) of that section are  
1107 redesignated as paragraphs (c) and (d), respectively, and a new  
1108 paragraph (b) is added to that section to read:

1109 409.175 Licensure of family foster homes, residential  
1110 child-caring agencies, and child-placing agencies; public  
1111 records exemption.—

1112 (2) As used in this section, the term:

1113 (i) "Personnel" means all owners, operators, employees, and  
1114 volunteers working in a child-placing agency, family foster  
1115 home, or residential child-caring agency who may be employed by  
1116 or do volunteer work for a person, corporation, or agency which  
1117 holds a license as a child-placing agency or a residential  
1118 child-caring agency, but the term does not include those who do  
1119 not work on the premises where child care is furnished and  
1120 either have no direct contact with a child or have no contact  
1121 with a child outside of the presence of the child's parent or  
1122 guardian. For purposes of screening, the term shall include any  
1123 member, over the age of 12 years, of the family of the owner or  
1124 operator or any person other than a client, over the age of 12  
1125 years, residing with the owner or operator if the agency or  
1126 family foster home is located in or adjacent to the home of the  
1127 owner or operator or if the family member of, or person residing  
1128 with, the owner or operator has any direct contact with the  
1129 children. Members of the family of the owner or operator, or  
1130 persons residing with the owner or operator, who are between the  
1131 ages of 12 years and 18 years shall not be required to be

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1132 fingerprinted, but shall be screened for delinquency records.  
1133 For purposes of screening, the term "personnel" shall also  
1134 include owners, operators, employees, and volunteers working in  
1135 summer day camps, or summer 24-hour camps providing care for  
1136 children. A volunteer who assists on an intermittent basis for  
1137 less than 10 ~~40~~ hours per month shall not be included in the  
1138 term "personnel" for the purposes of screening, provided a  
1139 person who meets the screening requirement of this section is  
1140 always present and has the volunteer in his or her line of sight  
1141 ~~that the volunteer is under direct and constant supervision by~~  
1142 ~~persons who meet the personnel requirements of this section.~~

1143 (k) "Screening" means the act of assessing the background  
1144 of personnel and includes, but is not limited to, employment  
1145 history checks as provided in chapter 435, using the level 2  
1146 standards for screening set forth in that chapter. ~~Screening for~~  
1147 ~~employees and volunteers in summer day camps and summer 24-hour~~  
1148 ~~camps and screening for all volunteers included under the~~  
1149 ~~definition of "personnel" shall be conducted as provided in~~  
1150 ~~chapter 435, using the level 1 standards set forth in that~~  
1151 ~~chapter.~~

1152 (5)

1153 (b) The department shall randomly drug test a licensed  
1154 foster parent if there is a reasonable suspicion that he or she  
1155 is using illegal drugs. The cost of testing shall be paid by the  
1156 foster parent but shall be reimbursed by the department if the  
1157 test is negative. The department may adopt rules necessary to  
1158 administer this paragraph.

1159 Section 24. Paragraph (i) of subsection (4) of section  
1160 409.221, Florida Statutes, is amended to read:

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1161 409.221 Consumer-directed care program.—

1162 (4) CONSUMER-DIRECTED CARE.—

1163 (i) *Background screening requirements.*—All persons who  
1164 render care under this section must undergo level 2 background  
1165 screening pursuant to chapter 435 ~~shall comply with the~~  
1166 ~~requirements of s. 435.05. Persons shall be excluded from~~  
1167 ~~employment pursuant to s. 435.06.~~

1168 ~~1. Persons excluded from employment may request an~~  
1169 ~~exemption from disqualification, as provided in s. 435.07.~~  
1170 ~~Persons not subject to certification or professional licensure~~  
1171 ~~may request an exemption from the agency. In considering a~~  
1172 ~~request for an exemption, the agency shall comply with the~~  
1173 ~~provisions of s. 435.07.~~

1174 ~~2.~~ The agency shall, as allowable, reimburse consumer-  
1175 employed caregivers for the cost of conducting background  
1176 screening as required by this section.

1177  
1178 For purposes of this section, a person who has undergone  
1179 screening, who is qualified for employment under this section  
1180 and applicable rule, and who has not been unemployed for more  
1181 than 90 ~~180~~ days following such screening is not required to be  
1182 rescreened. Such person must attest under penalty of perjury to  
1183 not having been convicted of a disqualifying offense since  
1184 completing such screening.

1185 Section 25. Subsection (8) of section 409.907, Florida  
1186 Statutes, is amended to read:

1187 409.907 Medicaid provider agreements.—The agency may make  
1188 payments for medical assistance and related services rendered to  
1189 Medicaid recipients only to an individual or entity who has a

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1190 provider agreement in effect with the agency, who is performing  
1191 services or supplying goods in accordance with federal, state,  
1192 and local law, and who agrees that no person shall, on the  
1193 grounds of handicap, race, color, or national origin, or for any  
1194 other reason, be subjected to discrimination under any program  
1195 or activity for which the provider receives payment from the  
1196 agency.

1197 (8) (a) Each provider, or each principal of the provider if  
1198 the provider is a corporation, partnership, association, or  
1199 other entity, seeking to participate in the Medicaid program  
1200 must submit a complete set of his or her fingerprints to the  
1201 agency for the purpose of conducting a criminal history record  
1202 check. Principals of the provider include any officer, director,  
1203 billing agent, managing employee, or affiliated person, or any  
1204 partner or shareholder who has an ownership interest equal to 5  
1205 percent or more in the provider. However, a director of a not-  
1206 for-profit corporation or organization is not a principal for  
1207 purposes of a background investigation as required by this  
1208 section if the director: serves solely in a voluntary capacity  
1209 for the corporation or organization, does not regularly take  
1210 part in the day-to-day operational decisions of the corporation  
1211 or organization, receives no remuneration from the not-for-  
1212 profit corporation or organization for his or her service on the  
1213 board of directors, has no financial interest in the not-for-  
1214 profit corporation or organization, and has no family members  
1215 with a financial interest in the not-for-profit corporation or  
1216 organization; and if the director submits an affidavit, under  
1217 penalty of perjury, to this effect to the agency and the not-  
1218 for-profit corporation or organization submits an affidavit,

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1219 under penalty of perjury, to this effect to the agency as part  
1220 of the corporation's or organization's Medicaid provider  
1221 agreement application. Notwithstanding the above, the agency may  
1222 require a background check for any person reasonably suspected  
1223 by the agency to have been convicted of a crime. This subsection  
1224 shall not apply to:

- 1225 1. A hospital licensed under chapter 395;
- 1226 2. A nursing home licensed under chapter 400;
- 1227 3. A hospice licensed under chapter 400;
- 1228 4. An assisted living facility licensed under chapter 429;
- 1229 5. A unit of local government, except that requirements of  
1230 this subsection apply to nongovernmental providers and entities  
1231 when contracting with the local government to provide Medicaid  
1232 services. The actual cost of the state and national criminal  
1233 history record checks must be borne by the nongovernmental  
1234 provider or entity; or

- 1235 6. Any business that derives more than 50 percent of its  
1236 revenue from the sale of goods to the final consumer, and the  
1237 business or its controlling parent either is required to file a  
1238 form 10-K or other similar statement with the Securities and  
1239 Exchange Commission or has a net worth of \$50 million or more.

1240 (b) Background screening shall be conducted in accordance  
1241 with chapter 435 and s. 408.809. ~~The agency shall submit the~~  
1242 ~~fingerprints to the Department of Law Enforcement. The~~  
1243 ~~department shall conduct a state criminal-background~~  
1244 ~~investigation and forward the fingerprints to the Federal Bureau~~  
1245 ~~of Investigation for a national criminal-history record check.~~  
1246 The cost of the state and national criminal record check shall  
1247 be borne by the provider.

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1248           ~~(e) The agency may permit a provider to participate in the~~  
1249 ~~Medicaid program pending the results of the criminal record~~  
1250 ~~check. However, such permission is fully revocable if the record~~  
1251 ~~check reveals any crime-related history as provided in~~  
1252 ~~subsection (10).~~

1253           (c)~~(d)~~ Proof of compliance with the requirements of level 2  
1254 screening under chapter 435 s. 435.04 conducted within 12 months  
1255 prior to the date that the Medicaid provider application is  
1256 submitted to the agency shall fulfill the requirements of this  
1257 subsection. ~~Proof of compliance with the requirements of level 1~~  
1258 ~~screening under s. 435.03 conducted within 12 months prior to~~  
1259 ~~the date that the Medicaid provider application is submitted to~~  
1260 ~~the agency shall meet the requirement that the Department of Law~~  
1261 ~~Enforcement conduct a state criminal history record check.~~

1262           Section 26. Paragraph (b) of subsection (48) of section  
1263 409.912, Florida Statutes, is amended to read:

1264           409.912 Cost-effective purchasing of health care.—The  
1265 agency shall purchase goods and services for Medicaid recipients  
1266 in the most cost-effective manner consistent with the delivery  
1267 of quality medical care. To ensure that medical services are  
1268 effectively utilized, the agency may, in any case, require a  
1269 confirmation or second physician's opinion of the correct  
1270 diagnosis for purposes of authorizing future services under the  
1271 Medicaid program. This section does not restrict access to  
1272 emergency services or poststabilization care services as defined  
1273 in 42 C.F.R. part 438.114. Such confirmation or second opinion  
1274 shall be rendered in a manner approved by the agency. The agency  
1275 shall maximize the use of prepaid per capita and prepaid  
1276 aggregate fixed-sum basis services when appropriate and other

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1277 alternative service delivery and reimbursement methodologies,  
1278 including competitive bidding pursuant to s. 287.057, designed  
1279 to facilitate the cost-effective purchase of a case-managed  
1280 continuum of care. The agency shall also require providers to  
1281 minimize the exposure of recipients to the need for acute  
1282 inpatient, custodial, and other institutional care and the  
1283 inappropriate or unnecessary use of high-cost services. The  
1284 agency shall contract with a vendor to monitor and evaluate the  
1285 clinical practice patterns of providers in order to identify  
1286 trends that are outside the normal practice patterns of a  
1287 provider's professional peers or the national guidelines of a  
1288 provider's professional association. The vendor must be able to  
1289 provide information and counseling to a provider whose practice  
1290 patterns are outside the norms, in consultation with the agency,  
1291 to improve patient care and reduce inappropriate utilization.  
1292 The agency may mandate prior authorization, drug therapy  
1293 management, or disease management participation for certain  
1294 populations of Medicaid beneficiaries, certain drug classes, or  
1295 particular drugs to prevent fraud, abuse, overuse, and possible  
1296 dangerous drug interactions. The Pharmaceutical and Therapeutics  
1297 Committee shall make recommendations to the agency on drugs for  
1298 which prior authorization is required. The agency shall inform  
1299 the Pharmaceutical and Therapeutics Committee of its decisions  
1300 regarding drugs subject to prior authorization. The agency is  
1301 authorized to limit the entities it contracts with or enrolls as  
1302 Medicaid providers by developing a provider network through  
1303 provider credentialing. The agency may competitively bid single-  
1304 source-provider contracts if procurement of goods or services  
1305 results in demonstrated cost savings to the state without

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1306 limiting access to care. The agency may limit its network based  
1307 on the assessment of beneficiary access to care, provider  
1308 availability, provider quality standards, time and distance  
1309 standards for access to care, the cultural competence of the  
1310 provider network, demographic characteristics of Medicaid  
1311 beneficiaries, practice and provider-to-beneficiary standards,  
1312 appointment wait times, beneficiary use of services, provider  
1313 turnover, provider profiling, provider licensure history,  
1314 previous program integrity investigations and findings, peer  
1315 review, provider Medicaid policy and billing compliance records,  
1316 clinical and medical record audits, and other factors. Providers  
1317 shall not be entitled to enrollment in the Medicaid provider  
1318 network. The agency shall determine instances in which allowing  
1319 Medicaid beneficiaries to purchase durable medical equipment and  
1320 other goods is less expensive to the Medicaid program than long-  
1321 term rental of the equipment or goods. The agency may establish  
1322 rules to facilitate purchases in lieu of long-term rentals in  
1323 order to protect against fraud and abuse in the Medicaid program  
1324 as defined in s. 409.913. The agency may seek federal waivers  
1325 necessary to administer these policies.

