



LEGISLATIVE ACTION

Senate	.	House
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04/28/2010 05:37 PM	.	04/30/2010 08:12 AM
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Senator Storms moved the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

39.001 Purposes and intent; personnel standards and  
screening.—

(2) DEPARTMENT CONTRACTS.—The department may contract with  
the Federal Government, other state departments and agencies,  
county and municipal governments and agencies, public and  
private agencies, and private individuals and corporations in  
carrying out the purposes of, and the responsibilities



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14 established in, this chapter.

15 (a) ~~If~~ When the department contracts with a provider for  
16 any program for children, all personnel, including owners,  
17 operators, employees, and volunteers, in the facility must be of  
18 good moral character. A volunteer who assists on an intermittent  
19 basis for less than 10 ~~40~~ hours per month need not be screened  
20 if a person who meets the screening requirement of this section  
21 is always present and has the volunteer within his or her line  
22 of sight ~~if the volunteer is under direct and constant~~  
23 ~~supervision by persons who meet the screening requirements.~~

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

26 39.821 Qualifications of guardians ad litem.—

27 (1) Because of the special trust or responsibility placed  
28 in a guardian ad litem, the Guardian Ad Litem Program may use  
29 any private funds collected by the program, or any state funds  
30 so designated, to conduct a security background investigation  
31 before certifying a volunteer to serve. A security background  
32 investigation must include, but need not be limited to,  
33 employment history checks, checks of references, local criminal  
34 records checks through local law enforcement agencies, and  
35 statewide criminal records checks through the Department of Law  
36 Enforcement. Upon request, an employer shall furnish a copy of  
37 the personnel record for the employee or former employee who is  
38 the subject of a security background investigation conducted  
39 under this section. The information contained in the personnel  
40 record may include, but need not be limited to, disciplinary  
41 matters and the reason why the employee was terminated from  
42 employment. An employer who releases a personnel record for



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43 purposes of a security background investigation is presumed to  
44 have acted in good faith and is not liable for information  
45 contained in the record without a showing that the employer  
46 maliciously falsified the record. A security background  
47 investigation conducted under this section must ensure that a  
48 person is not certified as a guardian ad litem if the person has  
49 an arrest awaiting final disposition for, been convicted of,  
50 regardless of adjudication, ~~or~~ entered a plea of nolo contendere  
51 or guilty to, or been adjudicated delinquent and the record has  
52 not been sealed or expunged for, any offense prohibited under  
53 the provisions listed in s. 435.04. All applicants certified on  
54 or after August 1, 2010, must undergo a level 2 background  
55 screening pursuant to chapter 435 before being certified the  
56 ~~provisions of the Florida Statutes specified in s. 435.04(2) or~~  
57 ~~under any similar law in another jurisdiction. Before certifying~~  
58 ~~an applicant to serve as a guardian ad litem, the Guardian Ad~~  
59 ~~Litem Program may request a federal criminal records check of~~  
60 ~~the applicant through the Federal Bureau of Investigation. In~~  
61 analyzing and evaluating the information obtained in the  
62 security background investigation, the program must give  
63 particular emphasis to past activities involving children,  
64 including, but not limited to, child-related criminal offenses  
65 or child abuse. The program has ~~the~~ sole discretion in  
66 determining whether to certify a person based on his or her  
67 security background investigation. The information collected  
68 pursuant to the security background investigation is  
69 confidential and exempt from s. 119.07(1).

70 Section 3. Paragraph (b) of subsection (1) of section  
71 215.5586, Florida Statutes, is amended to read:



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72           215.5586 My Safe Florida Home Program.—There is established  
73 within the Department of Financial Services the My Safe Florida  
74 Home Program. The department shall provide fiscal  
75 accountability, contract management, and strategic leadership  
76 for the program, consistent with this section. This section does  
77 not create an entitlement for property owners or obligate the  
78 state in any way to fund the inspection or retrofitting of  
79 residential property in this state. Implementation of this  
80 program is subject to annual legislative appropriations. It is  
81 the intent of the Legislature that the My Safe Florida Home  
82 Program provide trained and certified inspectors to perform  
83 inspections for owners of site-built, single-family, residential  
84 properties and grants to eligible applicants as funding allows.  
85 The program shall develop and implement a comprehensive and  
86 coordinated approach for hurricane damage mitigation that may  
87 include the following:

88           (1) HURRICANE MITIGATION INSPECTIONS.—

89           (b) To qualify for selection by the department as a wind  
90 certification entity to provide hurricane mitigation  
91 inspections, the entity shall, at a minimum, meet the following  
92 requirements:

93           1. Use hurricane mitigation inspectors who:

- 94           a. Are certified as a building inspector under s. 468.607;  
95           b. Are licensed as a general or residential contractor  
96 under s. 489.111;  
97           c. Are licensed as a professional engineer under s. 471.015  
98 and who have passed the appropriate equivalency test of the  
99 building code training program as required by s. 553.841;  
100           d. Are licensed as a professional architect under s.



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101 481.213; or

102 e. Have at least 2 years of experience in residential  
103 construction or residential building inspection and have  
104 received specialized training in hurricane mitigation  
105 procedures. Such training may be provided by a class offered  
106 online or in person.

107 2. Use hurricane mitigation inspectors who also:

108 a. Have undergone drug testing and a level 2 background  
109 screening checks pursuant to s. 435.04. The department may  
110 conduct criminal record checks of inspectors used by wind  
111 certification entities. Inspectors must submit a set of the  
112 fingerprints to the department for state and national criminal  
113 history checks and must pay the fingerprint processing fee set  
114 forth in s. 624.501. The fingerprints shall be sent by the  
115 department to the Department of Law Enforcement and forwarded to  
116 the Federal Bureau of Investigation for processing. The results  
117 shall be returned to the department for screening. The  
118 fingerprints shall be taken by a law enforcement agency,  
119 designated examination center, or other department-approved  
120 entity; and

121 b. Have been certified, in a manner satisfactory to the  
122 department, to conduct the inspections.

123 3. Provide a quality assurance program including a  
124 reinspection component.

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

128 393.0655 Screening of direct service providers.-

129 (1) MINIMUM STANDARDS.-The agency shall require level 2



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130 employment screening pursuant to chapter 435 for direct service  
131 providers who are unrelated to their clients, including support  
132 coordinators, and managers and supervisors of residential  
133 facilities or comprehensive transitional education programs  
134 licensed under this chapter and any other person, including  
135 volunteers, who provide care or services, who have access to a  
136 client's living areas, or who have access to a client's funds or  
137 personal property. Background screening shall include employment  
138 history checks as provided in s. 435.03(1) and local criminal  
139 records checks through local law enforcement agencies.

140 (a) A volunteer who assists on an intermittent basis for  
141 less than 10 ~~40~~ hours per month does not have to be screened if  
142 a person who meets the screening requirement of this section is  
143 always present and has the volunteer within his or her line of  
144 sight if the volunteer is under the direct and constant visual  
145 supervision of persons who meet the screening requirements of  
146 this section.

147 ~~(c) A direct service provider who is awaiting the~~  
148 ~~completion of background screening is temporarily exempt from~~  
149 ~~the screening requirements under this section if the provider is~~  
150 ~~under the direct and constant visual supervision of persons who~~  
151 ~~meet the screening requirements of this section. Such exemption~~  
152 ~~expires 90 days after the direct service provider first provides~~  
153 ~~care or services to clients, has access to a client's living~~  
154 ~~areas, or has access to a client's funds or personal property.~~

155 (5) DISQUALIFYING OFFENSES.—The background screening  
156 conducted under this section must ensure that, in addition to  
157 the disqualifying offenses listed in s. 435.04, no person  
158 subject to the provisions of this section has an arrest awaiting



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159 final disposition for, has been found guilty of, regardless of  
160 adjudication, or entered a plea of nolo contendere or guilty to,  
161 or has been adjudicated delinquent and the record has not been  
162 sealed or expunged for, any offense prohibited under any of the  
163 following provisions of state law or similar law of another  
164 jurisdiction:

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

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

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

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

169 (e) Section 817.034, relating to fraudulent acts through  
170 mail, wire, radio, electromagnetic, photoelectronic, or  
171 photooptical systems.

172 (f) Section 817.234, relating to false and fraudulent  
173 insurance claims.

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

175 (h) Section 817.568, relating to criminal use of personal  
176 identification information.

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

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

181 (k) Section 831.01, relating to forgery.

182 (l) Section 831.02, relating to uttering forged  
183 instruments.

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

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



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188 Section 5. Section 394.4572, Florida Statutes, is amended  
189 to read:

190 394.4572 Screening of mental health personnel.—

191 (1) (a) The department and the Agency for Health Care  
192 Administration shall require level 2 background employment  
193 screening pursuant to chapter 435 for mental health personnel  
194 ~~using the standards for level 2 screening set forth in chapter~~  
195 ~~435.~~ "Mental health personnel" includes all program directors,  
196 professional clinicians, staff members, and volunteers working  
197 in public or private mental health programs and facilities who  
198 have direct contact with individuals held for examination or  
199 admitted for mental health treatment ~~unmarried patients under~~  
200 ~~the age of 18 years.~~ For purposes of this chapter, employment  
201 screening of mental health personnel ~~shall~~ also includes  
202 include, but is not limited to, employment screening as provided  
203 under chapter 435 and s. 408.809.

204 (b) Students in the health care professions who are  
205 interning in a mental health facility licensed under chapter  
206 395, where the primary purpose of the facility is not the  
207 treatment of minors, are exempt from the fingerprinting and  
208 screening requirements if, ~~provided~~ they are under direct  
209 supervision in the actual physical presence of a licensed health  
210 care professional.

211 ~~(c) Mental health personnel working in a facility licensed~~  
212 ~~under chapter 395 who have less than 15 hours per week of direct~~  
213 ~~contact with patients or who are health care professionals~~  
214 ~~licensed by the Agency for Health Care Administration or a board~~  
215 ~~thereunder are exempt from the fingerprinting and screening~~  
216 ~~requirements, except for persons working in mental health~~





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217 ~~facilities where the primary purpose of the facility is the~~  
218 ~~treatment of minors.~~

219 ~~(c)(d)~~ A volunteer who assists on an intermittent basis for  
220 less than 10 ~~40~~ hours per month is exempt from the  
221 fingerprinting and screening requirements if a person who meets  
222 the screening requirement of paragraph (a) is always present and  
223 has the volunteer within his or her line of sight, ~~provided the~~  
224 ~~volunteer is under direct and constant supervision by persons~~  
225 ~~who meet the screening requirements of paragraph (a).~~

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

229 ~~(3) Prospective mental health personnel who have previously~~  
230 ~~been fingerprinted or screened pursuant to this chapter, chapter~~  
231 ~~393, chapter 397, chapter 402, or chapter 409, or teachers who~~  
232 ~~have been fingerprinted pursuant to chapter 1012, who have not~~  
233 ~~been unemployed for more than 90 days thereafter, and who under~~  
234 ~~the penalty of perjury attest to the completion of such~~  
235 ~~fingerprinting or screening and to compliance with the~~  
236 ~~provisions of this section and the standards for level 1~~  
237 ~~screening contained in chapter 435, shall not be required to be~~  
238 ~~refingerprinted or rescreened in order to comply with any~~  
239 ~~screening requirements of this part.~~

240 Section 6. Section 400.215, Florida Statutes, is amended to  
241 read:

242 400.215 Personnel screening requirement.—

243 (1) The agency shall require level 2 background screening  
244 for personnel as required in s. 408.809(1)(e) pursuant to as  
245 provided in chapter 435 and s. 408.809. ~~for all employees or~~



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246 ~~prospective employees of facilities licensed under this part who~~  
247 ~~are expected to, or whose responsibilities may require them to:~~

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

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

250 ~~(c) Have access to resident funds or other personal~~  
251 ~~property.~~

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

254 ~~(a) Notwithstanding the provisions of s. 435.05(1),~~  
255 ~~facilities must have in their possession evidence that level 1~~  
256 ~~screening has been completed before allowing an employee to~~  
257 ~~begin working with patients as provided in subsection (1). All~~  
258 ~~information necessary for conducting background screening using~~  
259 ~~level 1 standards as specified in s. 435.03 shall be submitted~~  
260 ~~by the nursing facility to the agency. Results of the background~~  
261 ~~screening shall be provided by the agency to the requesting~~  
262 ~~nursing facility.~~

263 ~~(b) Employees qualified under the provisions of paragraph~~  
264 ~~(a) who have not maintained continuous residency within the~~  
265 ~~state for the 5 years immediately preceding the date of request~~  
266 ~~for background screening must complete level 2 screening, as~~  
267 ~~provided in chapter 435. Such employees may work in a~~  
268 ~~conditional status up to 180 days pending the receipt of written~~  
269 ~~findings evidencing the completion of level 2 screening. Level 2~~  
270 ~~screening shall not be required of employees or prospective~~  
271 ~~employees who attest in writing under penalty of perjury that~~  
272 ~~they meet the residency requirement. Completion of level 2~~  
273 ~~screening shall require the employee or prospective employee to~~  
274 ~~furnish to the nursing facility a full set of fingerprints to~~



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275 ~~enable a criminal background investigation to be conducted. The~~  
276 ~~nursing facility shall submit the completed fingerprint card to~~  
277 ~~the agency. The agency shall establish a record of the request~~  
278 ~~in the database provided for in paragraph (c) and forward the~~  
279 ~~request to the Department of Law Enforcement, which is~~  
280 ~~authorized to submit the fingerprints to the Federal Bureau of~~  
281 ~~Investigation for a national criminal history records check. The~~  
282 ~~results of the national criminal history records check shall be~~  
283 ~~returned to the agency, which shall maintain the results in the~~  
284 ~~database provided for in paragraph (c). The agency shall notify~~  
285 ~~the administrator of the requesting nursing facility or the~~  
286 ~~administrator of any other facility licensed under chapter 393,~~  
287 ~~chapter 394, chapter 395, chapter 397, chapter 429, or this~~  
288 ~~chapter, as requested by such facility, as to whether or not the~~  
289 ~~employee has qualified under level 1 or level 2 screening. An~~  
290 ~~employee or prospective employee who has qualified under level 2~~  
291 ~~screening and has maintained such continuous residency within~~  
292 ~~the state shall not be required to complete a subsequent level 2~~  
293 ~~screening as a condition of employment at another facility.~~

294 ~~(c) The agency shall establish and maintain a database of~~  
295 ~~background screening information which shall include the results~~  
296 ~~of both level 1 and level 2 screening. The Department of Law~~  
297 ~~Enforcement shall timely provide to the agency, electronically,~~  
298 ~~the results of each statewide screening for incorporation into~~  
299 ~~the database. The agency shall, upon request from any facility,~~  
300 ~~agency, or program required by or authorized by law to screen~~  
301 ~~its employees or applicants, notify the administrator of the~~  
302 ~~facility, agency, or program of the qualifying or disqualifying~~  
303 ~~status of the employee or applicant named in the request.~~



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

306           ~~(3) The applicant is responsible for paying the fees~~  
307 ~~associated with obtaining the required screening. Payment for~~  
308 ~~the screening shall be submitted to the agency. The agency shall~~  
309 ~~establish a schedule of fees to cover the costs of level 1 and~~  
310 ~~level 2 screening. Facilities may reimburse employees for these~~  
311 ~~costs. The Department of Law Enforcement shall charge the agency~~  
312 ~~for a level 1 or level 2 screening a rate sufficient to cover~~  
313 ~~the costs of such screening pursuant to s. 943.053(3). The~~  
314 ~~agency shall, as allowable, reimburse nursing facilities for the~~  
315 ~~cost of conducting background screening as required by this~~  
316 ~~section. This reimbursement is will not be subject to any rate~~  
317 ~~ceilings or payment targets in the Medicaid Reimbursement plan.~~

318           ~~(4)(a) As provided in s. 435.07, the agency may grant an~~  
319 ~~exemption from disqualification to an employee or prospective~~  
320 ~~employee who is subject to this section and who has not received~~  
321 ~~a professional license or certification from the Department of~~  
322 ~~Health.~~

323           ~~(b) As provided in s. 435.07, the appropriate regulatory~~  
324 ~~board within the Department of Health, or that department itself~~  
325 ~~when there is no board, may grant an exemption from~~  
326 ~~disqualification to an employee or prospective employee who is~~  
327 ~~subject to this section and who has received a professional~~  
328 ~~license or certification from the Department of Health or a~~  
329 ~~regulatory board within that department.~~

330           ~~(5) Any provision of law to the contrary notwithstanding,~~  
331 ~~persons who have been screened and qualified as required by this~~  
332 ~~section and who have not been unemployed for more than 180 days~~



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333 ~~thereafter, and who under penalty of perjury attest to not~~  
334 ~~having been convicted of a disqualifying offense since the~~  
335 ~~completion of such screening, shall not be required to be~~  
336 ~~rescreened. An employer may obtain, pursuant to s. 435.10,~~  
337 ~~written verification of qualifying screening results from the~~  
338 ~~previous employer or other entity which caused such screening to~~  
339 ~~be performed.~~

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

343 ~~(7) All employees shall comply with the requirements of~~  
344 ~~this section by October 1, 1998. No current employee of a~~  
345 ~~nursing facility as of the effective date of this act shall be~~  
346 ~~required to submit to rescreening if the nursing facility has in~~  
347 ~~its possession written evidence that the person has been~~  
348 ~~screened and qualified according to level 1 standards as~~  
349 ~~specified in s. 435.03(1). Any current employee who meets the~~  
350 ~~level 1 requirement but does not meet the 5-year residency~~  
351 ~~requirement as specified in this section must provide to the~~  
352 ~~employing nursing facility written attestation under penalty of~~  
353 ~~perjury that the employee has not been convicted of a~~  
354 ~~disqualifying offense in another state or jurisdiction. All~~  
355 ~~applicants hired on or after October 1, 1998, shall comply with~~  
356 ~~the requirements of this section.~~

357 ~~(8) There is no monetary or unemployment liability on the~~  
358 ~~part of, and no cause of action for damages arising against an~~  
359 ~~employer that, upon notice of a disqualifying offense listed~~  
360 ~~under chapter 435 or an act of domestic violence, terminates the~~  
361 ~~employee against whom the report was issued, whether or not the~~



