

1                   A bill to be entitled  
2     An act relating to background screening; amending s.  
3     39.821, F.S.; revising background screening requirements  
4     for the Guardian Ad Litem Program; amending s. 215.5586,  
5     F.S.; removing reference to chapter 435, F.S., for  
6     background screening of hurricane mitigation inspectors;  
7     amending s. 393.0655, F.S.; adding additional  
8     disqualifying offenses for the screening of direct service  
9     providers for persons with developmental disabilities;  
10    amending s. 394.4572, F.S.; revising background screening  
11    requirements for mental health personnel; amending s.  
12    400.215, F.S.; revising background screening requirements  
13    for nursing home personnel; amending s. 400.506, F.S.;  
14    conforming provisions to changes made by the act; amending  
15    s. 400.512, F.S.; revising background screening  
16    requirements for home health agency personnel, nurse  
17    registry personnel, and companions and homemakers;  
18    amending s. 400.6065, F.S.; revising background screening  
19    requirements for hospices; amending s. 400.801, F.S.;  
20    revising background screening requirements for homes for  
21    special services; amending s. 400.805, F.S.; revising  
22    background screening requirements for transitional living  
23    facilities; creating s. 400.9065, F.S.; providing  
24    background screening requirements for prescribed pediatric  
25    extended care centers; amending s. 400.934, F.S.; revising  
26    minimum standards for home medical equipment providers;  
27    amending s. 400.953, F.S.; revising background screening  
28    requirements for home medical equipment providers;

29 | repealing s. 400.955, F.S., relating to the procedures for  
30 | screening of home medical equipment provider personnel;  
31 | amending s. 400.964, F.S.; revising background screening  
32 | requirements for intermediate care facilities for  
33 | developmentally disabled persons; amending s. 400.980,  
34 | F.S.; revising background screening requirements for  
35 | health care services pools; amending s. 400.991, F.S.;  
36 | revising background screening requirements for health care  
37 | clinics; amending s. 408.806, F.S.; adding a requirement  
38 | for an affidavit relating to background screening to the  
39 | license application process under the Agency for Health  
40 | Care Administration; amending s. 408.808, F.S.; conforming  
41 | provisions to changes made by the act; amending s.  
42 | 408.809, F.S.; revising background screening requirements  
43 | under the Agency for Health Care Administration; requiring  
44 | electronic submission of fingerprints; amending s.  
45 | 409.175, F.S.; revising background screening requirements  
46 | for employees and volunteers in summer day camps and  
47 | summer 24-hour camps; amending s. 409.221, F.S.; revising  
48 | background screening requirements for persons who render  
49 | consumer-directed care; amending s. 409.907, F.S.;  
50 | revising background screening requirements for Medicaid  
51 | providers; amending s. 429.14, F.S.; revising  
52 | administrative penalty provisions relating to assisted  
53 | living facilities; amending s. 429.174, F.S.; revising  
54 | background screening requirements for assisted living  
55 | facilities; amending s. 429.67, F.S.; revising licensure  
56 | requirements for adult family-care homes; amending s.

57 | 429.69, F.S.; revising background screening requirements  
58 | for adult family-care homes; amending s. 429.911, F.S.;  
59 | revising administrative penalty provisions relating to  
60 | adult day care centers; amending s. 429.919, F.S.;  
61 | revising background screening requirements for adult day  
62 | care centers; creating s. 430.60, F.S.; providing  
63 | background screening requirements for direct service  
64 | providers under the Department of Elderly Affairs;  
65 | amending s. 435.01, F.S.; revising provisions related to  
66 | the applicability of the chapter, statutory references to  
67 | the chapter, and rulemaking; providing construction with  
68 | respect to the doctrine of incorporation by reference;  
69 | amending s. 435.02, F.S.; revising and adding definitions;  
70 | amending s. 435.03, F.S.; revising level 1 screening  
71 | standards; adding disqualifying offenses; amending s.  
72 | 435.04, F.S.; revising level 2 screening standards;  
73 | requiring electronic submission of fingerprints after a  
74 | certain date; authorizing agencies to contract for  
75 | electronic fingerprinting; adding disqualifying offenses;  
76 | amending s. 435.05, F.S.; revising background check  
77 | requirements for covered employees and employers; amending  
78 | s. 435.06, F.S.; revising provisions relating to exclusion  
79 | from employment; providing that an employer may not hire,  
80 | select, or otherwise allow an employee contact with any  
81 | vulnerable person until the screening process is  
82 | completed; requiring removal of an employee arrested for  
83 | disqualifying offenses from roles requiring background  
84 | screening until the employee's eligibility for employment

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85 | determined; amending s. 435.07, F.S.; revising provisions  
86 | relating to exemptions from disqualification; amending s.  
87 | 435.08, F.S.; revising provisions relating to the payment  
88 | for processing of fingerprints and criminal history  
89 | records checks; amending s. 464.203, F.S.; conforming  
90 | provisions to changes made by the act; amending s.  
91 | 489.115, F.S.; removing reference to chapter 435, F.S.,  
92 | for background screening of construction contractors;  
93 | amending s. 943.05, F.S.; revising provisions relating to  
94 | the Criminal Justice Information Program under the  
95 | Department of Law Enforcement; authorizing agencies to  
96 | request the retention of certain fingerprints by the  
97 | department; providing for rulemaking to require employers  
98 | to keep the agencies informed of any change in the  
99 | affiliation, employment, or contractual status of each  
100 | person whose fingerprints are retained in certain  
101 | circumstances; providing departmental duties upon  
102 | notification that a federal fingerprint retention program  
103 | is in effect; amending s. 943.053, F.S.; removing obsolete  
104 | references relating to the dissemination of criminal  
105 | justice information; amending s. 985.644, F.S.; revising  
106 | background screening requirements for the Department of  
107 | Juvenile Justice; authorizing rulemaking; amending ss.  
108 | 381.60225, 409.912, 464.018, 468.3101, 744.309, 744.474,  
109 | and 985.04, F.S.; conforming provisions to changes made to  
110 | ch. 435, F.S., by this act; providing for prospective  
111 | application of the act; providing an effective date.  
112 |