1326 (48)

1327 (b) The agency shall limit its network of durable medical  
1328 equipment and medical supply providers. For dates of service  
1329 after January 1, 2009, the agency shall limit payment for  
1330 durable medical equipment and supplies to providers that meet  
1331 all the requirements of this paragraph.

1332 1. Providers must be accredited by a Centers for Medicare  
1333 and Medicaid Services deemed accreditation organization for  
1334 suppliers of durable medical equipment, prosthetics, orthotics,

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1335 and supplies. The provider must maintain accreditation and is  
1336 subject to unannounced reviews by the accrediting organization.

1337 2. Providers must provide the services or supplies directly  
1338 to the Medicaid recipient or caregiver at the provider location  
1339 or recipient's residence or send the supplies directly to the  
1340 recipient's residence with receipt of mailed delivery.  
1341 Subcontracting or consignment of the service or supply to a  
1342 third party is prohibited.

1343 3. Notwithstanding subparagraph 2., a durable medical  
1344 equipment provider may store nebulizers at a physician's office  
1345 for the purpose of having the physician's staff issue the  
1346 equipment if it meets all of the following conditions:

1347 a. The physician must document the medical necessity and  
1348 need to prevent further deterioration of the patient's  
1349 respiratory status by the timely delivery of the nebulizer in  
1350 the physician's office.

1351 b. The durable medical equipment provider must have written  
1352 documentation of the competency and training by a Florida-  
1353 licensed registered respiratory therapist of any durable medical  
1354 equipment staff who participate in the training of physician  
1355 office staff for the use of nebulizers, including cleaning,  
1356 warranty, and special needs of patients.

1357 c. The physician's office must have documented the training  
1358 and competency of any staff member who initiates the delivery of  
1359 nebulizers to patients. The durable medical equipment provider  
1360 must maintain copies of all physician office training.

1361 d. The physician's office must maintain inventory records  
1362 of stored nebulizers, including documentation of the durable  
1363 medical equipment provider source.

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1364 e. A physician contracted with a Medicaid durable medical  
1365 equipment provider may not have a financial relationship with  
1366 that provider or receive any financial gain from the delivery of  
1367 nebulizers to patients.

1368 4. Providers must have a physical business location and a  
1369 functional landline business phone. The location must be within  
1370 the state or not more than 50 miles from the Florida state line.  
1371 The agency may make exceptions for providers of durable medical  
1372 equipment or supplies not otherwise available from other  
1373 enrolled providers located within the state.

1374 5. Physical business locations must be clearly identified  
1375 as a business that furnishes durable medical equipment or  
1376 medical supplies by signage that can be read from 20 feet away.  
1377 The location must be readily accessible to the public during  
1378 normal, posted business hours and must operate no less than 5  
1379 hours per day and no less than 5 days per week, with the  
1380 exception of scheduled and posted holidays. The location may not  
1381 be located within or at the same numbered street address as  
1382 another enrolled Medicaid durable medical equipment or medical  
1383 supply provider or as an enrolled Medicaid pharmacy that is also  
1384 enrolled as a durable medical equipment provider. A licensed  
1385 orthotist or prosthetist that provides only orthotic or  
1386 prosthetic devices as a Medicaid durable medical equipment  
1387 provider is exempt from the provisions in this paragraph.

1388 6. Providers must maintain a stock of durable medical  
1389 equipment and medical supplies on site that is readily available  
1390 to meet the needs of the durable medical equipment business  
1391 location's customers.

1392 7. Providers must provide a surety bond of \$50,000 for each

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1393 provider location, up to a maximum of 5 bonds statewide or an  
1394 aggregate bond of \$250,000 statewide, as identified by Federal  
1395 Employer Identification Number. Providers who post a statewide  
1396 or an aggregate bond must identify all of their locations in any  
1397 Medicaid durable medical equipment and medical supply provider  
1398 enrollment application or bond renewal. Each provider location's  
1399 surety bond must be renewed annually and the provider must  
1400 submit proof of renewal even if the original bond is a  
1401 continuous bond. A licensed orthotist or prosthetist that  
1402 provides only orthotic or prosthetic devices as a Medicaid  
1403 durable medical equipment provider is exempt from the provisions  
1404 in this paragraph.

1405 8. Providers must obtain a level 2 background screening, in  
1406 accordance with chapter 435 and s. 408.809 ~~as provided under s.~~  
1407 ~~435.04~~, for each provider employee in direct contact with or  
1408 providing direct services to recipients of durable medical  
1409 equipment and medical supplies in their homes. This requirement  
1410 includes, but is not limited to, repair and service technicians,  
1411 fitters, and delivery staff. The provider shall pay for the cost  
1412 of the background screening.

1413 9. The following providers are exempt from the requirements  
1414 of subparagraphs 1. and 7.:

1415 a. Durable medical equipment providers owned and operated  
1416 by a government entity.

1417 b. Durable medical equipment providers that are operating  
1418 within a pharmacy that is currently enrolled as a Medicaid  
1419 pharmacy provider.

1420 c. Active, Medicaid-enrolled orthopedic physician groups,  
1421 primarily owned by physicians, which provide only orthotic and

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1422 prosthetic devices.

1423 Section 27. Subsection (12) is added to section 411.01,  
1424 Florida Statutes, to read:

1425 411.01 School readiness programs; early learning  
1426 coalitions.—

1427 (12) SUBSTITUTE INSTRUCTORS.—Each school district shall  
1428 make a list of all individuals currently eligible to act as a  
1429 substitute teacher within the county pursuant to the rules  
1430 adopted by the school district pursuant to s. 1012.35 available  
1431 to an early learning coalition serving students within the  
1432 school district. Child care facilities, as defined by s.  
1433 402.302, may employ individuals listed as substitute instructors  
1434 for the purpose of offering the school readiness program, the  
1435 Voluntary Prekindergarten Education Program, and all other  
1436 legally operating child care programs.

1437 Section 28. Subsection (1) of section 429.14, Florida  
1438 Statutes, is amended to read:

1439 429.14 Administrative penalties.—

1440 (1) In addition to the requirements of part II of chapter  
1441 408, the agency may deny, revoke, and suspend any license issued  
1442 under this part and impose an administrative fine in the manner  
1443 provided in chapter 120 against a licensee ~~of an assisted living~~  
1444 ~~facility~~ for a violation of any provision of this part, part II  
1445 of chapter 408, or applicable rules, or for any of the following  
1446 actions by a licensee ~~of an assisted living facility~~, for the  
1447 actions of any person subject to level 2 background screening  
1448 under s. 408.809, or for the actions of any facility employee:

1449 (a) An intentional or negligent act seriously affecting the  
1450 health, safety, or welfare of a resident of the facility.

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1451 (b) The determination by the agency that the owner lacks  
1452 the financial ability to provide continuing adequate care to  
1453 residents.

1454 (c) Misappropriation or conversion of the property of a  
1455 resident of the facility.

1456 (d) Failure to follow the criteria and procedures provided  
1457 under part I of chapter 394 relating to the transportation,  
1458 voluntary admission, and involuntary examination of a facility  
1459 resident.

1460 (e) A citation of any of the following deficiencies as  
1461 specified in s. 429.19:

1462 1. One or more cited class I deficiencies.

1463 2. Three or more cited class II deficiencies.

1464 3. Five or more cited class III deficiencies that have been  
1465 cited on a single survey and have not been corrected within the  
1466 times specified.

1467 (f) Failure to comply with the ~~A determination that a~~  
1468 ~~person subject to level 2 background screening under s. 408.809~~  
1469 ~~does not meet the screening standards of this part, s.~~

1470 408.809(1), or chapter 435 s. 435.04 ~~or that the facility is~~  
1471 ~~retaining an employee subject to level 1 background screening~~  
1472 ~~standards under s. 429.174 who does not meet the screening~~  
1473 ~~standards of s. 435.03 and for whom exemptions from~~  
1474 ~~disqualification have not been provided by the agency.~~

1475 (g) ~~A determination that an employee, volunteer,~~  
1476 ~~administrator, or owner, or person who otherwise has access to~~  
1477 ~~the residents of a facility does not meet the criteria specified~~  
1478 ~~in s. 435.03(2), and the owner or administrator has not taken~~  
1479 ~~action to remove the person. Exemptions from disqualification~~

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1480 ~~may be granted as set forth in s. 435.07. No administrative~~  
1481 ~~action may be taken against the facility if the person is~~  
1482 ~~granted an exemption.~~

1483 (g) ~~(h)~~ Violation of a moratorium.

1484 (h) ~~(i)~~ Failure of the license applicant, the licensee  
1485 during relicensure, or a licensee that holds a provisional  
1486 license to meet the minimum license requirements of this part,  
1487 or related rules, at the time of license application or renewal.

1488 (i) ~~(j)~~ An intentional or negligent life-threatening act in  
1489 violation of the uniform firesafety standards for assisted  
1490 living facilities or other firesafety standards that threatens  
1491 the health, safety, or welfare of a resident of a facility, as  
1492 communicated to the agency by the local authority having  
1493 jurisdiction or the State Fire Marshal.

1494 (j) ~~(k)~~ Knowingly operating any unlicensed facility or  
1495 providing without a license any service that must be licensed  
1496 under this chapter or chapter 400.

1497 (k) ~~(l)~~ Any act constituting a ground upon which application  
1498 for a license may be denied.