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362 ~~employee has filed for an exemption with the Department of~~  
363 ~~Health or the Agency for Health Care Administration.~~

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

366 400.506 Licensure of nurse registries; requirements;  
367 penalties.—

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

375 Section 8. Section 400.512, Florida Statutes, is amended to  
376 read:

377 400.512 Screening of home health agency personnel; nurse  
378 registry personnel and contractors; and companions and  
379 homemakers.—The agency, registry, or service shall require level  
380 2 background screening for employees or contractors as required  
381 in s. 408.809(1)(e) pursuant to chapter 435 and s. 408.809  
382 ~~employment or contractor screening as provided in chapter 435,~~  
383 ~~using the level 1 standards for screening set forth in that~~  
384 ~~chapter, for home health agency personnel; persons referred for~~  
385 ~~employment by nurse registries; and persons employed by~~  
386 ~~companion or homemaker services registered under s. 400.509.~~

387 ~~(1)(a) The Agency for Health Care Administration may, upon~~  
388 ~~request, grant exemptions from disqualification from employment~~  
389 ~~or contracting under this section as provided in s. 435.07,~~  
390 ~~except for health care practitioners licensed by the Department~~



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391 ~~of Health or a regulatory board within that department.~~

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

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

404 ~~(3) As a prerequisite to operating as a home health agency,~~  
405 ~~nurse registry, or companion or homemaker service under s.~~  
406 ~~400.509, the administrator or managing employee, respectively,~~  
407 ~~must submit to the agency his or her name and any other~~  
408 ~~information necessary to conduct a complete screening according~~  
409 ~~to this section. The agency shall submit the information to the~~  
410 ~~Department of Law Enforcement for state processing. The agency~~  
411 ~~shall review the record of the administrator or manager with~~  
412 ~~respect to the offenses specified in this section and shall~~  
413 ~~notify the owner of its findings. If disposition information is~~  
414 ~~missing on a criminal record, the administrator or manager, upon~~  
415 ~~request of the agency, must obtain and supply within 30 days the~~  
416 ~~missing disposition information to the agency. Failure to supply~~  
417 ~~missing information within 30 days or to show reasonable efforts~~  
418 ~~to obtain such information will result in automatic~~  
419 ~~disqualification.~~



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420           ~~(4) Proof of compliance with the screening requirements of~~  
421 ~~chapter 435 shall be accepted in lieu of the requirements of~~  
422 ~~this section if the person has been continuously employed or~~  
423 ~~registered without a breach in service that exceeds 180 days,~~  
424 ~~the proof of compliance is not more than 2 years old, and the~~  
425 ~~person has been screened by the Department of Law Enforcement. A~~  
426 ~~home health agency, nurse registry, or companion or homemaker~~  
427 ~~service registered under s. 400.509 shall directly provide proof~~  
428 ~~of compliance to another home health agency, nurse registry, or~~  
429 ~~companion or homemaker service registered under s. 400.509. The~~  
430 ~~recipient home health agency, nurse registry, or companion or~~  
431 ~~homemaker service registered under s. 400.509 may not accept any~~  
432 ~~proof of compliance directly from the person who requires~~  
433 ~~screening. Proof of compliance with the screening requirements~~  
434 ~~of this section shall be provided upon request to the person~~  
435 ~~screened by the home health agencies; nurse registries; or~~  
436 ~~companion or homemaker services registered under s. 400.509.~~

437           ~~(5) There is no monetary liability on the part of, and no~~  
438 ~~cause of action for damages arises against, a licensed home~~  
439 ~~health agency, licensed nurse registry, or companion or~~  
440 ~~homemaker service registered under s. 400.509, that, upon notice~~  
441 ~~that the employee or contractor has been found guilty of,~~  
442 ~~regardless of adjudication, or entered a plea of nolo contendere~~  
443 ~~or guilty to, any offense prohibited under s. 435.03 or under~~  
444 ~~any similar statute of another jurisdiction, terminates the~~  
445 ~~employee or contractor, whether or not the employee or~~  
446 ~~contractor has filed for an exemption with the agency in~~  
447 ~~accordance with chapter 435 and whether or not the time for~~  
448 ~~filing has expired.~~





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449           ~~(6) The costs of processing the statewide correspondence~~  
450 ~~criminal records checks must be borne by the home health agency;~~  
451 ~~the nurse registry; or the companion or homemaker service~~  
452 ~~registered under s. 400.509, or by the person being screened, at~~  
453 ~~the discretion of the home health agency, nurse registry, or s.~~  
454 ~~400.509 registrant.~~

455           Section 9. Section 400.6065, Florida Statutes, is amended  
456 to read:

457           400.6065 Background screening.—The agency shall require  
458 level 2 background employment or contractor screening for  
459 personnel as required in s. 408.809(1)(e) pursuant to chapter  
460 435 and s. 408.809 as provided in chapter 435, using the level 1  
461 standards for screening set forth in that chapter, for hospice  
462 personnel.

463           Section 10. Subsection (2) of section 400.801, Florida  
464 Statutes, is amended to read:

465           400.801 Homes for special services.—

466           (2) (a) The requirements of part II of chapter 408 apply to  
467 the provision of services that require licensure pursuant to  
468 this section and part II of chapter 408 and entities licensed by  
469 or applying for ~~such~~ licensure from the agency pursuant to this  
470 section. A license issued by the agency is required in order to  
471 operate a home for special services in this state.

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

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

477           400.805 Transitional living facilities.—



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478 (2)

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

482 Section 12. Section 400.9065, Florida Statutes, is created  
483 to read:

484 400.9065 Background screening.—The agency shall require  
485 level 2 background screening for personnel as required in s.  
486 408.809(1)(e) pursuant to chapter 435 and s. 408.809.

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

489 400.934 Minimum standards.—As a requirement of licensure,  
490 home medical equipment providers shall:

491 (16) Establish procedures for maintaining a record of the  
492 employment history, including background screening as required  
493 by ss. ~~s.~~ 400.953 and 408.809(1) and chapter 435, of all home  
494 medical equipment provider personnel. A home medical equipment  
495 provider must require its personnel to submit an employment  
496 history to the home medical equipment provider and must verify  
497 the employment history for at least the previous 5 years, unless  
498 through diligent efforts such verification is not possible.  
499 There is no monetary liability on the part of, and no cause of  
500 action for damages arising against a former employer, a  
501 prospective employee, or a prospective independent contractor  
502 with a licensed home medical equipment provider, who reasonably  
503 and in good faith communicates his or her honest opinions about  
504 a former employee's job performance. This subsection does not  
505 affect the official immunity of an officer or employee of a  
506 public corporation.



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507 Section 14. Section 400.953, Florida Statutes, is amended  
508 to read:

509 400.953 Background screening of home medical equipment  
510 provider personnel.—The agency shall require level 2 background  
511 screening for personnel as required in s. 408.809(1)(e) pursuant  
512 to chapter 435 and s. 408.809 employment screening as provided  
513 in chapter 435, using the level 1 standards for screening set  
514 forth in that chapter, for home medical equipment provider  
515 personnel.

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

518 ~~(2) The general manager of each home medical equipment~~  
519 ~~provider must sign an affidavit annually, under penalty of~~  
520 ~~perjury, stating that all home medical equipment provider~~  
521 ~~personnel hired on or after July 1, 1999, who enter the home of~~  
522 ~~a patient in the capacity of their employment have been screened~~  
523 ~~and that its remaining personnel have worked for the home~~  
524 ~~medical equipment provider continuously since before July 1,~~  
525 ~~1999.~~

526 ~~(3) Proof of compliance with the screening requirements of~~  
527 ~~s. 110.1127, s. 393.0655, s. 394.4572, s. 397.451, s. 402.305,~~  
528 ~~s. 402.313, s. 409.175, s. 464.008, or s. 985.644 or this part~~  
529 ~~must be accepted in lieu of the requirements of this section if~~  
530 ~~the person has been continuously employed in the same type of~~  
531 ~~occupation for which he or she is seeking employment without a~~  
532 ~~breach in service that exceeds 180 days, the proof of compliance~~  
533 ~~is not more than 2 years old, and the person has been screened~~  
534 ~~by the Department of Law Enforcement. An employer or contractor~~  
535 ~~shall directly provide proof of compliance to another employer~~



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536 ~~or contractor, and a potential employer or contractor may not~~  
537 ~~accept any proof of compliance directly from the person~~  
538 ~~requiring screening. Proof of compliance with the screening~~  
539 ~~requirements of this section shall be provided, upon request, to~~  
540 ~~the person screened by the home medical equipment provider.~~

541 ~~(4) There is no monetary liability on the part of, and no~~  
542 ~~cause of action for damages arising against, a licensed home~~  
543 ~~medical equipment provider that, upon notice that an employee~~  
544 ~~has been found guilty of, regardless of adjudication, or entered~~  
545 ~~a plea of nolo contendere or guilty to, any offense prohibited~~  
546 ~~under s. 435.03 or under any similar statute of another~~  
547 ~~jurisdiction, terminates the employee, whether or not the~~  
548 ~~employee has filed for an exemption with the agency and whether~~  
549 ~~or not the time for filing has expired.~~

550 ~~(5) The costs of processing the statewide correspondence~~  
551 ~~criminal records checks must be borne by the home medical~~  
552 ~~equipment provider or by the person being screened, at the~~  
553 ~~discretion of the home medical equipment provider.~~

554 ~~(6) Neither the agency nor the home medical equipment~~  
555 ~~provider may use the criminal records or juvenile records of a~~  
556 ~~person for any purpose other than determining whether that~~  
557 ~~person meets minimum standards of good moral character for home~~  
558 ~~medical equipment provider personnel.~~

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

562 ~~1. Fail, by false statement, misrepresentation,~~  
563 ~~impersonation, or other fraudulent means, to disclose in any~~  
564 ~~application for paid employment a material fact used in making a~~



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565 ~~determination as to the person's qualifications to be an~~  
566 ~~employee under this section;~~

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

570 ~~3. Use information from the criminal records obtained under~~  
571 ~~this section for any purpose other than screening that person~~  
572 ~~for employment as specified in this section, or release such~~  
573 ~~information to any other person for any purpose other than~~  
574 ~~screening for employment under this section.~~

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

581 ~~Section 15. Section 400.955, Florida Statutes, is repealed.~~

582 ~~Section 16. Section 400.964, Florida Statutes, is amended~~  
583 ~~to read:~~

584 ~~400.964 Personnel screening requirement.-~~

585 ~~(1) The agency shall require level 2 background screening~~  
586 ~~for personnel as required in s. 408.809(1)(e) pursuant to~~  
587 ~~chapter 435 and s. 408.809 as provided in chapter 435 for all~~  
588 ~~employees or prospective employees of facilities licensed under~~  
589 ~~this part who are expected to be, or whose responsibilities are~~  
590 ~~such that they would be considered to be, a direct service~~  
591 ~~provider.~~

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



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

596           ~~(4) The applicant is responsible for paying the fees~~  
597 ~~associated with obtaining the required screening. Payment for~~  
598 ~~the screening must be submitted to the agency as prescribed by~~  
599 ~~the agency.~~

600           ~~(5) Notwithstanding any other provision of law, persons who~~  
601 ~~have been screened and qualified as required by this section and~~  
602 ~~who have not been unemployed for more than 180 days thereafter,~~  
603 ~~and who under penalty of perjury attest to not having been~~  
604 ~~convicted of a disqualifying offense since the completion of~~  
605 ~~such screening are not required to be rescreened. An employer~~  
606 ~~may obtain, pursuant to s. 435.10, written verification of~~  
607 ~~qualifying screening results from the previous employer or other~~  
608 ~~entity that caused such screening to be performed.~~

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

610           ~~(7) All employees must comply with the requirements of this~~  
611 ~~section by October 1, 2000. A person employed by a facility~~  
612 ~~licensed pursuant to this part as of the effective date of this~~  
613 ~~act is not required to submit to rescreening if the facility has~~  
614 ~~in its possession written evidence that the person has been~~  
615 ~~screened and qualified according to level 1 standards as~~  
616 ~~specified in s. 435.03. Any current employee who meets the level~~  
617 ~~1 requirement but does not meet the 5-year residency requirement~~  
618 ~~must provide to the employing facility written attestation under~~  
619 ~~penalty of perjury that the employee has not been convicted of a~~  
620 ~~disqualifying offense in another state or jurisdiction. All~~  
621 ~~applicants hired on or after October 1, 1999, must comply with~~  
622 ~~the requirements of this section.~~



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623       ~~(8) There is no monetary or unemployment liability on the~~  
624 ~~part of, and no cause of action for damages arises against an~~  
625 ~~employer that, upon notice of a disqualifying offense listed~~  
626 ~~under chapter 435 or an act of domestic violence, terminates the~~  
627 ~~employee, whether or not the employee has filed for an exemption~~  
628 ~~with the Department of Health or the Agency for Health Care~~  
629 ~~Administration.~~

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

632       400.980 Health care services pools.—

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

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

641       400.991 License requirements; background screenings;  
642 prohibitions.—

643       ~~(5) Each applicant for licensure shall comply with the~~  
644 ~~following requirements:~~

645       (a) As used in this subsection, the term "applicant" means  
646 individuals owning or controlling, directly or indirectly, 5  
647 percent or more of an interest in a clinic; the medical or  
648 clinic director, or a similarly titled person who is responsible  
649 for the day-to-day operation of the licensed clinic; the  
650 financial officer or similarly titled individual who is  
651 responsible for the financial operation of the clinic; and



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652 licensed health care practitioners at the clinic.

653 ~~(b) Upon receipt of a completed, signed, and dated~~  
654 ~~application, The agency shall require level 2 background~~  
655 ~~screening for applicants and personnel as required in s.~~  
656 ~~408.809(1)(e) pursuant to chapter 435 and s. 408.809 of the~~  
657 ~~applicant, in accordance with the level 2 standards for~~  
658 ~~screening set forth in chapter 435. Proof of compliance with the~~  
659 ~~level 2 background screening requirements of chapter 435 which~~  
660 ~~has been submitted within the previous 5 years in compliance~~  
661 ~~with any other health care licensure requirements of this state~~  
662 ~~is acceptable in fulfillment of this paragraph. Applicants who~~  
663 ~~own less than 10 percent of a health care clinic are not~~  
664 ~~required to submit fingerprints under this section.~~

665 (c) Each applicant must submit to the agency, with the  
666 application, a description and explanation of any exclusions,  
667 permanent suspensions, or terminations of an applicant from the  
668 Medicare or Medicaid programs. Proof of compliance with the  
669 requirements for disclosure of ownership and control interest  
670 under the Medicaid or Medicare programs may be accepted in lieu  
671 of this submission. The description and explanation may indicate  
672 whether such exclusions, suspensions, or terminations were  
673 voluntary or not voluntary on the part of the applicant.

674 ~~(d) A license may not be granted to a clinic if the~~  
675 ~~applicant has been found guilty of, regardless of adjudication,~~  
676 ~~or has entered a plea of nolo contendere or guilty to, any~~  
677 ~~offense prohibited under the level 2 standards for screening set~~  
678 ~~forth in chapter 435, or a violation of insurance fraud under s.~~  
679 ~~817.234, within the past 5 years. If the applicant has been~~  
680 ~~convicted of an offense prohibited under the level 2 standards~~





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681 ~~or insurance fraud in any jurisdiction, the applicant must show~~  
682 ~~that his or her civil rights have been restored prior to~~  
683 ~~submitting an application.~~

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

686 408.806 License application process.—

687 (1) An application for licensure must be made to the agency  
688 on forms furnished by the agency, submitted under oath, and  
689 accompanied by the appropriate fee in order to be accepted and  
690 considered timely. The application must contain information  
691 required by authorizing statutes and applicable rules and must  
692 include:

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

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

698 408.808 License categories.—

699 (2) PROVISIONAL LICENSE. ~~A provisional license may be~~  
700 ~~issued to an applicant pursuant to s. 408.809(3).~~ An applicant  
701 against whom a proceeding denying or revoking a license is  
702 pending at the time of license renewal may be issued a  
703 provisional license effective until final action not subject to  
704 further appeal. A provisional license may also be issued to an  
705 applicant applying for a change of ownership. A provisional  
706 license must ~~shall~~ be limited in duration to a specific period  
707 of time, up ~~not~~ to ~~exceed~~ 12 months, as determined by the  
708 agency.

709 Section 21. Section 408.809, Florida Statutes, is amended



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710 to read:

711 408.809 Background screening; prohibited offenses.—

712 (1) Level 2 background screening pursuant to chapter 435  
713 must be conducted through the agency on each of the following  
714 persons, who are ~~shall be~~ considered employees ~~an employee~~ for  
715 the purposes of conducting screening under chapter 435:

716 (a) The licensee, if an individual.

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

719 (c) The financial officer or similarly titled individual  
720 who is responsible for the financial operation of the licensee  
721 or provider.

722 (d) Any person who is a controlling interest if the agency  
723 has reason to believe that such person has been convicted of any  
724 offense prohibited by s. 435.04. For each controlling interest  
725 who has been convicted of any such offense, the licensee shall  
726 submit to the agency a description and explanation of the  
727 conviction at the time of license application.

728 (e) Any person, as required by authorizing statutes,  
729 seeking employment with a licensee or provider who is expected  
730 to, or whose responsibilities may require him or her to, provide  
731 personal care or services directly to clients or have access to  
732 client funds, personal property, or living areas; and any  
733 person, as required by authorizing statutes, contracting with a  
734 licensee or provider whose responsibilities require him or her  
735 to provide personal care or personal services directly to  
736 clients. Evidence of contractor screening may be retained by the  
737 contractor's employer or the licensee.

738 (2) Every 5 years following his or her licensure,



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739 employment, or entry into a contract in a capacity that under  
740 subsection (1) would require level 2 background screening under  
741 chapter 435, each such person must submit to level 2 background  
742 rescreening as a condition of retaining such license or  
743 continuing in such employment or contractual status. For any  
744 such rescreening, the agency shall request the Department of Law  
745 Enforcement to forward the person's fingerprints to the Federal  
746 Bureau of Investigation for a national criminal history record  
747 check. If the fingerprints of such a person are not retained by  
748 the Department of Law Enforcement under s. 943.05(2)(g), the  
749 person must file a complete set of fingerprints with the agency  
750 and the agency shall forward the fingerprints to the Department  
751 of Law Enforcement for state processing, and the Department of  
752 Law Enforcement shall forward the fingerprints to the Federal  
753 Bureau of Investigation for a national criminal history record  
754 check. The fingerprints may be retained by the Department of Law  
755 Enforcement under s. 943.05(2)(g). The cost of the state and  
756 national criminal history records checks required by level 2  
757 screening may be borne by the licensee or the person  
758 fingerprinted. Proof of compliance with level 2 screening  
759 standards submitted within the previous 5 years to meet any  
760 provider or professional licensure requirements of the agency,  
761 the Department of Health, the Agency for Persons with  
762 Disabilities, ~~or~~ the Department of Children and Family Services,  
763 or the Department of Financial Services for an applicant for a  
764 certificate of authority or provisional certificate of authority  
765 to operate a continuing care retirement community under chapter  
766 651 satisfies the requirements of this section if the person  
767 subject to screening has not been unemployed for more than 90



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768 ~~days and, provided that such proof is accompanied, under penalty~~  
769 ~~of perjury, by an affidavit of compliance with the provisions of~~  
770 ~~chapter 435 and this section using forms provided by the agency.~~  
771 ~~Proof of compliance with the background screening requirements~~  
772 ~~of the Department of Financial Services submitted within the~~  
773 ~~previous 5 years for an applicant for a certificate of authority~~  
774 ~~to operate a continuing care retirement community under chapter~~  
775 ~~651 satisfies the Department of Law Enforcement and Federal~~  
776 ~~Bureau of Investigation portions of a level 2 background check.~~

777 (3) All fingerprints must be provided in electronic format.  
778 Screening results shall be reviewed by the agency with respect  
779 to the offenses specified in s. 435.04 and this section, and the  
780 qualifying or disqualifying status of the person named in the  
781 request shall be maintained in a database. The qualifying or  
782 disqualifying status of the person named in the request shall be  
783 posted on a secure website for retrieval by the licensee or  
784 designated agent on the licensee's behalf. A provisional license  
785 ~~may be granted to an applicant when each individual required by~~  
786 ~~this section to undergo background screening has met the~~  
787 ~~standards for the Department of Law Enforcement background check~~  
788 ~~but the agency has not yet received background screening results~~  
789 ~~from the Federal Bureau of Investigation. A standard license may~~  
790 ~~be granted to the licensee upon the agency's receipt of a report~~  
791 ~~of the results of the Federal Bureau of Investigation background~~  
792 ~~screening for each individual required by this section to~~  
793 ~~undergo background screening that confirms that all standards~~  
794 ~~have been met or upon the granting of an exemption from~~  
795 ~~disqualification by the agency as set forth in chapter 435.~~

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



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797 ~~requires screening under this section, the licensee must notify~~  
798 ~~the agency of the change within the time period specified in the~~  
799 ~~authorizing statute or rules and must submit to the agency~~  
800 ~~information necessary to conduct level 2 screening or provide~~  
801 ~~evidence of compliance with background screening requirements of~~  
802 ~~this section. The person may serve in his or her capacity~~  
803 ~~pending the agency's receipt of the report from the Federal~~  
804 ~~Bureau of Investigation if he or she has met the standards for~~  
805 ~~the Department of Law Enforcement background check. However, the~~  
806 ~~person may not continue to serve in his or her capacity if the~~  
807 ~~report indicates any violation of background screening standards~~  
808 ~~unless an exemption from disqualification has been granted by~~  
809 ~~the agency as set forth in chapter 435.~~

810 ~~(4)-(5) Effective October 1, 2009,~~ In addition to the  
811 offenses listed in s. ss. 435.03 and 435.04, all persons  
812 required to undergo background screening pursuant to this part  
813 or authorizing statutes must not have an arrest awaiting final  
814 disposition for, must not have been found guilty of, regardless  
815 of adjudication, or entered a plea of nolo contendere or guilty  
816 to, and must not have been adjudicated delinquent and the record  
817 not have been sealed or expunged for any of the following  
818 offenses or any similar offense of another jurisdiction:

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

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

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

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

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



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

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

829 ~~(f)(h)~~ Section 817.034, relating to fraudulent acts through  
830 mail, wire, radio, electromagnetic, photoelectronic, or  
831 photooptical systems.

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

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

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

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

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

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

842 ~~(m)(o)~~ Section 831.02, relating to uttering forged  
843 instruments.

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

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

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

850 ~~(q)(s)~~ Section 831.31, relating to the sale, manufacture,  
851 delivery, or possession with the intent to sell, manufacture, or  
852 deliver any counterfeit controlled substance, if the offense was  
853 a felony.

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855 A person who serves as a controlling interest of, ~~or~~ is employed  
856 by, or contracts with a licensee on July 31, 2010 ~~September 30,~~  
857 2009, who has been screened and qualified according to standards  
858 specified in s. 435.03 or s. 435.04 must be rescreened by July  
859 31, 2015. The agency may adopt rules to establish a schedule to  
860 stagger the implementation of the required rescreening over the  
861 5-year period, beginning July 31, 2010, through July 31, 2015.  
862 If, upon rescreening, is not required by law to submit to  
863 rescreening if that licensee has in its possession written  
864 evidence that the person has been screened and qualified  
865 according to the standards specified in s. 435.03 or s. 435.04.  
866 However, if such person has a disqualifying offense that was not  
867 a disqualifying offense at the time of the last screening, but  
868 is a current disqualifying offense and was committed before the  
869 last screening listed in this section, he or she may apply for  
870 an exemption from the appropriate licensing agency before  
871 September 30, 2009, and, if agreed to by the employer, may  
872 continue to perform his or her duties until the licensing agency  
873 renders a decision on the application for exemption if the  
874 person is eligible to apply for an exemption and the exemption  
875 request is received by the agency within 30 days after receipt  
876 of the rescreening results by the person for offenses listed in  
877 this section. Exemptions from disqualification may be granted  
878 pursuant to s. 435.07.

879 (5)-(6) The costs associated with obtaining the required  
880 screening must be borne by the licensee or the person subject to  
881 screening. Licensees may reimburse persons for these costs. The  
882 Department of Law Enforcement shall charge the agency for  
883 screening pursuant to s. 943.053(3). The agency shall establish



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884 a schedule of fees to cover the costs of screening ~~The~~  
885 ~~attestations required under ss. 435.04(5) and 435.05(3) must be~~  
886 ~~submitted at the time of license renewal, notwithstanding the~~  
887 ~~provisions of ss. 435.04(5) and 435.05(3) which require annual~~  
888 ~~submission of an affidavit of compliance with background~~  
889 ~~screening requirements.~~

890 (6) (a) As provided in chapter 435, the agency may grant an  
891 exemption from disqualification to a person who is subject to  
892 this section and who:

893 1. Does not have an active professional license or  
894 certification from the Department of Health; or

895 2. Has an active professional license or certification from  
896 the Department of Health but is not providing a service within  
897 the scope of that license or certification.

898 (b) As provided in chapter 435, the appropriate regulatory  
899 board within the Department of Health, or the department itself  
900 if there is no board, may grant an exemption from  
901 disqualification to a person who is subject to this section and  
902 who has received a professional license or certification from  
903 the Department of Health or a regulatory board within that  
904 department and that person is providing a service within the  
905 scope of his or her licensed or certified practice.

906 (7) The agency and the Department of Health may adopt rules  
907 pursuant to ss. 120.536(1) and 120.54 to implement this section,  
908 chapter 435, and authorizing statutes requiring background  
909 screening and to implement and adopt criteria relating to  
910 retaining fingerprints pursuant to s. 943.05(2).

911 (8) There is no unemployment compensation or other monetary  
912 liability on the part of, and no cause of action for damages





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913 arising against, an employer that, upon notice of a  
914 disqualifying offense listed under chapter 435 or this section,  
915 terminates the person against whom the report was issued,  
916 whether or not that person has filed for an exemption with the  
917 Department of Health or the agency.

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

920 402.302 Definitions.—

921 (3) "Child care personnel" means all owners, operators,  
922 employees, and volunteers working in a child care facility. The  
923 term does not include persons who work in a child care facility  
924 after hours when children are not present or parents of children  
925 in a child care facility ~~Head Start~~. For purposes of screening,  
926 the term includes any member, over the age of 12 years, of a  
927 child care facility operator's family, or person, over the age  
928 of 12 years, residing with a child care facility operator if the  
929 child care facility is located in or adjacent to the home of the  
930 operator or if the family member of, or person residing with,  
931 the child care facility operator has any direct contact with the  
932 children in the facility during its hours of operation. Members  
933 of the operator's family or persons residing with the operator  
934 who are between the ages of 12 years and 18 years are ~~shall~~ not  
935 ~~be~~ required to be fingerprinted but must ~~shall~~ be screened for  
936 delinquency records. For purposes of screening, the term ~~shall~~  
937 also includes ~~include~~ persons who work in child care programs  
938 that ~~which~~ provide care for children 15 hours or more each week  
939 in public or nonpublic schools, ~~summer day camps,~~ family day  
940 care homes, or ~~those~~ programs otherwise exempted under s.  
941 402.316. The term does not include public or nonpublic school



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942 personnel who are providing care during regular school hours, or  
943 after hours for activities related to a school's program for  
944 grades kindergarten through 12. A volunteer who assists on an  
945 intermittent basis for less than 10 ~~40~~ hours per month is not  
946 included in the term "personnel" for the purposes of screening  
947 and training if a person who meets the screening requirement of  
948 s. 402.305(2) is always present and has the volunteer in his or  
949 her line of sight, ~~provided that the volunteer is under direct~~  
950 ~~and constant supervision by persons who meet the personnel~~  
951 ~~requirements of s. 402.305(2).~~ Students who observe and  
952 participate in a child care facility as a part of their required  
953 coursework are shall not ~~be~~ considered child care personnel,  
954 provided such observation and participation are on an  
955 intermittent basis and a person who meets the screening  
956 requirement of s. 402.305(2) is always present and has the  
957 student in his or her line of sight ~~the students are under~~  
958 ~~direct and constant supervision of child care personnel.~~

959 Section 23. Paragraphs (i) and (k) of subsection (2) of  
960 section 409.175, Florida Statutes, are amended, present  
961 paragraphs (b) and (c) of subsection (5) of that section are  
962 redesignated as paragraphs (c) and (d), respectively, and a new  
963 paragraph (b) is added to that section to read:

964 409.175 Licensure of family foster homes, residential  
965 child-caring agencies, and child-placing agencies; public  
966 records exemption.—

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

968 (i) "Personnel" means all owners, operators, employees, and  
969 volunteers working in a child-placing agency, family foster  
970 home, or residential child-caring agency who may be employed by



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971 or do volunteer work for a person, corporation, or agency that  
972 ~~which~~ holds a license as a child-placing agency or a residential  
973 child-caring agency, but the term does not include those who do  
974 not work on the premises where child care is furnished and  
975 ~~either~~ have no direct contact with a child or have no contact  
976 with a child outside of the presence of the child's parent or  
977 guardian. For purposes of screening, the term includes ~~shall~~  
978 ~~include~~ any member, over the age of 12 years, of the family of  
979 the owner or operator or any person other than a client, over  
980 the age of 12 years, residing with the owner or operator if the  
981 agency or family foster home is located in or adjacent to the  
982 home of the owner or operator or if the family member of, or  
983 person residing with, the owner or operator has any direct  
984 contact with the children. Members of the family of the owner or  
985 operator, or persons residing with the owner or operator, who  
986 are between the ages of 12 years and 18 years are ~~shall not be~~  
987 required to be fingerprinted, but must ~~shall~~ be screened for  
988 delinquency records. For purposes of screening, the term  
989 ~~"personnel"~~ ~~shall~~ includes ~~include~~ owners, operators,  
990 employees, and volunteers working in summer day camps, or summer  
991 24-hour camps providing care for children. A volunteer who  
992 assists on an intermittent basis for less than 10 ~~40~~ hours per  
993 month shall not be included in the term "personnel" for the  
994 purposes of screening if a person who meets the screening  
995 requirement of this section is always present and has the  
996 volunteer in his or her line of sight, ~~provided that the~~  
997 ~~volunteer is under direct and constant supervision by persons~~  
998 ~~who meet the personnel requirements of this section.~~

999 (k) "Screening" means the act of assessing the background



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1000 of personnel and includes, but is not limited to, employment  
1001 history checks as provided in chapter 435, using the level 2  
1002 standards for screening set forth in that chapter. ~~Screening for~~  
1003 ~~employees and volunteers in summer day camps and summer 24-hour~~  
1004 ~~camps and screening for all volunteers included under the~~  
1005 ~~definition of "personnel" shall be conducted as provided in~~  
1006 ~~chapter 435, using the level 1 standards set forth in that~~  
1007 ~~chapter.~~

1008 (5)

1009 (b) The department shall randomly drug test a licensed  
1010 foster parent if there is a reasonable suspicion that he or she  
1011 is using illegal drugs. The cost of testing shall be paid by the  
1012 foster parent but shall be reimbursed by the department if the  
1013 test is negative. The department may adopt rules necessary to  
1014 administer this paragraph.

1015 Section 24. Paragraph (i) of subsection (4) of section  
1016 409.221, Florida Statutes, is amended to read:

1017 409.221 Consumer-directed care program.—

1018 (4) CONSUMER-DIRECTED CARE.—

1019 (i) *Background screening requirements.*—All persons who  
1020 render care under this section must undergo level 2 background  
1021 screening pursuant to chapter 435 shall comply with the  
1022 requirements of s. 435.05. Persons shall be excluded from  
1023 employment pursuant to s. 435.06.

1024 ~~1. Persons excluded from employment may request an~~  
1025 ~~exemption from disqualification, as provided in s. 435.07.~~  
1026 ~~Persons not subject to certification or professional licensure~~  
1027 ~~may request an exemption from the agency. In considering a~~  
1028 ~~request for an exemption, the agency shall comply with the~~



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1029 ~~provisions of s. 435.07.~~

1030       ~~2.~~ The agency shall, as allowable, reimburse consumer-  
1031 employed caregivers for the cost of conducting background  
1032 screening as required by this section.

1033

1034 For purposes of this section, a person who has undergone  
1035 screening, who is qualified for employment under this section  
1036 and applicable rule, and who has not been unemployed for more  
1037 than 90 ~~180~~ days following such screening is not required to be  
1038 rescreened. Such person must attest under penalty of perjury to  
1039 not having been convicted of a disqualifying offense since  
1040 completing such screening.

1041       Section 25. Subsection (8) of section 409.907, Florida  
1042 Statutes, is amended to read:

1043       409.907 Medicaid provider agreements.—The agency may make  
1044 payments for medical assistance and related services rendered to  
1045 Medicaid recipients only to an individual or entity who has a  
1046 provider agreement in effect with the agency, who is performing  
1047 services or supplying goods in accordance with federal, state,  
1048 and local law, and who agrees that no person shall, on the  
1049 grounds of handicap, race, color, or national origin, or for any  
1050 other reason, be subjected to discrimination under any program  
1051 or activity for which the provider receives payment from the  
1052 agency.

1053       (8) (a) Each provider, or each principal of the provider if  
1054 the provider is a corporation, partnership, association, or  
1055 other entity, seeking to participate in the Medicaid program  
1056 must submit a complete set of his or her fingerprints to the  
1057 agency for the purpose of conducting a criminal history record



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1058 check. Principals of the provider include any officer, director,  
1059 billing agent, managing employee, or affiliated person, or any  
1060 partner or shareholder who has an ownership interest equal to 5  
1061 percent or more in the provider. However, a director of a not-  
1062 for-profit corporation or organization is not a principal for  
1063 purposes of a background investigation as required by this  
1064 section if the director: serves solely in a voluntary capacity  
1065 for the corporation or organization, does not regularly take  
1066 part in the day-to-day operational decisions of the corporation  
1067 or organization, receives no remuneration from the not-for-  
1068 profit corporation or organization for his or her service on the  
1069 board of directors, has no financial interest in the not-for-  
1070 profit corporation or organization, and has no family members  
1071 with a financial interest in the not-for-profit corporation or  
1072 organization; and if the director submits an affidavit, under  
1073 penalty of perjury, to this effect to the agency and the not-  
1074 for-profit corporation or organization submits an affidavit,  
1075 under penalty of perjury, to this effect to the agency as part  
1076 of the corporation's or organization's Medicaid provider  
1077 agreement application. Notwithstanding the above, the agency may  
1078 require a background check for any person reasonably suspected  
1079 by the agency to have been convicted of a crime. This subsection  
1080 does ~~shall~~ not apply to:

- 1081 1. A hospital licensed under chapter 395;
- 1082 2. A nursing home licensed under chapter 400;
- 1083 3. A hospice licensed under chapter 400;
- 1084 4. An assisted living facility licensed under chapter 429;
- 1085 5. A unit of local government, except that requirements of
- 1086 this subsection apply to nongovernmental providers and entities



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1087 ~~when~~ contracting with the local government to provide Medicaid  
1088 services. The actual cost of the state and national criminal  
1089 history record checks must be borne by the nongovernmental  
1090 provider or entity; or

1091 6. Any business that derives more than 50 percent of its  
1092 revenue from the sale of goods to the final consumer, and the  
1093 business or its controlling parent ~~either~~ is required to file a  
1094 form 10-K or other similar statement with the Securities and  
1095 Exchange Commission or has a net worth of \$50 million or more.

1096 (b) Background screening shall be conducted in accordance  
1097 with chapter 435 and s. 408.809. ~~The agency shall submit the~~  
1098 ~~fingerprints to the Department of Law Enforcement. The~~  
1099 ~~department shall conduct a state criminal background~~  
1100 ~~investigation and forward the fingerprints to the Federal Bureau~~  
1101 ~~of Investigation for a national criminal history record check.~~  
1102 The cost of the state and national criminal record check shall  
1103 be borne by the provider.