1499 Section 29. Section 429.174, Florida Statutes, is amended  
1500 to read:

1501 429.174 Background screening; ~~exemptions.~~ The agency shall  
1502 require level 2 background screening for personnel as required  
1503 in s. 408.809(1)(e) pursuant to chapter 435 and s. 408.809. The  
1504 ~~owner or administrator of an assisted living facility must~~  
1505 ~~conduct level 1 background screening, as set forth in chapter~~  
1506 ~~435, on all employees hired on or after October 1, 1998, who~~  
1507 ~~perform personal services as defined in s. 429.02(16). The~~  
1508 ~~agency may exempt an individual from employment disqualification~~

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1509 ~~as set forth in chapter 435. Such persons shall be considered as~~  
1510 ~~having met this requirement if:~~

1511 ~~(1) Proof of compliance with level 1 screening requirements~~  
1512 ~~obtained to meet any professional license requirements in this~~  
1513 ~~state is provided and accompanied, under penalty of perjury, by~~  
1514 ~~a copy of the person's current professional license and an~~  
1515 ~~affidavit of current compliance with the background screening~~  
1516 ~~requirements.~~

1517 ~~(2) The person required to be screened has been~~  
1518 ~~continuously employed in the same type of occupation for which~~  
1519 ~~the person is seeking employment without a breach in service~~  
1520 ~~which exceeds 180 days, and proof of compliance with the level 1~~  
1521 ~~screening requirement which is no more than 2 years old is~~  
1522 ~~provided. Proof of compliance shall be provided directly from~~  
1523 ~~one employer or contractor to another, and not from the person~~  
1524 ~~screened. Upon request, a copy of screening results shall be~~  
1525 ~~provided by the employer retaining documentation of the~~  
1526 ~~screening to the person screened.~~

1527 ~~(3) The person required to be screened is employed by a~~  
1528 ~~corporation or business entity or related corporation or~~  
1529 ~~business entity that owns, operates, or manages more than one~~  
1530 ~~facility or agency licensed under this chapter, and for whom a~~  
1531 ~~level 1 screening was conducted by the corporation or business~~  
1532 ~~entity as a condition of initial or continued employment.~~

1533 Section 30. Subsection (4) of section 429.67, Florida  
1534 Statutes, is amended to read:

1535 429.67 Licensure.—

1536 (4) ~~Upon receipt of a completed license application or~~  
1537 ~~license renewal, and the fee, The agency shall require level 2~~

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1538 ~~initiate a level 1 background screening for personnel as~~  
1539 ~~required in s. 408.809(1)(e), including as provided under~~  
1540 ~~chapter 435 on the adult family-care home provider, the~~  
1541 ~~designated relief person, and all adult household members,~~  
1542 ~~pursuant to chapter 435 and s. 408.809, and all staff members.~~

1543 ~~(a) Proof of compliance with level 1 screening standards~~  
1544 ~~which has been submitted within the previous 5 years to meet any~~  
1545 ~~facility or professional licensure requirements of the agency or~~  
1546 ~~the Department of Health satisfies the requirements of this~~  
1547 ~~subsection. Such proof must be accompanied, under penalty of~~  
1548 ~~perjury, by a copy of the person's current professional license~~  
1549 ~~and an affidavit of current compliance with the background~~  
1550 ~~screening requirements.~~

1551 ~~(b) The person required to be screened must have been~~  
1552 ~~continuously employed in the same type of occupation for which~~  
1553 ~~the person is seeking employment without a breach in service~~  
1554 ~~that exceeds 180 days, and proof of compliance with the level 1~~  
1555 ~~screening requirement which is no more than 2 years old must be~~  
1556 ~~provided. Proof of compliance shall be provided directly from~~  
1557 ~~one employer or contractor to another, and not from the person~~  
1558 ~~screened. Upon request, a copy of screening results shall be~~  
1559 ~~provided to the person screened by the employer retaining~~  
1560 ~~documentation of the screening.~~

1561 Section 31. Section 429.69, Florida Statutes, is amended to  
1562 read:

1563 429.69 Denial, revocation, and suspension of a license.—In  
1564 addition to the requirements of part II of chapter 408, the  
1565 agency may deny, suspend, and revoke a license for any of the  
1566 following reasons:

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1567 (1) Failure to comply with the ~~of any of the persons~~  
1568 ~~required to undergo~~ background screening standards of this part,  
1569 s. 408.809(1), or chapter 435 under s. 429.67 to meet the level  
1570 ~~1 screening standards of s. 435.03, unless an exemption from~~  
1571 ~~disqualification has been provided by the agency.~~

1572 (2) Failure to correct cited fire code violations that  
1573 threaten the health, safety, or welfare of residents.

1574 Section 32. Paragraph (c) of subsection (2) of section  
1575 429.911, Florida Statutes, is amended to read:

1576 429.911 Denial, suspension, revocation of license;  
1577 emergency action; administrative fines; investigations and  
1578 inspections.-

1579 (2) Each of the following actions by the owner of an adult  
1580 day care center or by its operator or employee is a ground for  
1581 action by the agency against the owner of the center or its  
1582 operator or employee:

1583 (c) A Failure to comply with the ~~of persons subject to~~  
1584 level 2 background screening standards of this part, s.  
1585 408.809(1), or chapter 435 under s. 408.809 to meet the  
1586 ~~screening standards of s. 435.04, or the retention by the center~~  
1587 ~~of an employee subject to level 1 background screening standards~~  
1588 ~~under s. 429.174 who does not meet the screening standards of s.~~  
1589 ~~435.03 and for whom exemptions from disqualification have not~~  
1590 ~~been provided by the agency.~~

1591 Section 33. Section 429.919, Florida Statutes, is amended  
1592 to read:

1593 429.919 Background screening.-The agency shall require  
1594 level 2 background screening for personnel as required in s.  
1595 408.809(1) (e) pursuant to chapter 435 and s. 408.809. ~~The owner~~

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1596 ~~or administrator of an adult day care center must conduct level~~  
1597 ~~1 background screening as set forth in chapter 435 on all~~  
1598 ~~employees hired on or after October 1, 1998, who provide basic~~  
1599 ~~services or supportive and optional services to the~~  
1600 ~~participants. Such persons satisfy this requirement if:~~

1601 ~~(1) Proof of compliance with level 1 screening requirements~~  
1602 ~~obtained to meet any professional license requirements in this~~  
1603 ~~state is provided and accompanied, under penalty of perjury, by~~  
1604 ~~a copy of the person's current professional license and an~~  
1605 ~~affidavit of current compliance with the background screening~~  
1606 ~~requirements.~~

1607 ~~(2) The person required to be screened has been~~  
1608 ~~continuously employed, without a breach in service that exceeds~~  
1609 ~~180 days, in the same type of occupation for which the person is~~  
1610 ~~seeking employment and provides proof of compliance with the~~  
1611 ~~level 1 screening requirement which is no more than 2 years old.~~  
1612 ~~Proof of compliance must be provided directly from one employer~~  
1613 ~~or contractor to another, and not from the person screened. Upon~~  
1614 ~~request, a copy of screening results shall be provided to the~~  
1615 ~~person screened by the employer retaining documentation of the~~  
1616 ~~screening.~~

1617 ~~(3) The person required to be screened is employed by a~~  
1618 ~~corporation or business entity or related corporation or~~  
1619 ~~business entity that owns, operates, or manages more than one~~  
1620 ~~facility or agency licensed under chapter 400 or this chapter,~~  
1621 ~~and for whom a level 1 screening was conducted by the~~  
1622 ~~corporation or business entity as a condition of initial or~~  
1623 ~~continued employment.~~

1624 Section 34. Section 430.0402, Florida Statutes, is created

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1625 to read:

1626 430.0402 Screening of direct service providers.-

1627 (1) (a) Level 2 background screening pursuant to chapter 435  
1628 is required for direct service providers. Background screening  
1629 shall include employment history checks as provided in s.  
1630 435.03(1) and local criminal records checks through local law  
1631 enforcement agencies.

1632 (b) For purposes of this section, the term "direct service  
1633 provider" means a person 18 years of age or older who, pursuant  
1634 to a program to provide services to the elderly, has direct,  
1635 face-to-face contact with a client while providing services to  
1636 the client or has access to the client's living areas or to the  
1637 client's funds or personal property. The term includes  
1638 coordinators, managers, and supervisors of residential  
1639 facilities and volunteers.

1640 (2) Licensed physicians, nurses, or other professionals  
1641 licensed by the Department of Health are not subject to  
1642 background screening pursuant to this section if they are  
1643 providing a service that is within the scope of their licensed  
1644 practice.

1645 (3) Refusal on the part of an employer to dismiss a  
1646 manager, supervisor, or direct service provider who has been  
1647 found to be in noncompliance with standards of this section  
1648 shall result in the automatic denial, termination, or revocation  
1649 of the license or certification, rate agreement, purchase order,  
1650 or contract, in addition to any other remedies authorized by  
1651 law.

1652 (4) The background screening conducted pursuant to this  
1653 section must ensure that, in addition to the disqualifying

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1654 offenses listed in s. 435.04, no person subject to the  
1655 provisions of this section has an arrest awaiting final  
1656 disposition for, has been found guilty of, regardless of  
1657 adjudication, or entered a plea of nolo contendere or guilty to,  
1658 or has been adjudicated delinquent and the record has not been  
1659 sealed or expunged for, any offense prohibited under any of the  
1660 following provisions of the Florida Statutes or under any  
1661 similar statute of another jurisdiction:

1662 (a) Any authorizing statutes, if the offense was a felony.

1663 (b) Section 409.920, relating to Medicaid provider fraud.

1664 (c) Section 409.9201, relating to Medicaid fraud.

1665 (d) Section 817.034, relating to fraudulent acts through  
1666 mail, wire, radio, electromagnetic, photoelectronic, or  
1667 photooptical systems.

1668 (e) Section 817.234, relating to false and fraudulent  
1669 insurance claims.

1670 (f) Section 817.505, relating to patient brokering.

1671 (g) Section 817.568, relating to criminal use of personal  
1672 identification information.

1673 (h) Section 817.60, relating to obtaining a credit card  
1674 through fraudulent means.

1675 (i) Section 817.61, relating to fraudulent use of credit  
1676 cards, if the offense was a felony.

1677 (j) Section 831.01, relating to forgery.

1678 (k) Section 831.02, relating to uttering forged  
1679 instruments.

1680 (l) Section 831.07, relating to forging bank bills, checks,  
1681 drafts, or promissory notes.

1682 (m) Section 831.09, relating to uttering forged bank bills,

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1683 checks, drafts, or promissory notes.

1684 Section 35. Section 435.01, Florida Statutes, is amended to  
1685 read:

1686 435.01 Applicability of this chapter; statutory references;  
1687 rulemaking.—

1688 (1) (a) Unless otherwise provided by law, whenever a  
1689 background screening for employment or a background security  
1690 check is required by law to be conducted pursuant to this  
1691 chapter for employment, unless otherwise provided by law, the  
1692 provisions of this chapter shall apply.

1693 (b) Unless expressly provided otherwise, a reference in any  
1694 section of the Florida Statutes to chapter 435 or to any section  
1695 or sections or portion of a section of chapter 435 includes, and  
1696 shall be understood as including, all subsequent amendments to  
1697 chapter 435 or to the referenced section or sections or portions  
1698 of a section. The purpose of this chapter is to facilitate  
1699 uniform background screening and, to this end, a reference to  
1700 this chapter, or to any section or subdivision within this  
1701 chapter, constitutes a general reference under the doctrine of  
1702 incorporation by reference.

1703 (2) Agencies may adopt rules pursuant to ss. 120.536(1) and  
1704 120.54 necessary to implement the provisions of this chapter.

1705 Section 36. Section 435.02, Florida Statutes, is reordered  
1706 and amended to read:

1707 435.02 Definitions.—For the purposes of this chapter, the  
1708 term:

1709 (2) ~~(1)~~ "Employee" means any person required by law to be  
1710 screened pursuant to the provisions of this chapter.

1711 (3) ~~(2)~~ "Employer" means any person or entity required by

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1712 law to conduct screening of employees pursuant to this chapter.

1713 (1)-(3) "Licensing Agency" means any state, ~~or~~ county, or  
1714 municipal agency that which grants licenses or registration  
1715 permitting the operation of an employer or is itself an employer  
1716 or that otherwise facilitates the screening of employees  
1717 pursuant to this chapter. When there is no state ~~licensing~~  
1718 agency or the municipal or county ~~licensing~~ agency chooses not  
1719 to conduct employment screening, "~~licensing~~ agency" means the  
1720 Department of Children and Family Services.