1104 ~~(c) The agency may permit a provider to participate in the~~  
1105 ~~Medicaid program pending the results of the criminal record~~  
1106 ~~check. However, such permission is fully revocable if the record~~  
1107 ~~check reveals any crime-related history as provided in~~  
1108 ~~subsection (10).~~

1109 (c)(d) Proof of compliance with the requirements of level 2  
1110 screening under chapter 435 s. 435.04 conducted within 12 months  
1111 before ~~prior to~~ the date ~~that~~ the Medicaid provider application  
1112 is submitted to the agency fulfills ~~shall fulfill~~ the  
1113 requirements of this subsection. ~~Proof of compliance with the~~  
1114 ~~requirements of level 1 screening under s. 435.03 conducted~~  
1115 ~~within 12 months prior to the date that the Medicaid provider~~



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1116 ~~application is submitted to the agency shall meet the~~  
1117 ~~requirement that the Department of Law Enforcement conduct a~~  
1118 ~~state criminal history record check.~~

1119 Section 26. Paragraph (b) of subsection (48) of section  
1120 409.912, Florida Statutes, is amended to read:

1121 409.912 Cost-effective purchasing of health care.—The  
1122 agency shall purchase goods and services for Medicaid recipients  
1123 in the most cost-effective manner consistent with the delivery  
1124 of quality medical care. To ensure that medical services are  
1125 effectively utilized, the agency may, in any case, require a  
1126 confirmation or second physician's opinion of the correct  
1127 diagnosis for purposes of authorizing future services under the  
1128 Medicaid program. This section does not restrict access to  
1129 emergency services or poststabilization care services as defined  
1130 in 42 C.F.R. part 438.114. Such confirmation or second opinion  
1131 shall be rendered in a manner approved by the agency. The agency  
1132 shall maximize the use of prepaid per capita and prepaid  
1133 aggregate fixed-sum basis services when appropriate and other  
1134 alternative service delivery and reimbursement methodologies,  
1135 including competitive bidding pursuant to s. 287.057, designed  
1136 to facilitate the cost-effective purchase of a case-managed  
1137 continuum of care. The agency shall also require providers to  
1138 minimize the exposure of recipients to the need for acute  
1139 inpatient, custodial, and other institutional care and the  
1140 inappropriate or unnecessary use of high-cost services. The  
1141 agency shall contract with a vendor to monitor and evaluate the  
1142 clinical practice patterns of providers in order to identify  
1143 trends that are outside the normal practice patterns of a  
1144 provider's professional peers or the national guidelines of a





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1145 provider's professional association. The vendor must be able to  
1146 provide information and counseling to a provider whose practice  
1147 patterns are outside the norms, in consultation with the agency,  
1148 to improve patient care and reduce inappropriate utilization.  
1149 The agency may mandate prior authorization, drug therapy  
1150 management, or disease management participation for certain  
1151 populations of Medicaid beneficiaries, certain drug classes, or  
1152 particular drugs to prevent fraud, abuse, overuse, and possible  
1153 dangerous drug interactions. The Pharmaceutical and Therapeutics  
1154 Committee shall make recommendations to the agency on drugs for  
1155 which prior authorization is required. The agency shall inform  
1156 the Pharmaceutical and Therapeutics Committee of its decisions  
1157 regarding drugs subject to prior authorization. The agency is  
1158 authorized to limit the entities it contracts with or enrolls as  
1159 Medicaid providers by developing a provider network through  
1160 provider credentialing. The agency may competitively bid single-  
1161 source-provider contracts if procurement of goods or services  
1162 results in demonstrated cost savings to the state without  
1163 limiting access to care. The agency may limit its network based  
1164 on the assessment of beneficiary access to care, provider  
1165 availability, provider quality standards, time and distance  
1166 standards for access to care, the cultural competence of the  
1167 provider network, demographic characteristics of Medicaid  
1168 beneficiaries, practice and provider-to-beneficiary standards,  
1169 appointment wait times, beneficiary use of services, provider  
1170 turnover, provider profiling, provider licensure history,  
1171 previous program integrity investigations and findings, peer  
1172 review, provider Medicaid policy and billing compliance records,  
1173 clinical and medical record audits, and other factors. Providers



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1174 shall not be entitled to enrollment in the Medicaid provider  
1175 network. The agency shall determine instances in which allowing  
1176 Medicaid beneficiaries to purchase durable medical equipment and  
1177 other goods is less expensive to the Medicaid program than long-  
1178 term rental of the equipment or goods. The agency may establish  
1179 rules to facilitate purchases in lieu of long-term rentals in  
1180 order to protect against fraud and abuse in the Medicaid program  
1181 as defined in s. 409.913. The agency may seek federal waivers  
1182 necessary to administer these policies.

1183 (48)

1184 (b) The agency shall limit its network of durable medical  
1185 equipment and medical supply providers. For dates of service  
1186 after January 1, 2009, the agency shall limit payment for  
1187 durable medical equipment and supplies to providers that meet  
1188 all the requirements of this paragraph.

1189 1. Providers must be accredited by a Centers for Medicare  
1190 and Medicaid Services deemed accreditation organization for  
1191 suppliers of durable medical equipment, prosthetics, orthotics,  
1192 and supplies. The provider must maintain accreditation and is  
1193 subject to unannounced reviews by the accrediting organization.

1194 2. Providers must provide the services or supplies directly  
1195 to the Medicaid recipient or caregiver at the provider location  
1196 or recipient's residence or send the supplies directly to the  
1197 recipient's residence with receipt of mailed delivery.  
1198 Subcontracting or consignment of the service or supply to a  
1199 third party is prohibited.

1200 3. Notwithstanding subparagraph 2., a durable medical  
1201 equipment provider may store nebulizers at a physician's office  
1202 for the purpose of having the physician's staff issue the



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1203 equipment if it meets all of the following conditions:

1204 a. The physician must document the medical necessity and  
1205 need to prevent further deterioration of the patient's  
1206 respiratory status by the timely delivery of the nebulizer in  
1207 the physician's office.

1208 b. The durable medical equipment provider must have written  
1209 documentation of the competency and training by a Florida-  
1210 licensed registered respiratory therapist of any durable medical  
1211 equipment staff who participate in the training of physician  
1212 office staff for the use of nebulizers, including cleaning,  
1213 warranty, and special needs of patients.

1214 c. The physician's office must have documented the training  
1215 and competency of any staff member who initiates the delivery of  
1216 nebulizers to patients. The durable medical equipment provider  
1217 must maintain copies of all physician office training.

1218 d. The physician's office must maintain inventory records  
1219 of stored nebulizers, including documentation of the durable  
1220 medical equipment provider source.

1221 e. A physician contracted with a Medicaid durable medical  
1222 equipment provider may not have a financial relationship with  
1223 that provider or receive any financial gain from the delivery of  
1224 nebulizers to patients.

1225 4. Providers must have a physical business location and a  
1226 functional landline business phone. The location must be within  
1227 the state or not more than 50 miles from the Florida state line.  
1228 The agency may make exceptions for providers of durable medical  
1229 equipment or supplies not otherwise available from other  
1230 enrolled providers located within the state.

1231 5. Physical business locations must be clearly identified



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1232 as a business that furnishes durable medical equipment or  
1233 medical supplies by signage that can be read from 20 feet away.  
1234 The location must be readily accessible to the public during  
1235 normal, posted business hours and must operate at least ~~no less~~  
1236 ~~than~~ 5 hours per day and at least ~~no less than~~ 5 days per week,  
1237 with the exception of scheduled and posted holidays. The  
1238 location may not be located within or at the same numbered  
1239 street address as another enrolled Medicaid durable medical  
1240 equipment or medical supply provider or as an enrolled Medicaid  
1241 pharmacy that is also enrolled as a durable medical equipment  
1242 provider. A licensed orthotist or prosthetist that provides only  
1243 orthotic or prosthetic devices as a Medicaid durable medical  
1244 equipment provider is exempt from ~~the provisions in~~ this  
1245 paragraph.

1246 6. Providers must maintain a stock of durable medical  
1247 equipment and medical supplies on site that is readily available  
1248 to meet the needs of the durable medical equipment business  
1249 location's customers.

1250 7. Providers must provide a surety bond of \$50,000 for each  
1251 provider location, up to a maximum of 5 bonds statewide or an  
1252 aggregate bond of \$250,000 statewide, as identified by Federal  
1253 Employer Identification Number. Providers who post a statewide  
1254 or an aggregate bond must identify all of their locations in any  
1255 Medicaid durable medical equipment and medical supply provider  
1256 enrollment application or bond renewal. Each provider location's  
1257 surety bond must be renewed annually and the provider must  
1258 submit proof of renewal even if the original bond is a  
1259 continuous bond. A licensed orthotist or prosthetist that  
1260 provides only orthotic or prosthetic devices as a Medicaid



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1261 durable medical equipment provider is exempt from the provisions  
1262 in this paragraph.

1263 8. Providers must obtain a level 2 background screening, in  
1264 accordance with chapter 435 and s. 408.809 as provided under s.  
1265 435.04, for each provider employee in direct contact with or  
1266 providing direct services to recipients of durable medical  
1267 equipment and medical supplies in their homes. This requirement  
1268 includes, but is not limited to, repair and service technicians,  
1269 fitters, and delivery staff. The provider shall pay for the cost  
1270 of the background screening.

1271 9. The following providers are exempt from ~~the requirements~~  
1272 ~~of~~ subparagraphs 1. and 7.:

1273 a. Durable medical equipment providers owned and operated  
1274 by a government entity.

1275 b. Durable medical equipment providers that are operating  
1276 within a pharmacy that is currently enrolled as a Medicaid  
1277 pharmacy provider.

1278 c. Active, Medicaid-enrolled orthopedic physician groups,  
1279 primarily owned by physicians, which provide only orthotic and  
1280 prosthetic devices.

1281 Section 27. Subsection (12) is added to section 411.01,  
1282 Florida Statutes, to read:

1283 411.01 School readiness programs; early learning  
1284 coalitions.-

1285 (12) SUBSTITUTE INSTRUCTORS.-Each school district shall  
1286 make a list of all individuals currently eligible to act as a  
1287 substitute teacher within the county pursuant to the rules  
1288 adopted by the school district pursuant to s. 1012.35 available  
1289 to an early learning coalition serving students within the



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1290 school district. Child care facilities, as defined by s.  
1291 402.302, may employ individuals listed as substitute instructors  
1292 for the purpose of offering the school readiness program, the  
1293 Voluntary Prekindergarten Education Program, and all other  
1294 legally operating child care programs.

1295 Section 28. Subsection (1) of section 429.14, Florida  
1296 Statutes, is amended to read:

1297 429.14 Administrative penalties.—

1298 (1) In addition to the requirements of part II of chapter  
1299 408, the agency may deny, revoke, and suspend any license issued  
1300 under this part and impose an administrative fine in the manner  
1301 provided in chapter 120 against a licensee ~~of an assisted living~~  
1302 ~~facility~~ for a violation of any provision of this part, part II  
1303 of chapter 408, or applicable rules, or for any of the following  
1304 actions by a licensee ~~of an assisted living facility~~, for the  
1305 actions of any person subject to level 2 background screening  
1306 under s. 408.809, or for the actions of any facility employee:

1307 (a) An intentional or negligent act seriously affecting the  
1308 health, safety, or welfare of a resident of the facility.

1309 (b) The determination by the agency that the owner lacks  
1310 the financial ability to provide continuing adequate care to  
1311 residents.

1312 (c) Misappropriation or conversion of the property of a  
1313 resident of the facility.

1314 (d) Failure to follow the criteria and procedures provided  
1315 under part I of chapter 394 relating to the transportation,  
1316 voluntary admission, and involuntary examination of a facility  
1317 resident.

1318 (e) A citation of any of the following deficiencies as



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1319 specified in s. 429.19:

1320 1. One or more cited class I deficiencies.

1321 2. Three or more cited class II deficiencies.

1322 3. Five or more cited class III deficiencies that have been  
1323 cited on a single survey and have not been corrected within the  
1324 times specified.

1325 (f) ~~Failure to comply with the A determination that a~~  
1326 ~~person subject to level 2 background screening under s. 408.809~~  
1327 ~~does not meet the screening standards of this part, s.~~  
1328 ~~408.809(1), or chapter 435 s. 435.04 or that the facility is~~  
1329 ~~retaining an employee subject to level 1 background screening~~  
1330 ~~standards under s. 429.174 who does not meet the screening~~  
1331 ~~standards of s. 435.03 and for whom exemptions from~~  
1332 ~~disqualification have not been provided by the agency.~~

1333 (g) ~~A determination that an employee, volunteer,~~  
1334 ~~administrator, or owner, or person who otherwise has access to~~  
1335 ~~the residents of a facility does not meet the criteria specified~~  
1336 ~~in s. 435.03(2), and the owner or administrator has not taken~~  
1337 ~~action to remove the person. Exemptions from disqualification~~  
1338 ~~may be granted as set forth in s. 435.07. No administrative~~  
1339 ~~action may be taken against the facility if the person is~~  
1340 ~~granted an exemption.~~

1341 (g)(h) Violation of a moratorium.

1342 (h)(i) Failure of the license applicant, the licensee  
1343 during relicensure, or a licensee that holds a provisional  
1344 license to meet the minimum license requirements of this part,  
1345 or related rules, at the time of license application or renewal.

1346 (i)(j) An intentional or negligent life-threatening act in  
1347 violation of the uniform firesafety standards for assisted



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1348 living facilities or other firesafety standards that threatens  
1349 the health, safety, or welfare of a resident of a facility, as  
1350 communicated to the agency by the local authority having  
1351 jurisdiction or the State Fire Marshal.

1352       (j)~~(k)~~ Knowingly operating any unlicensed facility or  
1353 providing without a license any service that must be licensed  
1354 under this chapter or chapter 400.

1355       (k)~~(l)~~ Any act constituting a ground upon which application  
1356 for a license may be denied.

1357       Section 29. Section 429.174, Florida Statutes, is amended  
1358 to read:

1359       429.174 Background screening;~~exemptions.~~The agency shall  
1360 require level 2 background screening for personnel as required  
1361 in s. 408.809(1)(e) pursuant to chapter 435 and s. 408.809. The  
1362 ~~owner or administrator of an assisted living facility must~~  
1363 ~~conduct level 1 background screening, as set forth in chapter~~  
1364 ~~435, on all employees hired on or after October 1, 1998, who~~  
1365 ~~perform personal services as defined in s. 429.02(16). The~~  
1366 ~~agency may exempt an individual from employment disqualification~~  
1367 ~~as set forth in chapter 435. Such persons shall be considered as~~  
1368 ~~having met this requirement if:~~

1369       (1) ~~Proof of compliance with level 1 screening requirements~~  
1370 ~~obtained to meet any professional license requirements in this~~  
1371 ~~state is provided and accompanied, under penalty of perjury, by~~  
1372 ~~a copy of the person's current professional license and an~~  
1373 ~~affidavit of current compliance with the background screening~~  
1374 ~~requirements.~~

1375       (2) ~~The person required to be screened has been~~  
1376 ~~continuously employed in the same type of occupation for which~~





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1377 ~~the person is seeking employment without a breach in service~~  
1378 ~~which exceeds 180 days, and proof of compliance with the level 1~~  
1379 ~~screening requirement which is no more than 2 years old is~~  
1380 ~~provided. Proof of compliance shall be provided directly from~~  
1381 ~~one employer or contractor to another, and not from the person~~  
1382 ~~screened. Upon request, a copy of screening results shall be~~  
1383 ~~provided by the employer retaining documentation of the~~  
1384 ~~screening to the person screened.~~

1385 ~~(3) The person required to be screened is employed by a~~  
1386 ~~corporation or business entity or related corporation or~~  
1387 ~~business entity that owns, operates, or manages more than one~~  
1388 ~~facility or agency licensed under this chapter, and for whom a~~  
1389 ~~level 1 screening was conducted by the corporation or business~~  
1390 ~~entity as a condition of initial or continued employment.~~

1391 Section 30. Subsection (4) of section 429.67, Florida  
1392 Statutes, is amended to read:

1393 429.67 Licensure.-

1394 ~~(4) Upon receipt of a completed license application or~~  
1395 ~~license renewal, and the fee, The agency shall require level 2~~  
1396 ~~initiate a level 1 background screening for personnel as~~  
1397 ~~required in s. 408.809(1)(e), including as provided under~~  
1398 ~~chapter 435 on the adult family-care home provider, the~~  
1399 ~~designated relief person, and all adult household members,~~  
1400 ~~pursuant to chapter 435 and s. 408.809, and all staff members.~~

1401 ~~(a) Proof of compliance with level 1 screening standards~~  
1402 ~~which has been submitted within the previous 5 years to meet any~~  
1403 ~~facility or professional licensure requirements of the agency or~~  
1404 ~~the Department of Health satisfies the requirements of this~~  
1405 ~~subsection. Such proof must be accompanied, under penalty of~~



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1406 ~~perjury, by a copy of the person's current professional license~~  
1407 ~~and an affidavit of current compliance with the background~~  
1408 ~~screening requirements.~~

1409 ~~(b) The person required to be screened must have been~~  
1410 ~~continuously employed in the same type of occupation for which~~  
1411 ~~the person is seeking employment without a breach in service~~  
1412 ~~that exceeds 180 days, and proof of compliance with the level 1~~  
1413 ~~screening requirement which is no more than 2 years old must be~~  
1414 ~~provided. Proof of compliance shall be provided directly from~~  
1415 ~~one employer or contractor to another, and not from the person~~  
1416 ~~screened. Upon request, a copy of screening results shall be~~  
1417 ~~provided to the person screened by the employer retaining~~  
1418 ~~documentation of the screening.~~

1419 Section 31. Section 429.69, Florida Statutes, is amended to  
1420 read:

1421 429.69 Denial, revocation, and suspension of a license.—In  
1422 addition to the requirements of part II of chapter 408, the  
1423 agency may deny, suspend, and revoke a license for any of the  
1424 following reasons:

1425 (1) Failure to comply with the ~~of any of the persons~~  
1426 ~~required to undergo~~ background screening standards of this part,  
1427 s. 408.809(1), or chapter 435 under s. 429.67 to meet the level  
1428 ~~1 screening standards of s. 435.03, unless an exemption from~~  
1429 ~~disqualification has been provided by the agency.~~

1430 (2) Failure to correct cited fire code violations that  
1431 threaten the health, safety, or welfare of residents.

1432 Section 32. Paragraph (c) of subsection (2) of section  
1433 429.911, Florida Statutes, is amended to read:

1434 429.911 Denial, suspension, revocation of license;



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1435 emergency action; administrative fines; investigations and  
1436 inspections.—

1437 (2) Each of the following actions by the owner of an adult  
1438 day care center or by its operator or employee is a ground for  
1439 action by the agency against the owner of the center or its  
1440 operator or employee:

1441 (c) ~~A Failure to comply with the of persons subject to~~  
1442 ~~level 2 background screening standards of this part, s.~~  
1443 ~~408.809(1), or chapter 435 under s. 408.809 to meet the~~  
1444 ~~screening standards of s. 435.04, or the retention by the center~~  
1445 ~~of an employee subject to level 1 background screening standards~~  
1446 ~~under s. 429.174 who does not meet the screening standards of s.~~  
1447 ~~435.03 and for whom exemptions from disqualification have not~~  
1448 ~~been provided by the agency.~~

1449 Section 33. Section 429.919, Florida Statutes, is amended  
1450 to read:

1451 429.919 Background screening.—The agency shall require  
1452 level 2 background screening for personnel as required in s.  
1453 408.809(1) (e) pursuant to chapter 435 and s. 408.809. ~~The owner~~  
1454 ~~or administrator of an adult day care center must conduct level~~  
1455 ~~1 background screening as set forth in chapter 435 on all~~  
1456 ~~employees hired on or after October 1, 1998, who provide basic~~  
1457 ~~services or supportive and optional services to the~~  
1458 ~~participants. Such persons satisfy this requirement if:~~

1459 (1) ~~Proof of compliance with level 1 screening requirements~~  
1460 ~~obtained to meet any professional license requirements in this~~  
1461 ~~state is provided and accompanied, under penalty of perjury, by~~  
1462 ~~a copy of the person's current professional license and an~~  
1463 ~~affidavit of current compliance with the background screening~~



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1464 ~~requirements.~~

1465 ~~(2) The person required to be screened has been~~  
1466 ~~continuously employed, without a breach in service that exceeds~~  
1467 ~~180 days, in the same type of occupation for which the person is~~  
1468 ~~seeking employment and provides proof of compliance with the~~  
1469 ~~level 1 screening requirement which is no more than 2 years old.~~  
1470 ~~Proof of compliance must be provided directly from one employer~~  
1471 ~~or contractor to another, and not from the person screened. Upon~~  
1472 ~~request, a copy of screening results shall be provided to the~~  
1473 ~~person screened by the employer retaining documentation of the~~  
1474 ~~screening.~~

1475 ~~(3) The person required to be screened is employed by a~~  
1476 ~~corporation or business entity or related corporation or~~  
1477 ~~business entity that owns, operates, or manages more than one~~  
1478 ~~facility or agency licensed under chapter 400 or this chapter,~~  
1479 ~~and for whom a level 1 screening was conducted by the~~  
1480 ~~corporation or business entity as a condition of initial or~~  
1481 ~~continued employment.~~

1482 Section 34. Section 430.0402, Florida Statutes, is created  
1483 to read:

1484 430.0402 Screening of direct service providers.-

1485 (1) (a) Level 2 background screening pursuant to chapter 435  
1486 is required for direct service providers. Background screening  
1487 includes employment history checks as provided in s. 435.03(1)  
1488 and local criminal records checks through local law enforcement  
1489 agencies.

1490 (b) For purposes of this section, the term "direct service  
1491 provider" means a person 18 years of age or older who, pursuant  
1492 to a program to provide services to the elderly, has direct,



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1493 face-to-face contact with a client while providing services to  
1494 the client or has access to the client's living areas or to the  
1495 client's funds or personal property. The term includes  
1496 coordinators, managers, and supervisors of residential  
1497 facilities and volunteers.

1498 (2) Licensed physicians, nurses, or other professionals  
1499 licensed by the Department of Health are not subject to  
1500 background screening if they are providing a service that is  
1501 within the scope of their licensed practice.

1502 (3) Refusal on the part of an employer to dismiss a  
1503 manager, supervisor, or direct service provider who has been  
1504 found to be in noncompliance with standards of this section  
1505 shall result in the automatic denial, termination, or revocation  
1506 of the license or certification, rate agreement, purchase order,  
1507 or contract, in addition to any other remedies authorized by  
1508 law.

1509 (4) The background screening conducted pursuant to this  
1510 section must ensure that, in addition to the disqualifying  
1511 offenses listed in s. 435.04, no person subject to the  
1512 provisions of this section has an arrest awaiting final  
1513 disposition for, has been found guilty of, regardless of  
1514 adjudication, or entered a plea of nolo contendere or guilty to,  
1515 or has been adjudicated delinquent and the record has not been  
1516 sealed or expunged for, any offense prohibited under any of the  
1517 following provisions of state law or similar law of another  
1518 jurisdiction:

1519 (a) Any authorizing statutes, if the offense was a felony.

1520 (b) Section 409.920, relating to Medicaid provider fraud.

1521 (c) Section 409.9201, relating to Medicaid fraud.



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- 1522           (d) Section 817.034, relating to fraudulent acts through  
1523 mail, wire, radio, electromagnetic, photoelectronic, or  
1524 photooptical systems.
- 1525           (e) Section 817.234, relating to false and fraudulent  
1526 insurance claims.
- 1527           (f) Section 817.505, relating to patient brokering.
- 1528           (g) Section 817.568, relating to criminal use of personal  
1529 identification information.
- 1530           (h) Section 817.60, relating to obtaining a credit card  
1531 through fraudulent means.
- 1532           (i) Section 817.61, relating to fraudulent use of credit  
1533 cards, if the offense was a felony.
- 1534           (j) Section 831.01, relating to forgery.
- 1535           (k) Section 831.02, relating to uttering forged  
1536 instruments.
- 1537           (l) Section 831.07, relating to forging bank bills, checks,  
1538 drafts, or promissory notes.
- 1539           (m) Section 831.09, relating to uttering forged bank bills,  
1540 checks, drafts, or promissory notes.
- 1541           Section 35. Section 435.01, Florida Statutes, is amended to  
1542 read:
- 1543           435.01 Applicability of this chapter; statutory references;  
1544 rulemaking.—
- 1545           (1) (a) Unless otherwise provided by law, whenever a  
1546 background screening for employment or a background security  
1547 check is required by law to be conducted pursuant to this  
1548 chapter for employment, unless otherwise provided by law, the  
1549 provisions of this chapter shall apply.
- 1550           (b) Unless expressly provided otherwise, a reference in any



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1551 section of the Florida Statutes to chapter 435 or to any section  
1552 or sections or portion of a section of chapter 435 includes all  
1553 subsequent amendments to chapter 435 or to the referenced  
1554 section or sections or portions of a section. The purpose of  
1555 this chapter is to facilitate uniform background screening and,  
1556 to this end, a reference to this chapter, or to any section or  
1557 subdivision within this chapter, constitutes a general reference  
1558 under the doctrine of incorporation by reference.

1559 (2) Agencies may adopt rules to administer this chapter.

1560 Section 36. Section 435.02, Florida Statutes, is reordered  
1561 and amended to read:

1562 435.02 Definitions.—For the purposes of this chapter, the  
1563 term:

1564 (2)(1) "Employee" means any person required by law to be  
1565 screened pursuant to the provisions of this chapter.

1566 (3)(2) "Employer" means any person or entity required by  
1567 law to conduct screening of employees pursuant to this chapter.

1568 (1)(3) "Licensing Agency" means any state, ~~or~~ county, or  
1569 municipal agency that which grants licenses or registration  
1570 permitting the operation of an employer or is itself an employer  
1571 or that otherwise facilitates the screening of employees  
1572 pursuant to this chapter. If ~~When~~ there is no state ~~licensing~~  
1573 agency or the municipal or county ~~licensing~~ agency chooses not  
1574 to conduct employment screening, "licensing agency" means the  
1575 Department of Children and Family Services.

1576 (4) "Employment" means any activity or service sought to be  
1577 performed by an employee which requires the employee to be  
1578 screened pursuant to this chapter.

1579 (5) "Vulnerable person" means a minor as defined in s. 1.01



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1580 or a vulnerable adult as defined in s. 415.102.

1581 Section 37. Section 435.03, Florida Statutes, is amended to  
1582 read:

1583 435.03 Level 1 screening standards.—

1584 (1) All employees required by law to be screened pursuant  
1585 to this section must ~~shall be required to~~ undergo background  
1586 screening as a condition of employment and continued employment  
1587 which includes. ~~For the purposes of this subsection, level 1~~  
1588 ~~screenings shall include,~~ but need not be limited to, employment  
1589 history checks and statewide criminal correspondence checks  
1590 through the ~~Florida~~ Department of Law Enforcement, a check of  
1591 the Dru Sjodin National Sex Offender Public Website, and may  
1592 include local criminal records checks through local law  
1593 enforcement agencies.

1594 (2) Any person required by law to be screened pursuant to  
1595 this section must not have an arrest awaiting final disposition,  
1596 ~~for whom employment screening is required by statute~~ must not  
1597 have been found guilty of, regardless of adjudication, or  
1598 entered a plea of nolo contendere or guilty to, and must not  
1599 have been adjudicated delinquent and the record has not been  
1600 sealed or expunged for, any offense prohibited under s.  
1601 435.04(2) ~~any of the following provisions of the Florida~~  
1602 ~~Statutes or under any similar law statute~~ of another  
1603 jurisdiction.÷

1604 ~~(a) Section 393.135, relating to sexual misconduct with~~  
1605 ~~certain developmentally disabled clients and reporting of such~~  
1606 ~~sexual misconduct.~~

1607 ~~(b) Section 394.4593, relating to sexual misconduct with~~  
1608 ~~certain mental health patients and reporting of such sexual~~





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1609 ~~misconduct.~~  
1610 ~~(c) Section 415.111, relating to abuse, neglect, or~~  
1611 ~~exploitation of a vulnerable adult.~~  
1612 ~~(d) Section 782.04, relating to murder.~~  
1613 ~~(e) Section 782.07, relating to manslaughter, aggravated~~  
1614 ~~manslaughter of an elderly person or disabled adult, or~~  
1615 ~~aggravated manslaughter of a child.~~  
1616 ~~(f) Section 782.071, relating to vehicular homicide.~~  
1617 ~~(g) Section 782.09, relating to killing of an unborn quick~~  
1618 ~~child by injury to the mother.~~  
1619 ~~(h) Section 784.011, relating to assault, if the victim of~~  
1620 ~~the offense was a minor.~~  
1621 ~~(i) Section 784.021, relating to aggravated assault.~~  
1622 ~~(j) Section 784.03, relating to battery, if the victim of~~  
1623 ~~the offense was a minor.~~  
1624 ~~(k) Section 784.045, relating to aggravated battery.~~  
1625 ~~(l) Section 787.01, relating to kidnapping.~~  
1626 ~~(m) Section 787.02, relating to false imprisonment.~~  
1627 ~~(n) Section 794.011, relating to sexual battery.~~  
1628 ~~(o) Former s. 794.041, relating to prohibited acts of~~  
1629 ~~persons in familial or custodial authority.~~  
1630 ~~(p) Chapter 796, relating to prostitution.~~  
1631 ~~(q) Section 798.02, relating to lewd and lascivious~~  
1632 ~~behavior.~~  
1633 ~~(r) Chapter 800, relating to lewdness and indecent~~  
1634 ~~exposure.~~  
1635 ~~(s) Section 806.01, relating to arson.~~  
1636 ~~(t) Chapter 812, relating to theft, robbery, and related~~  
1637 ~~crimes, if the offense was a felony.~~



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1638           ~~(u) Section 817.563, relating to fraudulent sale of~~  
1639 ~~controlled substances, only if the offense was a felony.~~  
1640           ~~(v) Section 825.102, relating to abuse, aggravated abuse,~~  
1641 ~~or neglect of an elderly person or disabled adult.~~  
1642           ~~(w) Section 825.1025, relating to lewd or lascivious~~  
1643 ~~offenses committed upon or in the presence of an elderly person~~  
1644 ~~or disabled adult.~~  
1645           ~~(x) Section 825.103, relating to exploitation of an elderly~~  
1646 ~~person or disabled adult, if the offense was a felony.~~  
1647           ~~(y) Section 826.04, relating to incest.~~  
1648           ~~(z) Section 827.03, relating to child abuse, aggravated~~  
1649 ~~child abuse, or neglect of a child.~~  
1650           ~~(aa) Section 827.04, relating to contributing to the~~  
1651 ~~delinquency or dependency of a child.~~  
1652           ~~(bb) Former s. 827.05, relating to negligent treatment of~~  
1653 ~~children.~~  
1654           ~~(cc) Section 827.071, relating to sexual performance by a~~  
1655 ~~child.~~  
1656           ~~(dd) Chapter 847, relating to obscene literature.~~  
1657           ~~(ee) Chapter 893, relating to drug abuse prevention and~~  
1658 ~~control, only if the offense was a felony or if any other person~~  
1659 ~~involved in the offense was a minor.~~  
1660           ~~(ff) Section 916.1075, relating to sexual misconduct with~~  
1661 ~~certain forensic clients and reporting of such sexual~~  
1662 ~~misconduct.~~  
1663           (3) The security background investigations under this  
1664 section must ensure that no person subject to this section has  
1665 been found guilty of, regardless of adjudication, or entered a  
1666 plea of nolo contendere or guilty to, any offense that



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1667 constitutes domestic violence as defined in s. 741.28, whether  
1668 such act was committed in this state or in another jurisdiction.

1669 ~~Standards must also ensure that the person:~~

1670 ~~(a) For employees and employers licensed or registered~~  
1671 ~~pursuant to chapter 400 or chapter 429, and for employees and~~  
1672 ~~employers of developmental disabilities centers as defined in s.~~  
1673 ~~393.063, intermediate care facilities for the developmentally~~  
1674 ~~disabled as defined in s. 400.960, and mental health treatment~~  
1675 ~~facilities as defined in s. 394.455, meets the requirements of~~  
1676 ~~this chapter.~~

1677 ~~(b) Has not committed an act that constitutes domestic~~  
1678 ~~violence as defined in s. 741.28.~~

1679 Section 38. Section 435.04, Florida Statutes, is amended to  
1680 read:

1681 435.04 Level 2 screening standards.—

1682 (1) (a) All employees required by law to be screened  
1683 pursuant to this section must in positions designated by law as  
1684 positions of trust or responsibility shall be required to  
1685 undergo security background investigations as a condition of  
1686 employment and continued employment which includes. ~~For the~~  
1687 ~~purposes of this subsection, security background investigations~~  
1688 ~~shall include, but need not be limited to, fingerprinting for~~  
1689 statewide criminal history records ~~all purposes and checks in~~  
1690 ~~this subsection, statewide criminal and juvenile records checks~~  
1691 ~~through the Florida Department of Law Enforcement, and national~~  
1692 ~~federal criminal history records checks through the Federal~~  
1693 ~~Bureau of Investigation, and may include local criminal records~~  
1694 ~~checks through local law enforcement agencies.~~

1695 (b) Fingerprints submitted pursuant to this section on or



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1696 after July 1, 2012, must be submitted electronically to the  
1697 Department of Law Enforcement.

1698 (c) An agency may contract with one or more vendors to  
1699 perform all or part of the electronic fingerprinting pursuant to  
1700 this section. Such contracts must ensure that the owners and  
1701 personnel of the vendor performing the electronic fingerprinting  
1702 are qualified and will ensure the integrity and security of all  
1703 personal information.

1704 (d) An agency may require by rule that fingerprints  
1705 submitted pursuant to this section must be submitted  
1706 electronically to the Department of Law Enforcement on a date  
1707 earlier than July 1, 2012.

1708 (2) The security background investigations under this  
1709 section must ensure that no persons subject to the provisions of  
1710 this section have been arrested for and are awaiting final  
1711 disposition of, have been found guilty of, regardless of  
1712 adjudication, or entered a plea of nolo contendere or guilty to,  
1713 or have been adjudicated delinquent and the record has not been  
1714 sealed or expunged for, any offense prohibited under any of the  
1715 following provisions of state law ~~the Florida Statutes~~ or under  
1716 ~~any~~ similar law ~~statute~~ of another jurisdiction:

1717 (a) Section 393.135, relating to sexual misconduct with  
1718 certain developmentally disabled clients and reporting of such  
1719 sexual misconduct.

1720 (b) Section 394.4593, relating to sexual misconduct with  
1721 certain mental health patients and reporting of such sexual  
1722 misconduct.

1723 (c) Section 415.111, relating to adult abuse, neglect, or  
1724 exploitation of aged persons or disabled adults.