1721 (4) "Employment" means any activity or service sought to be  
1722 performed by an employee that requires the employee to be  
1723 subject to screening pursuant to this chapter.

1724 (5) "Vulnerable person" means a minor or a vulnerable adult  
1725 as defined in s. 415.102.

1726 Section 37. Section 435.03, Florida Statutes, is amended to  
1727 read:

1728 435.03 Level 1 screening standards.—

1729 (1) All employees required by law to be screened pursuant  
1730 to this section must ~~shall be required to~~ undergo background  
1731 screening as a condition of employment and continued employment  
1732 which includes. ~~For the purposes of this subsection, level 1~~  
1733 ~~screenings shall include,~~ but need not be limited to, employment  
1734 history checks and statewide criminal correspondence checks  
1735 through the ~~Florida~~ Department of Law Enforcement, a check of  
1736 the Dru Sjodin National Sex Offender Public Website, and may  
1737 include local criminal records checks through local law  
1738 enforcement agencies.

1739 (2) Any person required by law to be screened pursuant to  
1740 this section must not have an arrest awaiting final disposition,

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1741 ~~for whom employment screening is required by statute must not~~  
1742 ~~have been found guilty of, regardless of adjudication, or~~  
1743 ~~entered a plea of nolo contendere or guilty to, and must not~~  
1744 ~~have been adjudicated delinquent and the record has not been~~  
1745 ~~sealed or expunged for, any offense prohibited under any~~  
1746 ~~provision of s. 435.04(2) of the following provisions of the~~  
1747 ~~Florida Statutes or under any similar statute of another~~  
1748 ~~jurisdiction.~~÷

1749 ~~(a) Section 393.135, relating to sexual misconduct with~~  
1750 ~~certain developmentally disabled clients and reporting of such~~  
1751 ~~sexual misconduct.~~

1752 ~~(b) Section 394.4593, relating to sexual misconduct with~~  
1753 ~~certain mental health patients and reporting of such sexual~~  
1754 ~~misconduct.~~

1755 ~~(c) Section 415.111, relating to abuse, neglect, or~~  
1756 ~~exploitation of a vulnerable adult.~~

1757 ~~(d) Section 782.04, relating to murder.~~

1758 ~~(e) Section 782.07, relating to manslaughter, aggravated~~  
1759 ~~manslaughter of an elderly person or disabled adult, or~~  
1760 ~~aggravated manslaughter of a child.~~

1761 ~~(f) Section 782.071, relating to vehicular homicide.~~

1762 ~~(g) Section 782.09, relating to killing of an unborn quick~~  
1763 ~~child by injury to the mother.~~

1764 ~~(h) Section 784.011, relating to assault, if the victim of~~  
1765 ~~the offense was a minor.~~

1766 ~~(i) Section 784.021, relating to aggravated assault.~~

1767 ~~(j) Section 784.03, relating to battery, if the victim of~~  
1768 ~~the offense was a minor.~~

1769 ~~(k) Section 784.045, relating to aggravated battery.~~

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- 1770       ~~(l) Section 787.01, relating to kidnapping.~~
- 1771       ~~(m) Section 787.02, relating to false imprisonment.~~
- 1772       ~~(n) Section 794.011, relating to sexual battery.~~
- 1773       ~~(o) Former s. 794.041, relating to prohibited acts of~~  
1774 ~~persons in familial or custodial authority.~~
- 1775       ~~(p) Chapter 796, relating to prostitution.~~
- 1776       ~~(q) Section 798.02, relating to lewd and lascivious~~  
1777 ~~behavior.~~
- 1778       ~~(r) Chapter 800, relating to lewdness and indecent~~  
1779 ~~exposure.~~
- 1780       ~~(s) Section 806.01, relating to arson.~~
- 1781       ~~(t) Chapter 812, relating to theft, robbery, and related~~  
1782 ~~crimes, if the offense was a felony.~~
- 1783       ~~(u) Section 817.563, relating to fraudulent sale of~~  
1784 ~~controlled substances, only if the offense was a felony.~~
- 1785       ~~(v) Section 825.102, relating to abuse, aggravated abuse,~~  
1786 ~~or neglect of an elderly person or disabled adult.~~
- 1787       ~~(w) Section 825.1025, relating to lewd or lascivious~~  
1788 ~~offenses committed upon or in the presence of an elderly person~~  
1789 ~~or disabled adult.~~
- 1790       ~~(x) Section 825.103, relating to exploitation of an elderly~~  
1791 ~~person or disabled adult, if the offense was a felony.~~
- 1792       ~~(y) Section 826.04, relating to incest.~~
- 1793       ~~(z) Section 827.03, relating to child abuse, aggravated~~  
1794 ~~child abuse, or neglect of a child.~~
- 1795       ~~(aa) Section 827.04, relating to contributing to the~~  
1796 ~~delinquency or dependency of a child.~~
- 1797       ~~(bb) Former s. 827.05, relating to negligent treatment of~~  
1798 ~~children.~~

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1799 ~~(cc) Section 827.071, relating to sexual performance by a~~  
1800 ~~child.~~

1801 ~~(dd) Chapter 847, relating to obscene literature.~~

1802 ~~(ee) Chapter 893, relating to drug abuse prevention and~~  
1803 ~~control, only if the offense was a felony or if any other person~~  
1804 ~~involved in the offense was a minor.~~

1805 ~~(ff) Section 916.1075, relating to sexual misconduct with~~  
1806 ~~certain forensic clients and reporting of such sexual~~  
1807 ~~misconduct.~~

1808 (3) The security background investigations under this  
1809 section must ensure that no person subject to the provisions of  
1810 this section has been found guilty of, regardless of  
1811 adjudication, or entered a plea of nolo contendere or guilty to,  
1812 any offense that constitutes domestic violence as defined in s.  
1813 741.28, whether such act was committed in this state or in  
1814 another jurisdiction. Standards must also ensure that the  
1815 person:

1816 ~~(a) For employees and employers licensed or registered~~  
1817 ~~pursuant to chapter 400 or chapter 429, and for employees and~~  
1818 ~~employers of developmental disabilities centers as defined in s.~~  
1819 ~~393.063, intermediate care facilities for the developmentally~~  
1820 ~~disabled as defined in s. 400.960, and mental health treatment~~  
1821 ~~facilities as defined in s. 394.455, meets the requirements of~~  
1822 ~~this chapter.~~

1823 ~~(b) Has not committed an act that constitutes domestic~~  
1824 ~~violence as defined in s. 741.28.~~

1825 Section 38. Section 435.04, Florida Statutes, is amended to  
1826 read:

1827 435.04 Level 2 screening standards.—

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1828           (1) (a) All employees required by law to be screened  
1829 pursuant to this section must ~~in positions designated by law as~~  
1830 ~~positions of trust or responsibility shall be required to~~  
1831 undergo security background investigations as a condition of  
1832 employment and continued employment which includes. ~~For the~~  
1833 ~~purposes of this subsection, security background investigations~~  
1834 ~~shall include, but need not be limited to, fingerprinting for~~  
1835 statewide criminal history records ~~all purposes and checks in~~  
1836 ~~this subsection, statewide criminal and juvenile records checks~~  
1837 through the ~~Florida~~ Department of Law Enforcement, and national  
1838 ~~federal~~ criminal history records checks through the Federal  
1839 Bureau of Investigation, and may include local criminal records  
1840 checks through local law enforcement agencies.

1841           (b) Fingerprints submitted pursuant to this section on or  
1842 after July 1, 2012, must be submitted electronically to the  
1843 Department of Law Enforcement.

1844           (c) An agency may contract with one or more vendors to  
1845 perform all or part of the electronic fingerprinting pursuant to  
1846 this section. Such contracts must ensure that the owners and  
1847 personnel of the vendor performing the electronic fingerprinting  
1848 are qualified and will ensure the integrity and security of all  
1849 personal information.

1850           (d) An agency may require by rule adopted pursuant to  
1851 chapter 120 that fingerprints submitted pursuant to this section  
1852 must be submitted electronically to the Department of Law  
1853 Enforcement on a date earlier than July 1, 2012.

1854           (2) The security background investigations under this  
1855 section must ensure that no persons subject to the provisions of  
1856 this section have been arrested for and are awaiting final

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1857 disposition of, have been found guilty of, regardless of  
1858 adjudication, or entered a plea of nolo contendere or guilty to,  
1859 or have been adjudicated delinquent and the record has not been  
1860 sealed or expunged for, any offense prohibited under any of the  
1861 following provisions of the Florida Statutes or under any  
1862 similar statute of another jurisdiction:

1863 (a) Section 393.135, relating to sexual misconduct with  
1864 certain developmentally disabled clients and reporting of such  
1865 sexual misconduct.

1866 (b) Section 394.4593, relating to sexual misconduct with  
1867 certain mental health patients and reporting of such sexual  
1868 misconduct.

1869 (c) Section 415.111, relating to adult abuse, neglect, or  
1870 exploitation of aged persons or disabled adults.

1871 (d) Section 782.04, relating to murder.

1872 (e) Section 782.07, relating to manslaughter, aggravated  
1873 manslaughter of an elderly person or disabled adult, or  
1874 aggravated manslaughter of a child.

1875 (f) Section 782.071, relating to vehicular homicide.

1876 (g) Section 782.09, relating to killing of an unborn quick  
1877 child by injury to the mother.

1878 (h) Chapter 784, relating to assault, battery, and culpable  
1879 negligence, if the offense was a felony.

1880 (i)~~(h)~~ Section 784.011, relating to assault, if the victim  
1881 of the offense was a minor.

1882 ~~(i) Section 784.021, relating to aggravated assault.~~

1883 (j) Section 784.03, relating to battery, if the victim of  
1884 the offense was a minor.

1885 ~~(k) Section 784.045, relating to aggravated battery.~~

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- 1886       ~~(l) Section 784.075, relating to battery on a detention or~~  
1887 ~~commitment facility staff.~~
- 1888       (k)~~(m)~~ Section 787.01, relating to kidnapping.
- 1889       (l)~~(n)~~ Section 787.02, relating to false imprisonment.
- 1890       (m) Section 787.025, relating to luring or enticing a  
1891 child.
- 1892       (n)~~(o)~~ Section 787.04(2), relating to taking, enticing, or  
1893 removing a child beyond the state limits with criminal intent  
1894 pending custody proceedings.
- 1895       (o)~~(p)~~ Section 787.04(3), relating to carrying a child  
1896 beyond the state lines with criminal intent to avoid producing a  
1897 child at a custody hearing or delivering the child to the  
1898 designated person.
- 1899       (p)~~(q)~~ Section 790.115(1), relating to exhibiting firearms  
1900 or weapons within 1,000 feet of a school.
- 1901       (q)~~(r)~~ Section 790.115(2)(b), relating to possessing an  
1902 electric weapon or device, destructive device, or other weapon  
1903 on school property.
- 1904       (r)~~(s)~~ Section 794.011, relating to sexual battery.
- 1905       (s)~~(t)~~ Former s. 794.041, relating to prohibited acts of  
1906 persons in familial or custodial authority.
- 1907       (t) Section 794.05, relating to unlawful sexual activity  
1908 with certain minors.
- 1909       (u) Chapter 796, relating to prostitution.
- 1910       (v) Section 798.02, relating to lewd and lascivious  
1911 behavior.
- 1912       (w) Chapter 800, relating to lewdness and indecent  
1913 exposure.
- 1914       (x) Section 806.01, relating to arson.

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1915        (y) Section 810.02, relating to burglary.  
1916        (z) Section 810.14, relating to voyeurism, if the offense  
1917 is a felony.  
1918        (aa) Section 810.145, relating to video voyeurism, if the  
1919 offense is a felony.  
1920        ~~(bb)(y)~~ Chapter 812, relating to theft, robbery, and  
1921 related crimes, if the offense is a felony.  
1922        ~~(cc)(z)~~ Section 817.563, relating to fraudulent sale of  
1923 controlled substances, only if the offense was a felony.  
1924        ~~(dd)(aa)~~ Section 825.102, relating to abuse, aggravated  
1925 abuse, or neglect of an elderly person or disabled adult.  
1926        ~~(ee)(bb)~~ Section 825.1025, relating to lewd or lascivious  
1927 offenses committed upon or in the presence of an elderly person  
1928 or disabled adult.  
1929        ~~(ff)(cc)~~ Section 825.103, relating to exploitation of an  
1930 elderly person or disabled adult, if the offense was a felony.  
1931        ~~(gg)(dd)~~ Section 826.04, relating to incest.  
1932        ~~(hh)(ee)~~ Section 827.03, relating to child abuse,  
1933 aggravated child abuse, or neglect of a child.  
1934        ~~(ii)(ff)~~ Section 827.04, relating to contributing to the  
1935 delinquency or dependency of a child.  
1936        ~~(jj)(gg)~~ Former s. 827.05, relating to negligent treatment  
1937 of children.  
1938        ~~(kk)(hh)~~ Section 827.071, relating to sexual performance by  
1939 a child.  
1940        ~~(ll)(ii)~~ Section 843.01, relating to resisting arrest with  
1941 violence.  
1942        ~~(mm)(jj)~~ Section 843.025, relating to depriving a law  
1943 enforcement, correctional, or correctional probation officer

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1944 means of protection or communication.

1945        (nn)~~(kk)~~ Section 843.12, relating to aiding in an escape.

1946        (oo)~~(ll)~~ Section 843.13, relating to aiding in the escape

1947 of juvenile inmates in correctional institutions.

1948        (pp)~~(mm)~~ Chapter 847, relating to obscene literature.

1949        (qq)~~(nn)~~ Section 874.05(1), relating to encouraging or

1950 recruiting another to join a criminal gang.

1951        (rr)~~(oo)~~ Chapter 893, relating to drug abuse prevention and

1952 control, only if the offense was a felony or if any other person

1953 involved in the offense was a minor.

1954        (ss)~~(pp)~~ Section 916.1075, relating to sexual misconduct

1955 with certain forensic clients and reporting of such sexual

1956 misconduct.

1957        (tt)~~(qq)~~ Section 944.35(3), relating to inflicting cruel or

1958 inhuman treatment on an inmate resulting in great bodily harm.

1959        (uu) Section 944.40, relating to escape.

1960        (vv)~~(rr)~~ Section 944.46, relating to harboring, concealing,

1961 or aiding an escaped prisoner.

1962        (ww)~~(ss)~~ Section 944.47, relating to introduction of

1963 contraband into a correctional facility.

1964        (xx)~~(tt)~~ Section 985.701, relating to sexual misconduct in

1965 juvenile justice programs.

1966        (yy)~~(uu)~~ Section 985.711, relating to contraband introduced

1967 into detention facilities.

1968        (3) The security background investigations under this

1969 section must ensure that no person subject to this section has

1970 been found guilty of, regardless of adjudication, or entered a

1971 plea of nolo contendere or guilty to, any offense that

1972 constitutes domestic violence as defined in s. 741.28, whether

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1973 such act was committed in this state or in another jurisdiction.

1974 ~~The security background investigations conducted under this~~  
1975 ~~section for employees of the Department of Juvenile Justice must~~  
1976 ~~ensure that no persons subject to the provisions of this section~~  
1977 ~~have been found guilty of, regardless of adjudication, or~~  
1978 ~~entered a plea of nolo contendere or guilty to, any offense~~  
1979 ~~prohibited under any of the following provisions of the Florida~~  
1980 ~~Statutes or under any similar statute of another jurisdiction:~~

1981 ~~(a) Section 784.07, relating to assault or battery of law~~  
1982 ~~enforcement officers, firefighters, emergency medical care~~  
1983 ~~providers, public transit employees or agents, or other~~  
1984 ~~specified officers.~~

1985 ~~(b) Section 810.02, relating to burglary, if the offense is~~  
1986 ~~a felony.~~

1987 ~~(c) Section 944.40, relating to escape.~~

1988  
1989 ~~The Department of Juvenile Justice may not remove a~~  
1990 ~~disqualification from employment or grant an exemption to any~~  
1991 ~~person who is disqualified under this section for any offense~~  
1992 ~~disposed of during the most recent 7-year period.~~

1993 ~~(4) Standards must also ensure that the person:~~

1994 ~~(a) For employees or employers licensed or registered~~  
1995 ~~pursuant to chapter 400 or chapter 429, does not have a~~  
1996 ~~confirmed report of abuse, neglect, or exploitation as defined~~  
1997 ~~in s. 415.102(6), which has been uncontested or upheld under s.~~  
1998 ~~415.103.~~

1999 ~~(b) Has not committed an act that constitutes domestic~~  
2000 ~~violence as defined in s. 741.30.~~

2001 ~~(5) Under penalty of perjury, all employees in such~~

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2002 ~~positions of trust or responsibility shall attest to meeting the~~  
2003 ~~requirements for qualifying for employment and agreeing to~~  
2004 ~~inform the employer immediately if convicted of any of the~~  
2005 ~~disqualifying offenses while employed by the employer. Each~~  
2006 ~~employer of employees in such positions of trust or~~  
2007 ~~responsibilities which is licensed or registered by a state~~  
2008 ~~agency shall submit to the licensing agency annually or at the~~  
2009 ~~time of license renewal, under penalty of perjury, an affidavit~~  
2010 ~~of compliance with the provisions of this section.~~

2011 Section 39. Section 435.05, Florida Statutes, is amended to  
2012 read:

2013 435.05 Requirements for covered employees and employers.—  
2014 Except as otherwise provided by law, the following requirements  
2015 shall apply to covered employees and employers:

2016 (1) (a) Every person required by law to be screened pursuant  
2017 to the provisions of this chapter must ~~employed in a position~~  
2018 ~~for which employment screening is required must, within 5~~  
2019 ~~working days after starting to work, submit to the employer a~~  
2020 complete set of information necessary to conduct a screening  
2021 under this chapter section.

2022 (b) For level 1 screening, the employer must submit the  
2023 information necessary for screening to the ~~Florida~~ Department of  
2024 Law Enforcement within 5 working days after receiving it. The  
2025 ~~Florida~~ Department of Law Enforcement will conduct a search of  
2026 its records and will respond to the employer or agency. The  
2027 employer will inform the employee whether screening has revealed  
2028 any disqualifying information.

2029 (c) For level 2 screening, the employer or ~~licensing~~ agency  
2030 must submit the information necessary for screening to the

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2031 ~~Florida~~ Department of Law Enforcement within 5 working days  
2032 after receiving it. The ~~Florida~~ Department of Law Enforcement  
2033 will perform a criminal history record check of its ~~conduct a~~  
2034 ~~search of its criminal and juvenile~~ records and will request  
2035 that the Federal Bureau of Investigation perform a national  
2036 criminal history record check ~~conduct a search~~ of its records  
2037 for each employee for whom the request is made. The ~~Florida~~  
2038 Department of Law Enforcement will respond to the employer or  
2039 ~~licensing~~ agency, and the employer or ~~licensing~~ agency will  
2040 inform the employee whether screening has revealed disqualifying  
2041 information.

2042 (d) The person whose background is being checked must  
2043 supply any missing criminal or other necessary information upon  
2044 request to the requesting employer or agency within 30 days  
2045 after receiving the ~~employer makes a~~ request for the information  
2046 ~~or be subject to automatic disqualification.~~

2047 (2) Every employee must attest, subject to penalty of  
2048 perjury, to meeting the requirements for qualifying for  
2049 employment pursuant to this chapter and agreeing to inform the  
2050 employer immediately if arrested for any of the disqualifying  
2051 offenses while employed by the employer. ~~Unless otherwise~~  
2052 ~~prohibited by state or federal law, new employees may be placed~~  
2053 ~~on probationary status pending a determination of compliance~~  
2054 ~~with minimum standards set forth in this chapter.~~

2055 (3) Each employer that is licensed or registered with an  
2056 agency and is required by law to conduct level 2 background  
2057 screening must submit to the agency ~~sign an affidavit~~ annually  
2058 or at the time of license renewal, under penalty of perjury, a  
2059 signed affidavit attesting to compliance with the provisions of

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2060 ~~this chapter stating that all covered employees have been~~  
2061 ~~screened or are newly hired and are awaiting the results of the~~  
2062 ~~required screening checks.~~

2063 Section 40. Section 435.06, Florida Statutes, is amended to  
2064 read:

2065 435.06 Exclusion from employment.—

2066 (1) When an employer or ~~licensing~~ agency has reasonable  
2067 cause to believe that grounds exist for the denial or  
2068 termination of employment of any employee as a result of  
2069 background screening, it shall notify the employee in writing,  
2070 stating the specific record ~~that~~ which indicates noncompliance  
2071 with the standards in this chapter section. It shall be the  
2072 responsibility of the affected employee to contest his or her  
2073 disqualification or to request exemption from disqualification.  
2074 The only basis for contesting the disqualification shall be  
2075 proof of mistaken identity.

2076 (2) (a) An employer may not hire, select, or otherwise allow  
2077 an employee to have contact with any vulnerable person that  
2078 would place the employee in a role that would require background  
2079 screening until such time as the screening process is completed  
2080 and demonstrates the absence of any grounds for the denial or  
2081 termination of employment. If the screening process shows any  
2082 grounds for the denial or termination of employment, the  
2083 employer may not hire, select, or otherwise allow the employee  
2084 to have contact with any vulnerable person that would place the  
2085 employee in a role that would require background screening  
2086 unless the employee is granted an exemption for the  
2087 disqualification by the agency as provided under s. 435.07.

2088 (b) If at any time an employer becomes aware that an

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2089 employee has been arrested for a disqualifying offense, the  
2090 employer must remove the employee from contact with any  
2091 vulnerable person that would place the employee in a role that  
2092 would require background screening until such time as the arrest  
2093 is resolved in such a way that the employer determines that the  
2094 employee is still eligible for employment under this chapter.

2095 (c) The employer must either terminate the employment of  
2096 any of its personnel found to be in noncompliance with the  
2097 minimum standards of this chapter ~~for good moral character~~  
2098 ~~contained in this section~~ or place the employee in a position  
2099 for which background screening is not required unless the  
2100 employee is granted an exemption from disqualification pursuant  
2101 to s. 435.07.

2102 (3) Any employee ~~person who is required to undergo~~  
2103 ~~employment screening and~~ who refuses to cooperate in such  
2104 screening or refuses to timely submit the information necessary  
2105 to complete the screening, including fingerprints when required,  
2106 must ~~shall~~ be disqualified for employment in such position or,  
2107 if employed, must ~~shall~~ be dismissed.

2108 (4) There is no unemployment compensation or other monetary  
2109 liability on the part of, and no cause of action for damages  
2110 arising against, an employer that, upon notice of a conviction  
2111 or arrest for a disqualifying offense listed under this chapter,  
2112 terminates the person against whom the report was issued or who  
2113 was arrested, regardless of whether or not that person has filed  
2114 for an exemption pursuant to this chapter.