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- 1725 (d) Section 782.04, relating to murder.
- 1726 (e) Section 782.07, relating to manslaughter, aggravated  
1727 manslaughter of an elderly person or disabled adult, or  
1728 aggravated manslaughter of a child.
- 1729 (f) Section 782.071, relating to vehicular homicide.
- 1730 (g) Section 782.09, relating to killing of an unborn quick  
1731 child by injury to the mother.
- 1732 (h) Chapter 784, relating to assault, battery, and culpable  
1733 negligence, if the offense was a felony.
- 1734 (i)~~(h)~~ Section 784.011, relating to assault, if the victim  
1735 of the offense was a minor.
- 1736 ~~(i) Section 784.021, relating to aggravated assault.~~
- 1737 (j) Section 784.03, relating to battery, if the victim of  
1738 the offense was a minor.
- 1739 ~~(k) Section 784.045, relating to aggravated battery.~~
- 1740 ~~(l) Section 784.075, relating to battery on a detention or~~  
1741 ~~commitment facility staff.~~
- 1742 (k)~~(m)~~ Section 787.01, relating to kidnapping.
- 1743 (l)~~(n)~~ Section 787.02, relating to false imprisonment.
- 1744 (m) Section 787.025, relating to luring or enticing a  
1745 child.
- 1746 (n)~~(o)~~ Section 787.04(2), relating to taking, enticing, or  
1747 removing a child beyond the state limits with criminal intent  
1748 pending custody proceedings.
- 1749 (o)~~(p)~~ Section 787.04(3), relating to carrying a child  
1750 beyond the state lines with criminal intent to avoid producing a  
1751 child at a custody hearing or delivering the child to the  
1752 designated person.
- 1753 (p)~~(q)~~ Section 790.115(1), relating to exhibiting firearms



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1754 or weapons within 1,000 feet of a school.  
1755 (g)~~(#)~~ Section 790.115(2) (b), relating to possessing an  
1756 electric weapon or device, destructive device, or other weapon  
1757 on school property.  
1758 (r)~~(s)~~ Section 794.011, relating to sexual battery.  
1759 (s)~~(t)~~ Former s. 794.041, relating to prohibited acts of  
1760 persons in familial or custodial authority.  
1761 (t) Section 794.05, relating to unlawful sexual activity  
1762 with certain minors.  
1763 (u) Chapter 796, relating to prostitution.  
1764 (v) Section 798.02, relating to lewd and lascivious  
1765 behavior.  
1766 (w) Chapter 800, relating to lewdness and indecent  
1767 exposure.  
1768 (x) Section 806.01, relating to arson.  
1769 (y) Section 810.02, relating to burglary.  
1770 (z) Section 810.14, relating to voyeurism, if the offense  
1771 is a felony.  
1772 (aa) Section 810.145, relating to video voyeurism, if the  
1773 offense is a felony.  
1774 (bb)~~(y)~~ Chapter 812, relating to theft, robbery, and  
1775 related crimes, if the offense is a felony.  
1776 (cc)~~(z)~~ Section 817.563, relating to fraudulent sale of  
1777 controlled substances, only if the offense was a felony.  
1778 (dd)~~(aa)~~ Section 825.102, relating to abuse, aggravated  
1779 abuse, or neglect of an elderly person or disabled adult.  
1780 (ee)~~(bb)~~ Section 825.1025, relating to lewd or lascivious  
1781 offenses committed upon or in the presence of an elderly person  
1782 or disabled adult.



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1783           ~~(ff)~~~~(ee)~~ Section 825.103, relating to exploitation of an  
1784 elderly person or disabled adult, if the offense was a felony.  
1785           ~~(gg)~~~~(dd)~~ Section 826.04, relating to incest.  
1786           ~~(hh)~~~~(ee)~~ Section 827.03, relating to child abuse,  
1787 aggravated child abuse, or neglect of a child.  
1788           ~~(ii)~~~~(ff)~~ Section 827.04, relating to contributing to the  
1789 delinquency or dependency of a child.  
1790           ~~(jj)~~~~(gg)~~ Former s. 827.05, relating to negligent treatment  
1791 of children.  
1792           ~~(kk)~~~~(hh)~~ Section 827.071, relating to sexual performance by  
1793 a child.  
1794           ~~(ll)~~~~(ii)~~ Section 843.01, relating to resisting arrest with  
1795 violence.  
1796           ~~(mm)~~~~(jj)~~ Section 843.025, relating to depriving a law  
1797 enforcement, correctional, or correctional probation officer  
1798 means of protection or communication.  
1799           ~~(nn)~~~~(kk)~~ Section 843.12, relating to aiding in an escape.  
1800           ~~(oo)~~~~(ll)~~ Section 843.13, relating to aiding in the escape  
1801 of juvenile inmates in correctional institutions.  
1802           ~~(pp)~~~~(mm)~~ Chapter 847, relating to obscene literature.  
1803           ~~(qq)~~~~(nn)~~ Section 874.05(1), relating to encouraging or  
1804 recruiting another to join a criminal gang.  
1805           ~~(rr)~~~~(oo)~~ Chapter 893, relating to drug abuse prevention and  
1806 control, only if the offense was a felony or if any other person  
1807 involved in the offense was a minor.  
1808           ~~(ss)~~~~(pp)~~ Section 916.1075, relating to sexual misconduct  
1809 with certain forensic clients and reporting of such sexual  
1810 misconduct.  
1811           ~~(tt)~~~~(qq)~~ Section 944.35(3), relating to inflicting cruel or



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1812 inhuman treatment on an inmate resulting in great bodily harm.  
1813       (uu) Section 944.40, relating to escape.  
1814       (vv)~~(rr)~~ Section 944.46, relating to harboring, concealing,  
1815 or aiding an escaped prisoner.  
1816       (ww)~~(ss)~~ Section 944.47, relating to introduction of  
1817 contraband into a correctional facility.  
1818       (xx)~~(tt)~~ Section 985.701, relating to sexual misconduct in  
1819 juvenile justice programs.  
1820       (yy)~~(uu)~~ Section 985.711, relating to contraband introduced  
1821 into detention facilities.  
1822       (3) The security background investigations under this  
1823 section must ensure that no person subject to this section has  
1824 been found guilty of, regardless of adjudication, or entered a  
1825 plea of nolo contendere or guilty to, any offense that  
1826 constitutes domestic violence as defined in s. 741.28, whether  
1827 such act was committed in this state or in another jurisdiction.  
1828 ~~The security background investigations conducted under this~~  
1829 ~~section for employees of the Department of Juvenile Justice must~~  
1830 ~~ensure that no persons subject to the provisions of this section~~  
1831 ~~have been found guilty of, regardless of adjudication, or~~  
1832 ~~entered a plea of nolo contendere or guilty to, any offense~~  
1833 ~~prohibited under any of the following provisions of the Florida~~  
1834 ~~Statutes or under any similar statute of another jurisdiction:~~  
1835       ~~(a) Section 784.07, relating to assault or battery of law~~  
1836 ~~enforcement officers, firefighters, emergency medical care~~  
1837 ~~providers, public transit employees or agents, or other~~  
1838 ~~specified officers.~~  
1839       ~~(b) Section 810.02, relating to burglary, if the offense is~~  
1840 ~~a felony.~~





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1841 ~~(c) Section 944.40, relating to escape.~~

1842  
1843 ~~The Department of Juvenile Justice may not remove a~~  
1844 ~~disqualification from employment or grant an exemption to any~~  
1845 ~~person who is disqualified under this section for any offense~~  
1846 ~~disposed of during the most recent 7-year period.~~

1847 ~~(4) Standards must also ensure that the person:~~

1848 ~~(a) For employees or employers licensed or registered~~  
1849 ~~pursuant to chapter 400 or chapter 429, does not have a~~  
1850 ~~confirmed report of abuse, neglect, or exploitation as defined~~  
1851 ~~in s. 415.102(6), which has been uncontested or upheld under s.~~  
1852 ~~415.103.~~

1853 ~~(b) Has not committed an act that constitutes domestic~~  
1854 ~~violence as defined in s. 741.30.~~

1855 ~~(5) Under penalty of perjury, all employees in such~~  
1856 ~~positions of trust or responsibility shall attest to meeting the~~  
1857 ~~requirements for qualifying for employment and agreeing to~~  
1858 ~~inform the employer immediately if convicted of any of the~~  
1859 ~~disqualifying offenses while employed by the employer. Each~~  
1860 ~~employer of employees in such positions of trust or~~  
1861 ~~responsibilities which is licensed or registered by a state~~  
1862 ~~agency shall submit to the licensing agency annually or at the~~  
1863 ~~time of license renewal, under penalty of perjury, an affidavit~~  
1864 ~~of compliance with the provisions of this section.~~

1865 Section 39. Section 435.05, Florida Statutes, is amended to  
1866 read:

1867 435.05 Requirements for covered employees and employers.—  
1868 Except as otherwise provided by law, the following requirements  
1869 shall apply to covered employees and employers:



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1870 (1) (a) Every person required by law to be screened pursuant  
1871 to this chapter must ~~employed in a position for which employment~~  
1872 ~~screening is required must,~~ within 5 working days after starting  
1873 ~~to work,~~ submit ~~to the employer~~ a complete set of information  
1874 necessary to conduct a screening under this chapter section.

1875 (b) For level 1 screening, the employer must submit the  
1876 information necessary for screening to the ~~Florida~~ Department of  
1877 Law Enforcement within 5 working days after receiving it. The  
1878 ~~Florida~~ Department of Law Enforcement shall ~~will~~ conduct a  
1879 search of its records and ~~will~~ respond to the employer or  
1880 agency. The employer must ~~will~~ inform the employee whether  
1881 screening has revealed any disqualifying information.

1882 (c) For level 2 screening, the employer or ~~licensing~~ agency  
1883 must submit the information necessary for screening to the  
1884 ~~Florida~~ Department of Law Enforcement within 5 working days  
1885 after receiving it. The ~~Florida~~ Department of Law Enforcement  
1886 shall perform a criminal history record check of its ~~will~~  
1887 ~~conduct a search of its criminal and juvenile records and will~~  
1888 request that the Federal Bureau of Investigation perform a  
1889 national criminal history record check ~~conduct a search~~ of its  
1890 records for each employee for whom the request is made. The  
1891 ~~Florida~~ Department of Law Enforcement shall ~~will~~ respond to the  
1892 employer or ~~licensing~~ agency, and the employer or ~~licensing~~  
1893 agency must ~~will~~ inform the employee whether screening has  
1894 revealed disqualifying information.

1895 (d) The person whose background is being checked must  
1896 supply any missing criminal or other necessary information upon  
1897 request to the requesting employer or agency within 30 days  
1898 after receiving the ~~employer makes a~~ request for the information



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1899 ~~or be subject to automatic disqualification.~~

1900       (2) Every employee must attest, subject to penalty of  
1901 perjury, to meeting the requirements for qualifying for  
1902 employment pursuant to this chapter and agreeing to inform the  
1903 employer immediately if arrested for any of the disqualifying  
1904 offenses while employed by the employer. Unless otherwise  
1905 prohibited by state or federal law, new employees may be placed  
1906 on probationary status pending a determination of compliance  
1907 with minimum standards set forth in this chapter.

1908       (3) Each employer licensed or registered with an agency  
1909 must ~~required to~~ conduct level 2 background screening and must  
1910 submit to the agency sign an affidavit annually or at the time  
1911 of license renewal, under penalty of perjury, a signed affidavit  
1912 attesting to compliance with the provisions of this chapter  
1913 ~~stating that all covered employees have been screened or are~~  
1914 ~~newly hired and are awaiting the results of the required~~  
1915 ~~screening checks.~~

1916       Section 40. Section 435.06, Florida Statutes, is amended to  
1917 read:

1918       435.06 Exclusion from employment.—

1919       (1) ~~If~~ When an employer or ~~licensing~~ agency has reasonable  
1920 cause to believe that grounds exist for the denial or  
1921 termination of employment of any employee as a result of  
1922 background screening, it shall notify the employee in writing,  
1923 stating the specific record that ~~which~~ indicates noncompliance  
1924 with the standards in this chapter ~~section~~. It ~~is~~ shall be the  
1925 responsibility of the affected employee to contest his or her  
1926 disqualification or to request exemption from disqualification.  
1927 The only basis for contesting the disqualification ~~is~~ shall be



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1928 proof of mistaken identity.

1929 (2) (a) An employer may not hire, select, or otherwise allow  
1930 an employee to have contact with any vulnerable person that  
1931 would place the employee in a role that requires background  
1932 screening until the screening process is completed and  
1933 demonstrates the absence of any grounds for the denial or  
1934 termination of employment. If the screening process shows any  
1935 grounds for the denial or termination of employment, the  
1936 employer may not hire, select, or otherwise allow the employee  
1937 to have contact with any vulnerable person that would place the  
1938 employee in a role that requires background screening unless the  
1939 employee is granted an exemption for the disqualification by the  
1940 agency as provided under s. 435.07.

1941 (b) If an employer becomes aware that an employee has been  
1942 arrested for a disqualifying offense, the employer must remove  
1943 the employee from contact with any vulnerable person that places  
1944 the employee in a role that requires background screening until  
1945 the arrest is resolved in a way that the employer determines  
1946 that the employee is still eligible for employment under this  
1947 chapter.

1948 (c) The employer must ~~either~~ terminate the employment of  
1949 any of its personnel found to be in noncompliance with the  
1950 minimum standards of this chapter ~~for good moral character~~  
1951 ~~contained in this section~~ or place the employee in a position  
1952 for which background screening is not required unless the  
1953 employee is granted an exemption from disqualification pursuant  
1954 to s. 435.07.

1955 (3) Any employee ~~person who is required to undergo~~  
1956 ~~employment screening and~~ who refuses to cooperate in such



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1957 screening or refuses to timely submit the information necessary  
1958 to complete the screening, including fingerprints if when  
1959 required, must ~~shall~~ be disqualified for employment in such  
1960 position or, if employed, must ~~shall~~ be dismissed.

1961 (4) There is no unemployment compensation or other monetary  
1962 liability on the part of, and no cause of action for damages  
1963 against, an employer that, upon notice of a conviction or arrest  
1964 for a disqualifying offense listed under this chapter,  
1965 terminates the person against whom the report was issued or who  
1966 was arrested, regardless of whether or not that person has filed  
1967 for an exemption pursuant to this chapter.

1968 Section 41. Section 435.07, Florida Statutes, is amended to  
1969 read:

1970 435.07 Exemptions from disqualification.—Unless otherwise  
1971 provided by law, the provisions of this section ~~shall~~ apply to  
1972 exemptions from disqualification for disqualifying offenses  
1973 revealed pursuant to background screenings required under this  
1974 chapter, regardless of whether those disqualifying offenses are  
1975 listed in this chapter or other laws.

1976 (1) The head of the appropriate ~~licensing~~ agency may grant  
1977 to any employee otherwise disqualified from employment an  
1978 exemption from disqualification for:

1979 (a) Felonies for which at least 3 years have elapsed since  
1980 the applicant for the exemption has completed or been lawfully  
1981 released from confinement, supervision, or sanction for the  
1982 disqualifying felony ~~committed more than 3 years prior to the~~  
1983 ~~date of disqualification;~~

1984 (b) Misdemeanors prohibited under any of the Florida  
1985 statutes cited in this chapter or under similar statutes of



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1986 other jurisdictions for which the applicant for the exemption  
1987 has completed or been lawfully released from confinement,  
1988 supervision, or sanction;

1989 (c) Offenses that were felonies when committed but that are  
1990 now misdemeanors and for which the applicant for the exemption  
1991 has completed or been lawfully released from confinement,  
1992 supervision, or sanction; or

1993 (d) Findings of delinquency. For offenses that would be  
1994 felonies if committed by an adult and the record has not been  
1995 sealed or expunged, the exemption may not be granted until at  
1996 least 3 years have elapsed since the applicant for the exemption  
1997 has completed or been lawfully released from confinement,  
1998 supervision, or sanction for the disqualifying offense; or

1999 ~~(e) Commissions of acts of domestic violence as defined in~~  
2000 ~~s. 741.30.~~

2001  
2002 For the purposes of this subsection, the term "felonies" means  
2003 both felonies prohibited under any of the ~~Florida~~ statutes cited  
2004 in this chapter or under similar statutes of other  
2005 jurisdictions.

2006 (2) Persons employed, or applicants for employment, by  
2007 treatment providers who treat adolescents 13 years of age and  
2008 older who are disqualified from employment solely because of  
2009 crimes under s. 817.563, s. 893.13, or s. 893.147 may be  
2010 exempted from disqualification from employment pursuant to this  
2011 chapter section without application of the 3-year waiting period  
2012 in paragraph (1) (a).

2013 (3) (a) In order for the head of an agency ~~a licensing~~  
2014 ~~department~~ to grant an exemption to any employee, the employee



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2015 must demonstrate by clear and convincing evidence that the  
2016 employee should not be disqualified from employment. Employees  
2017 seeking an exemption have the burden of setting forth clear and  
2018 convincing ~~sufficient~~ evidence of rehabilitation, including, but  
2019 not limited to, the circumstances surrounding the criminal  
2020 incident for which an exemption is sought, the time period that  
2021 has elapsed since the incident, the nature of the harm caused to  
2022 the victim, and the history of the employee since the incident,  
2023 or any other evidence or circumstances indicating that the  
2024 employee will not present a danger if employment or continued  
2025 employment is allowed.

2026 (b) The agency may consider as part of its deliberations of  
2027 the employee's rehabilitation the fact that the employee has,  
2028 subsequent to the conviction for the disqualifying offense for  
2029 which the exemption is being sought, been arrested for or  
2030 convicted of another crime, even if that crime is not a  
2031 disqualifying offense.

2032 (c) The decision of the head of an agency ~~licensing~~  
2033 department regarding an exemption may be contested through the  
2034 hearing procedures set forth in chapter 120. The standard of  
2035 review by the administrative law judge is whether the agency's  
2036 intended action is an abuse of discretion.

2037 (4) (a) Disqualification from employment under this chapter  
2038 ~~subsection (1)~~ may not be removed from, nor may an exemption be  
2039 granted to, any personnel who is found guilty of, regardless of  
2040 adjudication, or who has entered a plea of nolo contendere or  
2041 guilty to, any felony covered by s. 435.03 or s. 435.04 solely  
2042 by reason of any pardon, executive clemency, or restoration of  
2043 civil rights.



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2044           (b) Disqualification from employment under this chapter may  
2045 not be removed from, nor may an exemption be granted to, any  
2046 person who is a:

- 2047           1. Sexual predator as designated pursuant to s. 775.21;  
2048           2. Career offender pursuant to s. 775.261; or  
2049           3. Sexual offender pursuant to s. 943.0435, unless the  
2050 requirement to register as a sexual offender has been removed  
2051 pursuant to s. 943.04354.

2052           (5) Exemptions granted by one ~~licensing~~ agency shall be  
2053 considered by subsequent ~~licensing~~ agencies, but are not binding  
2054 on the subsequent ~~licensing~~ agency.

2055           Section 42. Section 435.08, Florida Statutes, is amended to  
2056 read:

2057           435.08 Payment for processing of fingerprints and state  
2058 criminal records checks. ~~Either~~ The employer or the employee is  
2059 responsible for paying the costs of screening. Payment shall be  
2060 submitted to the ~~Florida~~ Department of Law Enforcement with the  
2061 request for screening. The appropriate agency is responsible for  
2062 collecting and paying any fee related to fingerprints retained  
2063 on its behalf to the Department of Law Enforcement for costs  
2064 resulting from the fingerprint information retention services.  
2065 The amount of the annual fee and procedures for the submission  
2066 and retention of fingerprint information and for the  
2067 dissemination of search results shall be established by rule of  
2068 the Department of Law Enforcement.

2069           Section 43. Subsection (1) of section 464.203, Florida  
2070 Statutes, is amended to read:

2071           464.203 Certified nursing assistants; certification  
2072 requirement.-





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2073 (1) The board shall issue a certificate to practice as a  
2074 certified nursing assistant to any person who demonstrates a  
2075 minimum competency to read and write and successfully passes the  
2076 required background ~~Level I or Level II~~ screening pursuant to s.  
2077 400.215 and meets one of the following requirements:

2078 (a) Has successfully completed an approved training program  
2079 and achieved a minimum score, established by rule of the board,  
2080 on the nursing assistant competency examination, which consists  
2081 of a written portion and skills-demonstration portion approved  
2082 by the board and administered at a site and by personnel  
2083 approved by the department.

2084 (b) Has achieved a minimum score, established by rule of  
2085 the board, on the nursing assistant competency examination,  
2086 which consists of a written portion and skills-demonstration  
2087 portion, approved by the board and administered at a site and by  
2088 personnel approved by the department and:

- 2089 1. Has a high school diploma, or its equivalent; or  
2090 2. Is at least 18 years of age.

2091 (c) Is currently certified in another state; is listed on  
2092 that state's certified nursing assistant registry; and has not  
2093 been found to have committed abuse, neglect, or exploitation in  
2094 that state.

2095 (d) Has completed the curriculum developed under the  
2096 Enterprise Florida Jobs and Education Partnership Grant and  
2097 achieved a minimum score, established by rule of the board, on  
2098 the nursing assistant competency examination, which consists of  
2099 a written portion and skills-demonstration portion, approved by  
2100 the board and administered at a site and by personnel approved  
2101 by the department.



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2102 Section 44. Subsection (9) of section 489.115, Florida  
2103 Statutes, is amended to read:

2104 489.115 Certification and registration; endorsement;  
2105 reciprocity; renewals; continuing education.—

2106 (9) An initial applicant shall submit, along with the  
2107 application, a complete set of fingerprints to ~~in a form and~~  
2108 ~~manner required by~~ the department. The fingerprints shall be  
2109 submitted to the Department of Law Enforcement for state  
2110 processing, and the Department of Law Enforcement shall forward  
2111 them to the Federal Bureau of Investigation for national  
2112 processing for the purpose of determining if the applicant has a  
2113 criminal history record ~~conducting a level 2 background check~~  
2114 ~~pursuant to s. 435.04~~. The department shall and the board may  
2115 review the background results to determine if an applicant meets  
2116 licensure requirements. The cost for the fingerprint processing  
2117 shall be borne by the person subject to the background  
2118 screening. These fees are to be collected by the authorized  
2119 agencies or vendors. The authorized agencies or vendors are  
2120 responsible for paying the processing costs to the Department of  
2121 Law Enforcement.

2122 Section 45. Paragraphs (g) and (h) of subsection (2) of  
2123 section 943.05, Florida Statutes, are amended, and subsection  
2124 (4) is added to that section, to read:

2125 943.05 Criminal Justice Information Program; duties; crime  
2126 reports.—

2127 (2) The program shall:

2128 (g) Upon official written request, and subject to the  
2129 department having sufficient funds and equipment to participate  
2130 in such request, from the agency executive director or



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2131 secretary, or designee, or from qualified entities participating  
2132 in the volunteer and employee criminal history screening system  
2133 under s. 943.0542, or as otherwise required ~~As authorized by~~  
2134 law, retain fingerprints submitted by criminal and noncriminal  
2135 justice agencies to the department for a criminal history  
2136 background screening as ~~in a manner~~ provided by rule and enter  
2137 the fingerprints in the statewide automated fingerprint  
2138 identification system authorized by paragraph (b). Such  
2139 fingerprints shall thereafter be available for all purposes and  
2140 uses authorized for arrest fingerprint submissions ~~cards~~ entered  
2141 into the statewide automated fingerprint identification system  
2142 pursuant to s. 943.051.

2143 (h)~~1.~~ For each agency or qualified entity that officially  
2144 requests retention of fingerprints or for which retention is  
2145 otherwise required ~~As authorized by law,~~ search all arrest  
2146 fingerprint submissions ~~cards~~ received under s. 943.051 against  
2147 the fingerprints retained in the statewide automated fingerprint  
2148 identification system under paragraph (g).

2149 1. Any arrest record that is identified with the retained  
2150 fingerprints of a person subject to background screening as  
2151 provided in paragraph (g) shall be reported to the appropriate  
2152 agency or qualified entity.

2153 2. To ~~Agencies may~~ participate in this search process,  
2154 agencies or qualified entities must notify each person  
2155 fingerprinted that his or her fingerprints will be retained, pay  
2156 ~~by payment of~~ an annual fee to the department, and inform by  
2157 ~~informing~~ the department of any change in the affiliation,  
2158 employment, or contractual status ~~or place of affiliation,~~  
2159 ~~employment, or contracting of~~ each person ~~the persons~~ whose



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2160 fingerprints are retained under paragraph (g) if such change  
2161 removes or eliminates the agency or qualified entity's basis or  
2162 need for receiving reports of any arrest of that person, so that  
2163 the agency or qualified entity is not obligated to pay the  
2164 upcoming annual fee for the retention and searching of that  
2165 person's fingerprints to the department. The department shall  
2166 adopt a rule setting the amount of the annual fee to be imposed  
2167 upon each participating agency or qualified entity for  
2168 performing these searches and establishing the procedures for  
2169 the retention of fingerprints and the dissemination of search  
2170 results. The fee may be borne by the agency, qualified entity,  
2171 or person subject to fingerprint retention or as otherwise  
2172 provided by law. Fees may be waived or reduced by the executive  
2173 director for good cause shown. Consistent with the recognition  
2174 of criminal justice agencies expressed in s. 943.053(3), these  
2175 services shall will be provided to criminal justice agencies for  
2176 criminal justice purposes free of charge.

2177 3. Agencies that participate in the fingerprint retention  
2178 and search process may adopt rules to require employers to keep  
2179 the agency informed of any change in the affiliation,  
2180 employment, or contractual status of each person whose  
2181 fingerprints are retained under paragraph (g) if such change  
2182 removes or eliminates the agency's basis or need for receiving  
2183 reports of any arrest of that person, so that the agency is not  
2184 obligated to pay the upcoming annual fee for the retention and  
2185 searching of that person's fingerprints to the department.

2186 (4) Upon notification that a federal fingerprint retention  
2187 program is in effect, and subject to the department being funded  
2188 and equipped to participate in such program, the department



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2189 shall, if state and national criminal history records checks and  
2190 retention of submitted prints are authorized or required by law,  
2191 retain the fingerprints as provided in paragraphs (2)(g) and (h)  
2192 and advise the Federal Bureau of Investigation to retain the  
2193 fingerprints at the national level for searching against arrest  
2194 fingerprint submissions received at the national level.

2195 Section 46. Subsections (6) and (11) of section 943.053,  
2196 Florida Statutes, are amended to read:

2197 943.053 Dissemination of criminal justice information;  
2198 fees.—

2199 (6) Notwithstanding any other provision of law, the  
2200 department shall provide to the ~~Florida~~ Department of Revenue  
2201 ~~Child Support Enforcement~~ access to Florida criminal records  
2202 that ~~which~~ are not exempt from disclosure under chapter 119, and  
2203 to such information as may be lawfully available from other  
2204 states via the National Law Enforcement Telecommunications  
2205 System, for the purpose of locating subjects who owe or  
2206 potentially owe support, as defined in s. 409.2554, or to whom  
2207 such obligation is owed pursuant to Title IV-D of the Social  
2208 Security Act. Such information may be provided to child support  
2209 enforcement authorities in other states for these specific  
2210 purposes.

2211 (11) A criminal justice agency that is authorized under  
2212 federal rules or law to conduct a criminal history background  
2213 check on an agency employee who is not certified by the Criminal  
2214 Justice Standards and Training Commission under s. 943.12 may  
2215 submit to the department the fingerprints of the noncertified  
2216 employee to obtain state and national criminal history  
2217 information. ~~Effective January 15, 2007,~~ The fingerprints



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2218 ~~submitted~~ shall be retained and entered in the statewide  
2219 automated fingerprint identification system authorized by s.  
2220 943.05 and shall be available for all purposes and uses  
2221 authorized for arrest fingerprint submissions ~~cards~~ entered in  
2222 the statewide automated fingerprint identification system  
2223 pursuant to s. 943.051. The department shall search all arrest  
2224 fingerprint submissions ~~cards~~ received pursuant to s. 943.051  
2225 against the fingerprints retained in the statewide automated  
2226 fingerprint identification system pursuant to this section. In  
2227 addition to all purposes and uses authorized for arrest  
2228 fingerprint submissions ~~cards~~ for which submitted fingerprints  
2229 may be used, any arrest record that is identified with the  
2230 retained employee fingerprints must be reported to the  
2231 submitting employing agency.

2232 Section 47. Paragraph (a) of subsection (2) of section  
2233 984.01, Florida Statutes, is amended to read:

2234 984.01 Purposes and intent; personnel standards and  
2235 screening.—

2236 (2) The Department of Juvenile Justice or the Department of  
2237 Children and Family Services, as appropriate, may contract with  
2238 the Federal Government, other state departments and agencies,  
2239 county and municipal governments and agencies, public and  
2240 private agencies, and private individuals and corporations in  
2241 carrying out the purposes of, and the responsibilities  
2242 established in, this chapter.

2243 (a) ~~If~~ ~~When~~ the department ~~of Juvenile Justice or the~~  
2244 ~~Department of Children and Family Services~~ contracts with a  
2245 provider for any program for children, all personnel, including  
2246 owners, operators, employees, and volunteers, in the facility



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2247 must be of good moral character. Each contract entered into by  
2248 either department for services delivered on an appointment or  
2249 intermittent basis by a provider that does not have regular  
2250 custodial responsibility for children and each contract with a  
2251 school for before or aftercare services must ensure that the  
2252 owners, operators, and all personnel who have direct contact  
2253 with children are of good moral character. A volunteer who  
2254 assists on an intermittent basis for less than 10 ~~40~~ hours per  
2255 month need not be screened if a person who meets the screening  
2256 requirement of this section is always present and has the  
2257 volunteer in his or her line of sight ~~the volunteer is under~~  
2258 ~~direct and constant supervision by persons who meet the~~  
2259 ~~screening requirements.~~

2260 Section 48. Section 985.644, Florida Statutes, is amended  
2261 to read:

2262 985.644 Departmental contracting powers; personnel  
2263 standards and screening.-

2264 (1) ~~The department of Juvenile Justice or the Department of~~  
2265 ~~Children and Family Services, as appropriate,~~ may contract with  
2266 the Federal Government, other state departments and agencies,  
2267 county and municipal governments and agencies, public and  
2268 private agencies, and private individuals and corporations in  
2269 carrying out the purposes of, and the responsibilities  
2270 established in, this chapter.

2271 (a) ~~When the Department of Juvenile Justice or the~~  
2272 ~~Department of Children and Family Services contracts with a~~  
2273 ~~provider for any program for children, all personnel, including~~  
2274 ~~owners, operators, employees, and volunteers, in the facility~~  
2275 ~~must be of good moral character.~~ Each contract entered into by



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2276 ~~the either~~ department for services delivered on an appointment  
2277 or intermittent basis by a provider that does not have regular  
2278 custodial responsibility for children and each contract with a  
2279 school for before or aftercare services must ensure that all the  
2280 owners, operators, and ~~all~~ personnel who have direct contact  
2281 with children are subject to level 2 background screening  
2282 pursuant to chapter 435 of good moral character.

2283 (b) A volunteer who assists the department or any program  
2284 for children on an intermittent basis for less than 10 40 hours  
2285 per month need not be screened if a person who meets the  
2286 screening requirement of this section is always present and has  
2287 the volunteer in his or her line of sight ~~the volunteer is under~~  
2288 ~~direct and constant supervision by persons who meet the~~  
2289 ~~screening requirements.~~

2290 ~~(b) The Department of Juvenile Justice and the Department~~  
2291 ~~of Children and Family Services shall require employment~~  
2292 ~~screening pursuant to chapter 435, using the level 2 standards~~  
2293 ~~set forth in that chapter for personnel in programs for children~~  
2294 ~~or youths.~~

2295 ~~(c) The Department of Juvenile Justice or the Department of~~  
2296 ~~Children and Family Services may grant exemptions from~~  
2297 ~~disqualification from working with children as provided in s.~~  
2298 ~~435.07.~~

2299 ~~(2) The department may contract with the Federal~~  
2300 ~~Government, other state departments and agencies, county and~~  
2301 ~~municipal governments and agencies, public and private agencies,~~  
2302 ~~and private individuals and corporations in carrying out the~~  
2303 ~~purposes and the responsibilities of the delinquency services~~  
2304 ~~and programs of the department.~~





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2305           ~~(2)~~<sup>(3)</sup> The department shall adopt a rule pursuant to  
2306 ~~chapter 120~~ establishing a procedure to provide notice of policy  
2307 changes that affect contracted delinquency services and  
2308 programs. A policy is defined as an operational requirement that  
2309 applies to only the specified contracted delinquency service or  
2310 program. The procedure must ~~shall~~ include:

- 2311           (a) Public notice of policy development.
- 2312           (b) Opportunity for public comment on the proposed policy.
- 2313           (c) Assessment for fiscal impact upon the department and  
2314 providers.
- 2315           (d) The department's response to comments received.

2316           ~~(4) When the department contracts with a provider for any  
2317 delinquency service or program, all personnel, including all  
2318 owners, operators, employees, and volunteers in the facility or  
2319 providing the service or program shall be of good moral  
2320 character. A volunteer who assists on an intermittent basis for  
2321 less than 40 hours per month is not required to be screened if  
2322 the volunteer is under direct and constant supervision by  
2323 persons who meet the screening requirements.~~

2324           ~~(3)~~<sup>(5)</sup>(a) All employees of the department and all personnel  
2325 of contract providers for any program for children, including  
2326 all owners, operators, employees, persons who have access to  
2327 confidential juvenile records, and volunteers, must complete ~~For~~  
2328 ~~any person employed by the department, or by a provider under~~  
2329 ~~contract with the department, in delinquency facilities,~~  
2330 ~~services, or programs, the department shall require:~~

- 2331           1. A level 2 employment screening pursuant to chapter 435  
2332 before ~~prior to~~ employment. The security background  
2333 investigation conducted under this section must ensure that, in



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2334 addition to the disqualifying offenses listed in s. 435.04, no  
2335 person subject to the background screening provisions of this  
2336 section has an arrest awaiting final disposition for, been found  
2337 guilty of, regardless of adjudication, or entered a plea of nolo  
2338 contendere or guilty to, or been adjudicated delinquent and the  
2339 record has not been sealed or expunged for, any offense  
2340 prohibited under the following provisions of state law or  
2341 similar laws of another jurisdiction:

2342 a. Section 784.07, relating to assault or battery of law  
2343 enforcement officers, firefighters, emergency medical care  
2344 providers, public transit employees or agents, or other  
2345 specified officers.

2346 b. Section 817.568, relating to criminal use of personal  
2347 identification information.

2348 2. A national ~~federal~~ criminal records check by the Federal  
2349 Bureau of Investigation every 5 years following the date of the  
2350 person's employment.

2351 (b) Except for law enforcement, correctional, and  
2352 correctional probation officers, to whom s. 943.13(5) applies,  
2353 the department shall electronically submit to the Department of  
2354 Law Enforcement:

2355 1. Fingerprint information obtained during the employment  
2356 screening required by subparagraph (a)1.

2357 2. ~~Beginning on December 15, 2005,~~ Fingerprint information  
2358 for all persons employed by the department, or by a provider  
2359 under contract with the department, in delinquency facilities,  
2360 services, or programs if such fingerprint information has not  
2361 previously been electronically submitted to the Department of  
2362 Law Enforcement under this paragraph.



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2363 (c) All fingerprint information electronically submitted to  
2364 the Department of Law Enforcement under paragraph (b) shall be  
2365 retained by the Department of Law Enforcement and entered into  
2366 the statewide automated fingerprint identification system  
2367 authorized by s. 943.05(2)(b). Thereafter, such fingerprint  
2368 information shall be available for all purposes and uses  
2369 authorized for arrest fingerprint information entered into the  
2370 statewide automated fingerprint identification system pursuant  
2371 to s. 943.051 until the fingerprint information is removed  
2372 pursuant to paragraph (e). The Department of Law Enforcement  
2373 shall search all arrest fingerprint information received  
2374 pursuant to s. 943.051 against the fingerprint information  
2375 entered into the statewide automated fingerprint system pursuant  
2376 to this subsection. Any arrest records identified as a result of  
2377 the search shall be reported to the department in the manner and  
2378 timeframe established by the Department of Law Enforcement by  
2379 rule.

2380 (d) The department shall pay an annual fee to the  
2381 Department of Law Enforcement for its costs resulting from the  
2382 fingerprint information retention services required by this  
2383 subsection. The amount of the annual fee and procedures for the  
2384 submission and retention of fingerprint information and for the  
2385 dissemination of search results shall be established by the  
2386 Department of Law Enforcement by a rule that is applicable to  
2387 the department individually pursuant to this subsection or that  
2388 is applicable to the department and other employing agencies  
2389 pursuant to rulemaking authority otherwise provided by law.

2390 (e) The department shall notify the Department of Law  
2391 Enforcement when a person whose fingerprint information is



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2392 retained by the Department of Law Enforcement under this  
2393 subsection is no longer employed by the department, or by a  
2394 provider under contract with the department, in a delinquency  
2395 facility, service, or program. This notice shall be provided by  
2396 the department to the Department of Law Enforcement within ~~no~~  
2397 ~~later than~~ 6 months after the date of the change in the person's  
2398 employment status. Fingerprint information for persons  
2399 identified by the department in the notice shall be removed from  
2400 the statewide automated fingerprint system.

2401 (6) The department may grant exemptions from  
2402 disqualification from working with children as provided in s.  
2403 435.07.