2115 Section 41. Section 435.07, Florida Statutes, is amended to  
2116 read:

2117 435.07 Exemptions from disqualification.—Unless otherwise

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2118 provided by law, the provisions of this section shall apply to  
2119 exemptions from disqualification for disqualifying offenses  
2120 revealed pursuant to background screenings required by law to be  
2121 conducted pursuant to this chapter, regardless of whether those  
2122 disqualifying offenses are listed in this chapter or are  
2123 codified in other statutes.

2124 (1) The head of the appropriate ~~licensing~~ agency may grant  
2125 to any employee otherwise disqualified from employment an  
2126 exemption from disqualification for:

2127 (a) Felonies for which at least 3 years have elapsed since  
2128 the applicant for the exemption has completed or been lawfully  
2129 released from confinement, supervision, or sanction for the  
2130 disqualifying felony committed more than 3 years prior to the  
2131 date of disqualification;

2132 (b) Misdemeanors prohibited under any of the Florida  
2133 Statutes cited in this chapter or under similar statutes of  
2134 other jurisdictions for which the applicant for the exemption  
2135 has completed or been lawfully released from confinement,  
2136 supervision, or sanction;

2137 (c) Offenses that were felonies when committed but that are  
2138 now misdemeanors and for which the applicant for the exemption  
2139 has completed or been lawfully released from confinement,  
2140 supervision, or sanction; or

2141 (d) Findings of delinquency. For offenses that would be  
2142 felonies if committed by an adult and the record has not been  
2143 sealed or expunged, the exemption may not be granted until at  
2144 least 3 years have elapsed since the applicant for the exemption  
2145 has completed or been lawfully released from confinement,  
2146 supervision, or sanction for the disqualifying offense; ~~or~~

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2147 ~~(e) Commissions of acts of domestic violence as defined in~~  
2148 ~~s. 741.30.~~

2149  
2150 For the purposes of this subsection, the term "felonies" means  
2151 both felonies prohibited under any of the Florida Statutes cited  
2152 in this chapter or under similar statutes of other  
2153 jurisdictions.

2154 (2) Persons employed, or applicants for employment, by  
2155 treatment providers who treat adolescents 13 years of age and  
2156 older who are disqualified from employment solely because of  
2157 crimes under s. 817.563, s. 893.13, or s. 893.147 may be  
2158 exempted from disqualification from employment pursuant to this  
2159 chapter section without application of the ~~3-year~~ waiting period  
2160 in paragraph (1) (a).

2161 (3) (a) In order for the head of an agency ~~a licensing~~  
2162 ~~department~~ to grant an exemption to any employee, the employee  
2163 must demonstrate by clear and convincing evidence that the  
2164 employee should not be disqualified from employment. Employees  
2165 seeking an exemption have the burden of setting forth clear and  
2166 convincing ~~sufficient~~ evidence of rehabilitation, including, but  
2167 not limited to, the circumstances surrounding the criminal  
2168 incident for which an exemption is sought, the time period that  
2169 has elapsed since the incident, the nature of the harm caused to  
2170 the victim, and the history of the employee since the incident,  
2171 or any other evidence or circumstances indicating that the  
2172 employee will not present a danger if employment or continued  
2173 employment is allowed.

2174 (b) The agency may consider as part of its deliberations of  
2175 the employee's rehabilitation the fact that the employee has,

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2176 subsequent to the conviction for the disqualifying offense for  
2177 which the exemption is being sought, been arrested for or  
2178 convicted of another crime, even if that crime is not a  
2179 disqualifying offense.

2180 (c) The decision of the head of an agency ~~licensing~~  
2181 ~~department~~ regarding an exemption may be contested through the  
2182 hearing procedures set forth in chapter 120. The standard of  
2183 review by the administrative law judge is whether the agency's  
2184 intended action is an abuse of discretion.

2185 (4) (a) Disqualification from employment under this chapter  
2186 ~~subsection (1)~~ may not be removed from, nor may an exemption be  
2187 granted to, any personnel who is found guilty of, regardless of  
2188 adjudication, or who has entered a plea of nolo contendere or  
2189 guilty to, any felony covered by s. 435.03 or s. 435.04 solely  
2190 by reason of any pardon, executive clemency, or restoration of  
2191 civil rights.

2192 (b) Disqualification from employment under this chapter may  
2193 not be removed from, nor may an exemption be granted to, any  
2194 person who is a:

2195 1. Sexual predator as designated pursuant to s. 775.21;  
2196 2. Career offender pursuant to s. 775.261; or  
2197 3. Sexual offender pursuant to s. 943.0435, unless the  
2198 requirement to register as a sexual offender has been removed  
2199 pursuant to s. 943.04354.

2200 (5) Exemptions granted by one ~~licensing~~ agency shall be  
2201 considered by subsequent ~~licensing~~ agencies, but are not binding  
2202 on the subsequent ~~licensing~~ agency.

2203 Section 42. Section 435.08, Florida Statutes, is amended to  
2204 read:

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2205           435.08 Payment for processing of fingerprints and state  
2206 criminal records checks.—Either the employer or the employee is  
2207 responsible for paying the costs of screening. Payment shall be  
2208 submitted to the ~~Florida~~ Department of Law Enforcement with the  
2209 request for screening. The appropriate agency is responsible for  
2210 collecting and paying any fee related to fingerprints retained  
2211 on its behalf to the Department of Law Enforcement for costs  
2212 resulting from the fingerprint information retention services.  
2213 The amount of the annual fee and procedures for the submission  
2214 and retention of fingerprint information and for the  
2215 dissemination of search results shall be established by rule of  
2216 the Department of Law Enforcement.

2217           Section 43. Subsection (1) of section 464.203, Florida  
2218 Statutes, is amended to read:

2219           464.203 Certified nursing assistants; certification  
2220 requirement.—

2221           (1) The board shall issue a certificate to practice as a  
2222 certified nursing assistant to any person who demonstrates a  
2223 minimum competency to read and write and successfully passes the  
2224 required background ~~Level I or Level II~~ screening pursuant to s.  
2225 400.215 and meets one of the following requirements:

2226           (a) Has successfully completed an approved training program  
2227 and achieved a minimum score, established by rule of the board,  
2228 on the nursing assistant competency examination, which consists  
2229 of a written portion and skills-demonstration portion approved  
2230 by the board and administered at a site and by personnel  
2231 approved by the department.

2232           (b) Has achieved a minimum score, established by rule of  
2233 the board, on the nursing assistant competency examination,

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2234 which consists of a written portion and skills-demonstration  
2235 portion, approved by the board and administered at a site and by  
2236 personnel approved by the department and:

- 2237 1. Has a high school diploma, or its equivalent; or
- 2238 2. Is at least 18 years of age.

2239 (c) Is currently certified in another state; is listed on  
2240 that state's certified nursing assistant registry; and has not  
2241 been found to have committed abuse, neglect, or exploitation in  
2242 that state.

2243 (d) Has completed the curriculum developed under the  
2244 Enterprise Florida Jobs and Education Partnership Grant and  
2245 achieved a minimum score, established by rule of the board, on  
2246 the nursing assistant competency examination, which consists of  
2247 a written portion and skills-demonstration portion, approved by  
2248 the board and administered at a site and by personnel approved  
2249 by the department.

2250 Section 44. Subsection (9) of section 489.115, Florida  
2251 Statutes, is amended to read:

2252 489.115 Certification and registration; endorsement;  
2253 reciprocity; renewals; continuing education.—

2254 (9) An initial applicant shall submit, along with the  
2255 application, a complete set of fingerprints to in a form and  
2256 ~~manner required by~~ the department. The fingerprints shall be  
2257 submitted to the Department of Law Enforcement for state  
2258 processing, and the Department of Law Enforcement shall forward  
2259 them to the Federal Bureau of Investigation for national  
2260 processing for the purpose of determining if the applicant has a  
2261 criminal history record ~~conducting a level 2 background check~~  
2262 ~~pursuant to s. 435.04~~. The department shall and the board may

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2263 review the background results to determine if an applicant meets  
2264 licensure requirements. The cost for the fingerprint processing  
2265 shall be borne by the person subject to the background  
2266 screening. These fees are to be collected by the authorized  
2267 agencies or vendors. The authorized agencies or vendors are  
2268 responsible for paying the processing costs to the Department of  
2269 Law Enforcement.

2270 Section 45. Paragraphs (g) and (h) of subsection (2) of  
2271 section 943.05, Florida Statutes, are amended, and subsection  
2272 (4) is added to that section, to read:

2273 943.05 Criminal Justice Information Program; duties; crime  
2274 reports.—

2275 (2) The program shall:

2276 (g) Upon official written request, and subject to the  
2277 department having sufficient funds and equipment to participate  
2278 in such a request, from the agency executive director or  
2279 secretary, or from his or her designee, or from qualified  
2280 entities participating in the volunteer and employee criminal  
2281 history screening system under s. 943.0542, or as otherwise  
2282 required ~~As authorized~~ by law, retain fingerprints submitted by  
2283 criminal and noncriminal justice agencies to the department for  
2284 a criminal history background screening in a manner provided by  
2285 rule and enter the fingerprints in the statewide automated  
2286 fingerprint identification system authorized by paragraph (b).  
2287 Such fingerprints shall thereafter be available for all purposes  
2288 and uses authorized for arrest fingerprint submissions ~~cards~~  
2289 entered into the statewide automated fingerprint identification  
2290 system pursuant to s. 943.051.

2291 (h) ~~1.~~ For each agency or qualified entity that officially

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2292 requests retention of fingerprints or for which retention is  
2293 otherwise required ~~As authorized~~ by law, search all arrest  
2294 fingerprint submissions ~~cards~~ received under s. 943.051 against  
2295 the fingerprints retained in the statewide automated fingerprint  
2296 identification system under paragraph (g).

2297 1. Any arrest record that is identified with the retained  
2298 fingerprints of a person subject to background screening as  
2299 provided in paragraph (g) shall be reported to the appropriate  
2300 agency or qualified entity.

2301 2. ~~To Agencies may~~ participate in this search process,  
2302 agencies or qualified entities must notify each person  
2303 fingerprinted that his or her fingerprints will be retained, pay  
2304 by payment of an annual fee to the department, and inform by  
2305 ~~informing~~ the department of any change in the affiliation,  
2306 employment, or contractual status ~~or place of affiliation,~~  
2307 ~~employment, or contracting of~~ each person ~~the persons~~ whose  
2308 fingerprints are retained under paragraph (g) when such change  
2309 removes or eliminates the agency or qualified entity's basis or  
2310 need for receiving reports of any arrest of that person, so that  
2311 the agency or qualified entity will not be obligated to pay the  
2312 upcoming annual fee for the retention and searching of that  
2313 person's fingerprints to the department. The department shall  
2314 adopt a rule setting the amount of the annual fee to be imposed  
2315 upon each participating agency or qualified entity for  
2316 performing these searches and establishing the procedures for  
2317 the retention of fingerprints and the dissemination of search  
2318 results. The fee may be borne by the agency, qualified entity,  
2319 or person subject to fingerprint retention or as otherwise  
2320 provided by law. ~~Fees may be waived or reduced by the executive~~

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2321 ~~director for good cause shown.~~ Consistent with the recognition  
2322 of criminal justice agencies expressed in s. 943.053(3), these  
2323 services will be provided to criminal justice agencies for  
2324 criminal justice purposes free of charge.

2325 3. Agencies that participate in the fingerprint retention  
2326 and search process may adopt rules pursuant to ss. 120.536(1)  
2327 and 120.54 to require employers to keep the agency informed of  
2328 any change in the affiliation, employment, or contractual status  
2329 of each person whose fingerprints are retained under paragraph  
2330 (g) when such change removes or eliminates the agency's basis or  
2331 need for receiving reports of any arrest of that person, so that  
2332 the agency will not be obligated to pay the upcoming annual fee  
2333 for the retention and searching of that person's fingerprints to  
2334 the department.

2335 (4) Upon notification that a federal fingerprint retention  
2336 program is in effect, and subject to the department being funded  
2337 and equipped to participate in such a program, the department  
2338 shall, when state and national criminal history records checks  
2339 and retention of submitted prints are authorized or required by  
2340 law, retain the fingerprints as provided in paragraphs (2)(g)  
2341 and (h) and advise the Federal Bureau of Investigation to retain  
2342 the fingerprints at the national level for searching against  
2343 arrest fingerprint submissions received at the national level.

2344 Section 46. Subsections (6) and (11) of section 943.053,  
2345 Florida Statutes, are amended to read:

2346 943.053 Dissemination of criminal justice information;  
2347 fees.—

2348 (6) Notwithstanding any other provision of law, the  
2349 department shall provide to the ~~Florida~~ Department of Revenue

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2350 ~~Child Support Enforcement~~ access to Florida criminal records  
2351 which are not exempt from disclosure under chapter 119, and to  
2352 such information as may be lawfully available from other states  
2353 via the National Law Enforcement Telecommunications System, for  
2354 the purpose of locating subjects who owe or potentially owe  
2355 support, as defined in s. 409.2554, or to whom such obligation  
2356 is owed pursuant to Title IV-D of the Social Security Act. Such  
2357 information may be provided to child support enforcement  
2358 authorities in other states for these specific purposes.

2359 (11) A criminal justice agency that is authorized under  
2360 federal rules or law to conduct a criminal history background  
2361 check on an agency employee who is not certified by the Criminal  
2362 Justice Standards and Training Commission under s. 943.12 may  
2363 submit to the department the fingerprints of the noncertified  
2364 employee to obtain state and national criminal history  
2365 information. ~~Effective January 15, 2007,~~ The fingerprints  
2366 submitted shall be retained and entered in the statewide  
2367 automated fingerprint identification system authorized by s.  
2368 943.05 and shall be available for all purposes and uses  
2369 authorized for arrest fingerprint submissions ~~cards~~ entered in  
2370 the statewide automated fingerprint identification system  
2371 pursuant to s. 943.051. The department shall search all arrest  
2372 fingerprint submissions ~~cards~~ received pursuant to s. 943.051  
2373 against the fingerprints retained in the statewide automated  
2374 fingerprint identification system pursuant to this section. In  
2375 addition to all purposes and uses authorized for arrest  
2376 fingerprint submissions ~~cards~~ for which submitted fingerprints  
2377 may be used, any arrest record that is identified with the  
2378 retained employee fingerprints must be reported to the

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2379 submitting employing agency.

2380 Section 47. Paragraph (a) of subsection (2) of section  
2381 984.01, Florida Statutes, is amended to read:

2382 984.01 Purposes and intent; personnel standards and  
2383 screening.—

2384 (2) The Department of Juvenile Justice or the Department of  
2385 Children and Family Services, as appropriate, may contract with  
2386 the Federal Government, other state departments and agencies,  
2387 county and municipal governments and agencies, public and  
2388 private agencies, and private individuals and corporations in  
2389 carrying out the purposes of, and the responsibilities  
2390 established in, this chapter.

2391 (a) When the department ~~of Juvenile Justice or the~~  
2392 ~~Department of Children and Family Services~~ contracts with a  
2393 provider for any program for children, all personnel, including  
2394 owners, operators, employees, and volunteers, in the facility  
2395 must be of good moral character. Each contract entered into by  
2396 either department for services delivered on an appointment or  
2397 intermittent basis by a provider that does not have regular  
2398 custodial responsibility for children and each contract with a  
2399 school for before or aftercare services must ensure that the  
2400 owners, operators, and all personnel who have direct contact  
2401 with children are of good moral character. A volunteer who  
2402 assists on an intermittent basis for less than 10 ~~40~~ hours per  
2403 month need not be screened, provided a person who meets the  
2404 screening requirement of this section is always present and has  
2405 the volunteer in his or her line of sight ~~if the volunteer is~~  
2406 ~~under direct and constant supervision by persons who meet the~~  
2407 ~~screening requirements.~~

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2408 Section 48. Section 985.644, Florida Statutes, is amended  
2409 to read:

2410 985.644 Departmental contracting powers; personnel  
2411 standards and screening.—

2412 (1) ~~The department of Juvenile Justice or the Department of~~  
2413 ~~Children and Family Services, as appropriate,~~ may contract with  
2414 the Federal Government, other state departments and agencies,  
2415 county and municipal governments and agencies, public and  
2416 private agencies, and private individuals and corporations in  
2417 carrying out the purposes of, and the responsibilities  
2418 established in, this chapter.

2419 (a) ~~When the Department of Juvenile Justice or the~~  
2420 ~~Department of Children and Family Services contracts with a~~  
2421 ~~provider for any program for children, all personnel, including~~  
2422 ~~owners, operators, employees, and volunteers, in the facility~~  
2423 ~~must be of good moral character.~~ Each contract entered into by  
2424 the either department for services delivered on an appointment  
2425 or intermittent basis by a provider that does not have regular  
2426 custodial responsibility for children and each contract with a  
2427 school for before or aftercare services must ensure that all the  
2428 owners, operators, and ~~all~~ personnel who have direct contact  
2429 with children are subject to level 2 background screening  
2430 pursuant to chapter 435 of good moral character.

2431 (b) A volunteer who assists the department or any program  
2432 for children on an intermittent basis for less than 10 ~~40~~ hours  
2433 per month need not be screened, provided a person who meets the  
2434 screening requirement of this section is always present and has  
2435 the volunteer in his or her line of sight ~~if the volunteer is~~  
2436 ~~under direct and constant supervision by persons who meet the~~

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2437 screening requirements.

2438 ~~(b) The Department of Juvenile Justice and the Department~~  
2439 ~~of Children and Family Services shall require employment~~  
2440 ~~screening pursuant to chapter 435, using the level 2 standards~~  
2441 ~~set forth in that chapter for personnel in programs for children~~  
2442 ~~or youths.~~

2443 ~~(c) The Department of Juvenile Justice or the Department of~~  
2444 ~~Children and Family Services may grant exemptions from~~  
2445 ~~disqualification from working with children as provided in s.~~  
2446 ~~435.07.~~

2447 ~~(2) The department may contract with the Federal~~  
2448 ~~Government, other state departments and agencies, county and~~  
2449 ~~municipal governments and agencies, public and private agencies,~~  
2450 ~~and private individuals and corporations in carrying out the~~  
2451 ~~purposes and the responsibilities of the delinquency services~~  
2452 ~~and programs of the department.~~

2453 (2)~~(3)~~ The department shall adopt a rule pursuant to  
2454 chapter 120 establishing a procedure to provide notice of policy  
2455 changes that affect contracted delinquency services and  
2456 programs. A policy is defined as an operational requirement that  
2457 applies to only the specified contracted delinquency service or  
2458 program. The procedure shall include:

2459 (a) Public notice of policy development.

2460 (b) Opportunity for public comment on the proposed policy.

2461 (c) Assessment for fiscal impact upon the department and  
2462 providers.

2463 (d) The department's response to comments received.

2464 ~~(4) When the department contracts with a provider for any~~  
2465 ~~delinquency service or program, all personnel, including all~~

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2466 ~~owners, operators, employees, and volunteers in the facility or~~  
2467 ~~providing the service or program shall be of good moral~~  
2468 ~~character. A volunteer who assists on an intermittent basis for~~  
2469 ~~less than 40 hours per month is not required to be screened if~~  
2470 ~~the volunteer is under direct and constant supervision by~~  
2471 ~~persons who meet the screening requirements.~~

2472 (3)(5)(a) All employees of the department and all personnel  
2473 of contract providers for any program for children, including  
2474 all owners, operators, employees, persons who have access to  
2475 confidential juvenile records, and volunteers, must complete For  
2476 ~~any person employed by the department, or by a provider under~~  
2477 ~~contract with the department, in delinquency facilities,~~  
2478 ~~services, or programs, the department shall require:~~

2479 1. A level 2 employment screening pursuant to chapter 435  
2480 prior to employment. The security background investigations  
2481 conducted under this section must ensure that, in addition to  
2482 the disqualifying offenses listed in s. 435.04, no person  
2483 subject to the background screening provisions of this section  
2484 has been found guilty of, regardless of adjudication, or entered  
2485 a plea of nolo contendere or guilty to, any offense prohibited  
2486 under any of the following provisions of the Florida Statutes or  
2487 under any similar statute of another jurisdiction:

2488 a. Section 784.07, relating to assault or battery of law  
2489 enforcement officers, firefighters, emergency medical care  
2490 providers, public transit employees or agents, or other  
2491 specified officers.

2492 b. Section 817.568, relating to criminal use of personal  
2493 identification information.

2494 2. A national ~~federal~~ criminal records check by the Federal

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2495 Bureau of Investigation every 5 years following the date of the  
2496 person's employment.

2497 (b) Except for law enforcement, correctional, and  
2498 correctional probation officers, to whom s. 943.13(5) applies,  
2499 the department shall electronically submit to the Department of  
2500 Law Enforcement:

2501 1. Fingerprint information obtained during the employment  
2502 screening required by subparagraph (a)1.

2503 2. ~~Beginning on December 15, 2005,~~ Fingerprint information  
2504 for all persons employed by the department, or by a provider  
2505 under contract with the department, in delinquency facilities,  
2506 services, or programs if such fingerprint information has not  
2507 previously been electronically submitted to the Department of  
2508 Law Enforcement under this paragraph.

2509 (c) All fingerprint information electronically submitted to  
2510 the Department of Law Enforcement under paragraph (b) shall be  
2511 retained by the Department of Law Enforcement and entered into  
2512 the statewide automated fingerprint identification system  
2513 authorized by s. 943.05(2)(b). Thereafter, such fingerprint  
2514 information shall be available for all purposes and uses  
2515 authorized for arrest fingerprint information entered into the  
2516 statewide automated fingerprint identification system pursuant  
2517 to s. 943.051 until the fingerprint information is removed  
2518 pursuant to paragraph (e). The Department of Law Enforcement  
2519 shall search all arrest fingerprint information received  
2520 pursuant to s. 943.051 against the fingerprint information  
2521 entered into the statewide automated fingerprint system pursuant  
2522 to this subsection. Any arrest records identified as a result of  
2523 the search shall be reported to the department in the manner and

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2524 timeframe established by the Department of Law Enforcement by  
2525 rule.

2526 (d) The department shall pay an annual fee to the  
2527 Department of Law Enforcement for its costs resulting from the  
2528 fingerprint information retention services required by this  
2529 subsection. The amount of the annual fee and procedures for the  
2530 submission and retention of fingerprint information and for the  
2531 dissemination of search results shall be established by the  
2532 Department of Law Enforcement by a rule that is applicable to  
2533 the department individually pursuant to this subsection or that  
2534 is applicable to the department and other employing agencies  
2535 pursuant to rulemaking authority otherwise provided by law.