2404 (7) The department may adopt rules to describe the  
2405 procedure and requirements necessary to administer the  
2406 employment screening and fingerprint retention services for all  
2407 employees of the department and all personnel of contract  
2408 providers for any program for children, including all owners,  
2409 operators, employees, and volunteers, including the collection  
2410 of associated fees.

2411 Section 49. Paragraph (a) of subsection (1) of section  
2412 381.60225, Florida Statutes, is amended to read:

2413 381.60225 Background screening.—

2414 (1) Each applicant for certification must comply with the  
2415 following requirements:

2416 (a) Upon receipt of a completed, signed, and dated  
2417 application, the Agency for Health Care Administration shall  
2418 require background screening, in accordance with the level 2  
2419 standards for screening set forth in chapter 435, of the  
2420 managing employee, or other similarly titled individual



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2421 responsible for the daily operation of the organization, agency,  
2422 or entity, and financial officer, or other similarly titled  
2423 individual who is responsible for the financial operation of the  
2424 organization, agency, or entity, including billings for  
2425 services. The applicant must comply with the procedures for  
2426 level 2 background screening as set forth in chapter 435,~~as~~  
2427 ~~well as the requirements of s. 435.03(3).~~

2428 Section 50. Subsection (32) of section 409.912, Florida  
2429 Statutes, is amended to read:

2430 409.912 Cost-effective purchasing of health care.—The  
2431 agency shall purchase goods and services for Medicaid recipients  
2432 in the most cost-effective manner consistent with the delivery  
2433 of quality medical care. To ensure that medical services are  
2434 effectively utilized, the agency may, in any case, require a  
2435 confirmation or second physician's opinion of the correct  
2436 diagnosis for purposes of authorizing future services under the  
2437 Medicaid program. This section does not restrict access to  
2438 emergency services or poststabilization care services as defined  
2439 in 42 C.F.R. part 438.114. Such confirmation or second opinion  
2440 shall be rendered in a manner approved by the agency. The agency  
2441 shall maximize the use of prepaid per capita and prepaid  
2442 aggregate fixed-sum basis services when appropriate and other  
2443 alternative service delivery and reimbursement methodologies,  
2444 including competitive bidding pursuant to s. 287.057, designed  
2445 to facilitate the cost-effective purchase of a case-managed  
2446 continuum of care. The agency shall also require providers to  
2447 minimize the exposure of recipients to the need for acute  
2448 inpatient, custodial, and other institutional care and the  
2449 inappropriate or unnecessary use of high-cost services. The



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2450 agency shall contract with a vendor to monitor and evaluate the  
2451 clinical practice patterns of providers in order to identify  
2452 trends that are outside the normal practice patterns of a  
2453 provider's professional peers or the national guidelines of a  
2454 provider's professional association. The vendor must be able to  
2455 provide information and counseling to a provider whose practice  
2456 patterns are outside the norms, in consultation with the agency,  
2457 to improve patient care and reduce inappropriate utilization.  
2458 The agency may mandate prior authorization, drug therapy  
2459 management, or disease management participation for certain  
2460 populations of Medicaid beneficiaries, certain drug classes, or  
2461 particular drugs to prevent fraud, abuse, overuse, and possible  
2462 dangerous drug interactions. The Pharmaceutical and Therapeutics  
2463 Committee shall make recommendations to the agency on drugs for  
2464 which prior authorization is required. The agency shall inform  
2465 the Pharmaceutical and Therapeutics Committee of its decisions  
2466 regarding drugs subject to prior authorization. The agency is  
2467 authorized to limit the entities it contracts with or enrolls as  
2468 Medicaid providers by developing a provider network through  
2469 provider credentialing. The agency may competitively bid single-  
2470 source-provider contracts if procurement of goods or services  
2471 results in demonstrated cost savings to the state without  
2472 limiting access to care. The agency may limit its network based  
2473 on the assessment of beneficiary access to care, provider  
2474 availability, provider quality standards, time and distance  
2475 standards for access to care, the cultural competence of the  
2476 provider network, demographic characteristics of Medicaid  
2477 beneficiaries, practice and provider-to-beneficiary standards,  
2478 appointment wait times, beneficiary use of services, provider



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2479 turnover, provider profiling, provider licensure history,  
2480 previous program integrity investigations and findings, peer  
2481 review, provider Medicaid policy and billing compliance records,  
2482 clinical and medical record audits, and other factors. Providers  
2483 shall not be entitled to enrollment in the Medicaid provider  
2484 network. The agency shall determine instances in which allowing  
2485 Medicaid beneficiaries to purchase durable medical equipment and  
2486 other goods is less expensive to the Medicaid program than long-  
2487 term rental of the equipment or goods. The agency may establish  
2488 rules to facilitate purchases in lieu of long-term rentals in  
2489 order to protect against fraud and abuse in the Medicaid program  
2490 as defined in s. 409.913. The agency may seek federal waivers  
2491 necessary to administer these policies.

2492 (32) Each managed care plan that is under contract with the  
2493 agency to provide health care services to Medicaid recipients  
2494 shall annually conduct a background check with the ~~Florida~~  
2495 Department of Law Enforcement of all persons with ownership  
2496 interest of 5 percent or more or executive management  
2497 responsibility for the managed care plan and shall submit to the  
2498 agency information concerning any such person who has been found  
2499 guilty of, regardless of adjudication, or has entered a plea of  
2500 nolo contendere or guilty to, any of the offenses listed in s.  
2501 435.04 ~~435.03~~.

2502 Section 51. Paragraph (e) of subsection (1) of section  
2503 464.018, Florida Statutes, is amended to read:

2504 464.018 Disciplinary actions.—

2505 (1) The following acts constitute grounds for denial of a  
2506 license or disciplinary action, as specified in s. 456.072(2):

2507 (e) Having been found guilty of, regardless of



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2508 adjudication, or entered a plea of nolo contendere or guilty to,  
2509 any offense prohibited under s. 435.04 ~~435.03~~ or ~~under any~~  
2510 similar statute of another jurisdiction; or having committed an  
2511 act which constitutes domestic violence as defined in s. 741.28.

2512 Section 52. Paragraph (m) of subsection (1) of section  
2513 468.3101, Florida Statutes, is amended to read:

2514 468.3101 Disciplinary grounds and actions.—

2515 (1) The department may make or require to be made any  
2516 investigations, inspections, evaluations, and tests, and require  
2517 the submission of any documents and statements, which it  
2518 considers necessary to determine whether a violation of this  
2519 part has occurred. The following acts shall be grounds for  
2520 disciplinary action as set forth in this section:

2521 (m) Having been found guilty of, regardless of  
2522 adjudication, or pleading guilty or nolo contendere to, any  
2523 offense prohibited under s. 435.04 ~~435.03~~ or ~~under any~~ similar  
2524 statute of another jurisdiction.

2525 Section 53. Subsection (3) of section 744.309, Florida  
2526 Statutes, is amended to read:

2527 744.309 Who may be appointed guardian of a resident ward.—

2528 (3) DISQUALIFIED PERSONS.—No person who has been convicted  
2529 of a felony or who, from any incapacity or illness, is incapable  
2530 of discharging the duties of a guardian, or who is otherwise  
2531 unsuitable to perform the duties of a guardian, shall be  
2532 appointed to act as guardian. Further, no person who has been  
2533 judicially determined to have committed abuse, abandonment, or  
2534 neglect against a child as defined in s. 39.01 or s. 984.03(1),  
2535 (2), and (37), or who has been found guilty of, regardless of  
2536 adjudication, or entered a plea of nolo contendere or guilty to,





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2537 any offense prohibited under s. 435.04 ~~435.03~~ or ~~under any~~  
2538 similar statute of another jurisdiction, shall be appointed to  
2539 act as a guardian. Except as provided in subsection (5) or  
2540 subsection (6), a person who provides substantial services to  
2541 the proposed ward in a professional or business capacity, or a  
2542 creditor of the proposed ward, may not be appointed guardian and  
2543 retain that previous professional or business relationship. A  
2544 person may not be appointed a guardian if he or she is in the  
2545 employ of any person, agency, government, or corporation that  
2546 provides service to the proposed ward in a professional or  
2547 business capacity, except that a person so employed may be  
2548 appointed if he or she is the spouse, adult child, parent, or  
2549 sibling of the proposed ward or the court determines that the  
2550 potential conflict of interest is insubstantial and that the  
2551 appointment would clearly be in the proposed ward's best  
2552 interest. The court may not appoint a guardian in any other  
2553 circumstance in which a conflict of interest may occur.

2554 Section 54. Subsection (12) of section 744.474, Florida  
2555 Statutes, is amended to read:

2556 744.474 Reasons for removal of guardian.—A guardian may be  
2557 removed for any of the following reasons, and the removal shall  
2558 be in addition to any other penalties prescribed by law:

2559 (12) Having been found guilty of, regardless of  
2560 adjudication, or entered a plea of nolo contendere or guilty to,  
2561 any offense prohibited under s. 435.04 ~~435.03~~ or ~~under any~~  
2562 similar statute of another jurisdiction.

2563 Section 55. Paragraph (a) of subsection (6) of section  
2564 985.04, Florida Statutes, is amended to read:

2565 985.04 Oaths; records; confidential information.—



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2566 (6) (a) Records maintained by the department, including  
2567 copies of records maintained by the court, which pertain to a  
2568 child found to have committed a delinquent act which, if  
2569 committed by an adult, would be a crime specified in s. ~~ss.~~  
2570 ~~435.03 and~~ 435.04 may not be destroyed under this section for a  
2571 ~~period of~~ 25 years after the youth's final referral to the  
2572 department, except in cases of the death of the child. Such  
2573 records, however, shall be sealed by the court for use only in  
2574 meeting the screening requirements for personnel in s. 402.3055  
2575 and the other sections cited above, or under departmental rule;  
2576 however, current criminal history information must be obtained  
2577 from the Department of Law Enforcement in accordance with s.  
2578 943.053. The information shall be released to those persons  
2579 specified in the above cited sections for the purposes of  
2580 complying with those sections. The court may punish by contempt  
2581 any person who releases or uses the records for any unauthorized  
2582 purpose.

2583 Section 56. Section 409.1758, Florida Statutes, is  
2584 repealed.

2585 Section 57. Paragraph (d) of subsection (4) of section  
2586 456.039, Florida Statutes, is repealed.

2587 Section 58. The changes made by this act are intended to be  
2588 prospective in nature. It is not intended that persons who are  
2589 employed or licensed on the effective date of this act be  
2590 rescreened until such time as they are otherwise required to be  
2591 rescreened pursuant to law, at which time they must meet the  
2592 requirements for screening as set forth in this act.

2593 Section 59. This act shall take effect August 1, 2010.  
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2595 ===== T I T L E A M E N D M E N T =====

2596 And the title is amended as follows:

2597 Delete everything before the enacting clause

2598 and insert:

2599 A bill to be entitled

2600 An act relating to screening; amending s. 39.001,  
2601 F.S.; revising an exemption from screening  
2602 requirements for volunteers who assist providers under  
2603 contract with the Department of Children and Family  
2604 Services; amending s. 39.821, F.S.; revising  
2605 background screening requirements for the Guardian Ad  
2606 Litem Program; amending s. 215.5586, F.S.; removing  
2607 reference to ch. 435, F.S., for background screening  
2608 of hurricane mitigation inspectors; amending s.  
2609 393.0655, F.S.; revising an exemption from screening  
2610 requirements for volunteers; removing a temporary  
2611 exemption from screening requirements for direct  
2612 service providers awaiting completion of a background  
2613 screening; adding additional disqualifying offenses  
2614 for the screening of direct service providers for  
2615 persons with developmental disabilities; amending s.  
2616 394.4572, F.S.; revising background screening  
2617 requirements for mental health personnel; amending s.  
2618 400.215, F.S.; revising background screening  
2619 requirements for nursing home personnel; amending s.  
2620 400.506, F.S.; conforming provisions to changes made  
2621 by the act; amending s. 400.512, F.S.; revising  
2622 background screening requirements for home health  
2623 agency personnel, nurse registry personnel, and



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2624 companions and homemakers; amending s. 400.6065, F.S.;

2625 revising background screening requirements for hospice

2626 personnel; amending s. 400.801, F.S.; revising

2627 background screening requirements for personnel at

2628 homes for special services; amending s. 400.805, F.S.;

2629 revising background screening requirements for

2630 transitional living facility personnel; creating s.

2631 400.9065, F.S.; providing background screening

2632 requirements for prescribed pediatric extended care

2633 center personnel; amending s. 400.934, F.S.; revising

2634 minimum standards for home medical equipment

2635 providers; amending s. 400.953, F.S.; revising

2636 background screening requirements for home medical

2637 equipment provider personnel; repealing s. 400.955,

2638 F.S., relating to the procedures for screening of home

2639 medical equipment provider personnel; amending s.

2640 400.964, F.S.; revising background screening

2641 requirements for personnel at intermediate care

2642 facilities for developmentally disabled persons;

2643 amending s. 400.980, F.S.; revising background

2644 screening requirements for personnel at health care

2645 services pools; amending s. 400.991, F.S.; revising

2646 background screening requirements for applicants and

2647 personnel at health care clinics; amending s. 408.806,

2648 F.S.; adding a requirement for an affidavit relating

2649 to background screening to the license application

2650 process under the Agency for Health Care

2651 Administration; amending s. 408.808, F.S.; conforming

2652 provisions to changes made by the act; amending s.



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2653 408.809, F.S.; revising background screening  
2654 requirements under the Agency for Health Care  
2655 Administration; requiring electronic submission of  
2656 fingerprints; amending s. 402.302, F.S.; revising  
2657 exemptions from screening requirements for volunteers  
2658 and students; amending s. 409.175, F.S.; revising an  
2659 exemption from screening requirements for volunteers;  
2660 revising background screening requirements for  
2661 employees and volunteers in summer day camps and  
2662 summer 24-hour camps; requiring periodic drug testing  
2663 for licensed foster parents; requiring payment by the  
2664 foster parent; amending s. 409.221, F.S.; revising  
2665 background screening requirements for persons who  
2666 render consumer-directed care; amending s. 409.907,  
2667 F.S.; revising background screening requirements for  
2668 Medicaid providers; amending s. 409.912, F.S.;  
2669 requiring Medicaid providers to obtain a level 2  
2670 background screening for each provider employee in  
2671 direct contact with or providing direct services to  
2672 Medicaid recipients; amending s. 411.01, F.S.;  
2673 requiring school districts to make a list of eligible  
2674 substitute teachers available to early learning  
2675 coalitions; amending s. 429.14, F.S.; revising  
2676 administrative penalty provisions relating to assisted  
2677 living facilities; amending s. 429.174, F.S.; revising  
2678 background screening requirements for assisted living  
2679 facility personnel; amending s. 429.67, F.S.; revising  
2680 licensure requirements for adult family-care home  
2681 personnel and household members; amending s. 429.69,



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2682 F.S.; revising background screening requirements for  
2683 adult family-care home personnel; amending s. 429.911,  
2684 F.S.; revising administrative penalty provisions  
2685 relating to adult day care centers; amending s.  
2686 429.919, F.S.; revising background screening  
2687 requirements for adult day care center personnel;  
2688 creating s. 430.0402, F.S.; providing background  
2689 screening requirements for direct service providers  
2690 under the Department of Elderly Affairs; amending s.  
2691 435.01, F.S.; revising provisions related to the  
2692 applicability of ch. 435, F.S., statutory references  
2693 to the chapter, and rulemaking; providing construction  
2694 with respect to the doctrine of incorporation by  
2695 reference; amending s. 435.02, F.S.; revising and  
2696 adding definitions; amending s. 435.03, F.S.; revising  
2697 level 1 screening standards; adding disqualifying  
2698 offenses; amending s. 435.04, F.S.; revising level 2  
2699 screening standards; requiring electronic submission  
2700 of fingerprints after a certain date; authorizing  
2701 agencies to contract for electronic fingerprinting;  
2702 adding disqualifying offenses; amending s. 435.05,  
2703 F.S.; revising background check requirements for  
2704 covered employees and employers; amending s. 435.06,  
2705 F.S.; revising provisions relating to exclusion from  
2706 employment; providing that an employer may not hire,  
2707 select, or otherwise allow an employee contact with  
2708 any vulnerable person until the screening process is  
2709 completed; requiring removal of an employee arrested  
2710 for disqualifying offenses from roles requiring



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2711 background screening until the employee's eligibility  
2712 for employment is determined; amending s. 435.07,  
2713 F.S.; revising provisions relating to exemptions from  
2714 disqualification; amending s. 435.08, F.S.; revising  
2715 provisions relating to the payment for processing of  
2716 fingerprints and criminal history records checks;  
2717 amending s. 464.203, F.S.; conforming provisions to  
2718 changes made by the act; amending s. 489.115, F.S.;  
2719 removing reference to ch. 435, F.S., for background  
2720 screening of construction contractors; amending s.  
2721 943.05, F.S.; revising provisions relating to the  
2722 Criminal Justice Information Program under the  
2723 Department of Law Enforcement; authorizing agencies to  
2724 request the retention of certain fingerprints by the  
2725 department; providing for rulemaking to require  
2726 employers to keep the agencies informed of any change  
2727 in the affiliation, employment, or contractual status  
2728 of each person whose fingerprints are retained in  
2729 certain circumstances; providing departmental duties  
2730 upon notification that a federal fingerprint retention  
2731 program is in effect; amending s. 943.053, F.S.;  
2732 removing obsolete references relating to the  
2733 dissemination of criminal justice information;  
2734 amending s. 984.01, F.S.; revising an exemption from  
2735 screening requirements for volunteers who assist with  
2736 programs for children; amending s. 985.644, F.S.;  
2737 revising background screening requirements for the  
2738 Department of Juvenile Justice; authorizing  
2739 rulemaking; amending ss. 381.60225, 409.912, 464.018,



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2740 468.3101, 744.309, 744.474, and 985.04, F.S.;

2741 conforming provisions to changes made to ch. 435,

2742 F.S., by the act; repealing s. 409.1758, F.S.,

2743 relating to screening of summer camp personnel;

2744 repealing s. 456.039(4)(d), F.S., relating to

2745 information required for licensure of designated

2746 health care professionals; providing for prospective

2747 application of the act; providing an effective date.