2536 (e) The department shall notify the Department of Law  
2537 Enforcement when a person whose fingerprint information is  
2538 retained by the Department of Law Enforcement under this  
2539 subsection is no longer employed by the department, or by a  
2540 provider under contract with the department, in a delinquency  
2541 facility, service, or program. This notice shall be provided by  
2542 the department to the Department of Law Enforcement no later  
2543 than 6 months after the date of the change in the person's  
2544 employment status. Fingerprint information for persons  
2545 identified by the department in the notice shall be removed from  
2546 the statewide automated fingerprint system.

2547 (6) The department may grant exemptions from  
2548 disqualification from working with children as provided in s.  
2549 435.07.

2550 (7) The department may adopt rules pursuant to ss.  
2551 120.536(1) and 120.54 to describe the procedure and requirements  
2552 necessary to implement the employment screening and fingerprint

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2553 retention services for all employees of the department and all  
2554 personnel of contract providers for any program for children,  
2555 including all owners, operators, employees, and volunteers,  
2556 including the collection of associated fees.

2557 Section 49. Paragraph (a) of subsection (1) of section  
2558 381.60225, Florida Statutes, is amended to read:

2559 381.60225 Background screening.—

2560 (1) Each applicant for certification must comply with the  
2561 following requirements:

2562 (a) Upon receipt of a completed, signed, and dated  
2563 application, the Agency for Health Care Administration shall  
2564 require background screening, in accordance with the level 2  
2565 standards for screening set forth in chapter 435, of the  
2566 managing employee, or other similarly titled individual  
2567 responsible for the daily operation of the organization, agency,  
2568 or entity, and financial officer, or other similarly titled  
2569 individual who is responsible for the financial operation of the  
2570 organization, agency, or entity, including billings for  
2571 services. The applicant must comply with the procedures for  
2572 level 2 background screening as set forth in chapter 435, ~~as~~  
2573 ~~well as the requirements of s. 435.03(3).~~

2574 Section 50. Subsection (32) of section 409.912, Florida  
2575 Statutes, is amended to read:

2576 409.912 Cost-effective purchasing of health care.—The  
2577 agency shall purchase goods and services for Medicaid recipients  
2578 in the most cost-effective manner consistent with the delivery  
2579 of quality medical care. To ensure that medical services are  
2580 effectively utilized, the agency may, in any case, require a  
2581 confirmation or second physician's opinion of the correct

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2582 diagnosis for purposes of authorizing future services under the  
2583 Medicaid program. This section does not restrict access to  
2584 emergency services or poststabilization care services as defined  
2585 in 42 C.F.R. part 438.114. Such confirmation or second opinion  
2586 shall be rendered in a manner approved by the agency. The agency  
2587 shall maximize the use of prepaid per capita and prepaid  
2588 aggregate fixed-sum basis services when appropriate and other  
2589 alternative service delivery and reimbursement methodologies,  
2590 including competitive bidding pursuant to s. 287.057, designed  
2591 to facilitate the cost-effective purchase of a case-managed  
2592 continuum of care. The agency shall also require providers to  
2593 minimize the exposure of recipients to the need for acute  
2594 inpatient, custodial, and other institutional care and the  
2595 inappropriate or unnecessary use of high-cost services. The  
2596 agency shall contract with a vendor to monitor and evaluate the  
2597 clinical practice patterns of providers in order to identify  
2598 trends that are outside the normal practice patterns of a  
2599 provider's professional peers or the national guidelines of a  
2600 provider's professional association. The vendor must be able to  
2601 provide information and counseling to a provider whose practice  
2602 patterns are outside the norms, in consultation with the agency,  
2603 to improve patient care and reduce inappropriate utilization.  
2604 The agency may mandate prior authorization, drug therapy  
2605 management, or disease management participation for certain  
2606 populations of Medicaid beneficiaries, certain drug classes, or  
2607 particular drugs to prevent fraud, abuse, overuse, and possible  
2608 dangerous drug interactions. The Pharmaceutical and Therapeutics  
2609 Committee shall make recommendations to the agency on drugs for  
2610 which prior authorization is required. The agency shall inform

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2611 the Pharmaceutical and Therapeutics Committee of its decisions  
2612 regarding drugs subject to prior authorization. The agency is  
2613 authorized to limit the entities it contracts with or enrolls as  
2614 Medicaid providers by developing a provider network through  
2615 provider credentialing. The agency may competitively bid single-  
2616 source-provider contracts if procurement of goods or services  
2617 results in demonstrated cost savings to the state without  
2618 limiting access to care. The agency may limit its network based  
2619 on the assessment of beneficiary access to care, provider  
2620 availability, provider quality standards, time and distance  
2621 standards for access to care, the cultural competence of the  
2622 provider network, demographic characteristics of Medicaid  
2623 beneficiaries, practice and provider-to-beneficiary standards,  
2624 appointment wait times, beneficiary use of services, provider  
2625 turnover, provider profiling, provider licensure history,  
2626 previous program integrity investigations and findings, peer  
2627 review, provider Medicaid policy and billing compliance records,  
2628 clinical and medical record audits, and other factors. Providers  
2629 shall not be entitled to enrollment in the Medicaid provider  
2630 network. The agency shall determine instances in which allowing  
2631 Medicaid beneficiaries to purchase durable medical equipment and  
2632 other goods is less expensive to the Medicaid program than long-  
2633 term rental of the equipment or goods. The agency may establish  
2634 rules to facilitate purchases in lieu of long-term rentals in  
2635 order to protect against fraud and abuse in the Medicaid program  
2636 as defined in s. 409.913. The agency may seek federal waivers  
2637 necessary to administer these policies.

2638 (32) Each managed care plan that is under contract with the  
2639 agency to provide health care services to Medicaid recipients

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2640 shall annually conduct a background check with the Florida  
2641 Department of Law Enforcement of all persons with ownership  
2642 interest of 5 percent or more or executive management  
2643 responsibility for the managed care plan and shall submit to the  
2644 agency information concerning any such person who has been found  
2645 guilty of, regardless of adjudication, or has entered a plea of  
2646 nolo contendere or guilty to, any of the offenses listed in s.  
2647 435.04 ~~435.03~~.

2648 Section 51. Paragraph (e) of subsection (1) of section  
2649 464.018, Florida Statutes, is amended to read:

2650 464.018 Disciplinary actions.—

2651 (1) The following acts constitute grounds for denial of a  
2652 license or disciplinary action, as specified in s. 456.072(2):

2653 (e) Having been found guilty of, regardless of  
2654 adjudication, or entered a plea of nolo contendere or guilty to,  
2655 any offense prohibited under s. 435.04 ~~435.03~~ or under any  
2656 similar statute of another jurisdiction; or having committed an  
2657 act which constitutes domestic violence as defined in s. 741.28.

2658 Section 52. Paragraph (m) of subsection (1) of section  
2659 468.3101, Florida Statutes, is amended to read:

2660 468.3101 Disciplinary grounds and actions.—

2661 (1) The department may make or require to be made any  
2662 investigations, inspections, evaluations, and tests, and require  
2663 the submission of any documents and statements, which it  
2664 considers necessary to determine whether a violation of this  
2665 part has occurred. The following acts shall be grounds for  
2666 disciplinary action as set forth in this section:

2667 (m) Having been found guilty of, regardless of  
2668 adjudication, or pleading guilty or nolo contendere to, any

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2669 offense prohibited under s. 435.04 ~~435.03~~ or under any similar  
2670 statute of another jurisdiction.

2671 Section 53. Subsection (3) of section 744.309, Florida  
2672 Statutes, is amended to read:

2673 744.309 Who may be appointed guardian of a resident ward.—

2674 (3) DISQUALIFIED PERSONS.—No person who has been convicted  
2675 of a felony or who, from any incapacity or illness, is incapable  
2676 of discharging the duties of a guardian, or who is otherwise  
2677 unsuitable to perform the duties of a guardian, shall be  
2678 appointed to act as guardian. Further, no person who has been  
2679 judicially determined to have committed abuse, abandonment, or  
2680 neglect against a child as defined in s. 39.01 or s. 984.03(1),  
2681 (2), and (37), or who has been found guilty of, regardless of  
2682 adjudication, or entered a plea of nolo contendere or guilty to,  
2683 any offense prohibited under s. 435.04 ~~435.03~~ or under any  
2684 similar statute of another jurisdiction, shall be appointed to  
2685 act as a guardian. Except as provided in subsection (5) or  
2686 subsection (6), a person who provides substantial services to  
2687 the proposed ward in a professional or business capacity, or a  
2688 creditor of the proposed ward, may not be appointed guardian and  
2689 retain that previous professional or business relationship. A  
2690 person may not be appointed a guardian if he or she is in the  
2691 employ of any person, agency, government, or corporation that  
2692 provides service to the proposed ward in a professional or  
2693 business capacity, except that a person so employed may be  
2694 appointed if he or she is the spouse, adult child, parent, or  
2695 sibling of the proposed ward or the court determines that the  
2696 potential conflict of interest is insubstantial and that the  
2697 appointment would clearly be in the proposed ward's best

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2698 interest. The court may not appoint a guardian in any other  
2699 circumstance in which a conflict of interest may occur.

2700 Section 54. Subsection (12) of section 744.474, Florida  
2701 Statutes, is amended to read:

2702 744.474 Reasons for removal of guardian.—A guardian may be  
2703 removed for any of the following reasons, and the removal shall  
2704 be in addition to any other penalties prescribed by law:

2705 (12) Having been found guilty of, regardless of  
2706 adjudication, or entered a plea of nolo contendere or guilty to,  
2707 any offense prohibited under s. 435.04 ~~435.03~~ or under any  
2708 similar statute of another jurisdiction.

2709 Section 55. Paragraph (a) of subsection (6) of section  
2710 985.04, Florida Statutes, is amended to read:

2711 985.04 Oaths; records; confidential information.—

2712 (6) (a) Records maintained by the department, including  
2713 copies of records maintained by the court, which pertain to a  
2714 child found to have committed a delinquent act which, if  
2715 committed by an adult, would be a crime specified in s. ~~ss.~~  
2716 ~~435.03~~ and 435.04 may not be destroyed under this section for a  
2717 period of 25 years after the youth's final referral to the  
2718 department, except in cases of the death of the child. Such  
2719 records, however, shall be sealed by the court for use only in  
2720 meeting the screening requirements for personnel in s. 402.3055  
2721 and the other sections cited above, or under departmental rule;  
2722 however, current criminal history information must be obtained  
2723 from the Department of Law Enforcement in accordance with s.  
2724 943.053. The information shall be released to those persons  
2725 specified in the above cited sections for the purposes of  
2726 complying with those sections. The court may punish by contempt

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2727 any person who releases or uses the records for any unauthorized  
2728 purpose.

2729 Section 56. Section 409.1758, Florida Statutes, is  
2730 repealed.

2731 Section 57. Paragraph (d) of subsection (4) of section  
2732 456.039, Florida Statutes, is repealed.

2733 Section 58. The changes made by this act are intended to be  
2734 prospective in nature. It is not intended that persons who are  
2735 employed or licensed on the effective date of this act be  
2736 rescreened until such time as they are otherwise required to be  
2737 rescreened pursuant to law, at which time they must meet the  
2738 requirements for screening as set forth in this act.

2739 Section 59. This act shall take effect August 1, 2010.