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

114

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

117 39.821 Qualifications of guardians ad litem.—

118 (1) Because of the special trust or responsibility placed  
 119 in a guardian ad litem, the Guardian Ad Litem Program may use  
 120 any private funds collected by the program, or any state funds  
 121 so designated, to conduct a security background investigation  
 122 before certifying a volunteer to serve. A security background  
 123 investigation must include, but need not be limited to,  
 124 employment history checks, checks of references, local criminal  
 125 records checks through local law enforcement agencies, and  
 126 statewide criminal records checks through the Department of Law  
 127 Enforcement. Upon request, an employer shall furnish a copy of  
 128 the personnel record for the employee or former employee who is  
 129 the subject of a security background investigation conducted  
 130 under this section. The information contained in the personnel  
 131 record may include, but need not be limited to, disciplinary  
 132 matters and the reason why the employee was terminated from  
 133 employment. An employer who releases a personnel record for  
 134 purposes of a security background investigation is presumed to  
 135 have acted in good faith and is not liable for information  
 136 contained in the record without a showing that the employer  
 137 maliciously falsified the record. A security background  
 138 investigation conducted under this section must ensure that a  
 139 person is not certified as a guardian ad litem if the person has  
 140 been convicted of, regardless of adjudication, or entered a plea

141 of nolo contendere or guilty to, any offense prohibited under  
 142 the provisions listed in s. 435.04. All applicants certified  
 143 after July 1, 2010, must undergo a level 2 background screening  
 144 pursuant to chapter 435 before being certified ~~the provisions of~~  
 145 ~~the Florida Statutes specified in s. 435.04(2) or under any~~  
 146 ~~similar law in another jurisdiction. Before certifying an~~  
 147 ~~applicant to serve as a guardian ad litem, the Guardian Ad Litem~~  
 148 ~~Program may request a federal criminal records check of the~~  
 149 ~~applicant through the Federal Bureau of Investigation. In~~  
 150 analyzing and evaluating the information obtained in the  
 151 security background investigation, the program must give  
 152 particular emphasis to past activities involving children,  
 153 including, but not limited to, child-related criminal offenses  
 154 or child abuse. The program has the sole discretion in  
 155 determining whether to certify a person based on his or her  
 156 security background investigation. The information collected  
 157 pursuant to the security background investigation is  
 158 confidential and exempt from s. 119.07(1).

159 Section 2. Paragraph (b) of subsection (1) of section  
 160 215.5586, Florida Statutes, is amended to read:

161 215.5586 My Safe Florida Home Program.—There is  
 162 established within the Department of Financial Services the My  
 163 Safe Florida Home Program. The department shall provide fiscal  
 164 accountability, contract management, and strategic leadership  
 165 for the program, consistent with this section. This section does  
 166 not create an entitlement for property owners or obligate the  
 167 state in any way to fund the inspection or retrofitting of  
 168 residential property in this state. Implementation of this

169 program is subject to annual legislative appropriations. It is  
 170 the intent of the Legislature that the My Safe Florida Home  
 171 Program provide trained and certified inspectors to perform  
 172 inspections for owners of site-built, single-family, residential  
 173 properties and grants to eligible applicants as funding allows.  
 174 The program shall develop and implement a comprehensive and  
 175 coordinated approach for hurricane damage mitigation that may  
 176 include the following:

177 (1) HURRICANE MITIGATION INSPECTIONS.—

178 (b) To qualify for selection by the department as a wind  
 179 certification entity to provide hurricane mitigation  
 180 inspections, the entity shall, at a minimum, meet the following  
 181 requirements:

182 1. Use hurricane mitigation inspectors who:

- 183 a. Are certified as a building inspector under s. 468.607;
- 184 b. Are licensed as a general or residential contractor  
 185 under s. 489.111;
- 186 c. Are licensed as a professional engineer under s.  
 187 471.015 and who have passed the appropriate equivalency test of  
 188 the building code training program as required by s. 553.841;
- 189 d. Are licensed as a professional architect under s.  
 190 481.213; or
- 191 e. Have at least 2 years of experience in residential  
 192 construction or residential building inspection and have  
 193 received specialized training in hurricane mitigation  
 194 procedures. Such training may be provided by a class offered  
 195 online or in person.

196 2. Use hurricane mitigation inspectors who also:

197 a. Have undergone drug testing and a level-2 background  
 198 screening checks pursuant to s. 435.04. The department may  
 199 conduct criminal record checks of inspectors used by wind  
 200 certification entities. Inspectors must submit a set of the  
 201 fingerprints to the department for state and national criminal  
 202 history checks and must pay the fingerprint processing fee set  
 203 forth in s. 624.501. The fingerprints shall be sent by the  
 204 department to the Department of Law Enforcement and forwarded to  
 205 the Federal Bureau of Investigation for processing. The results  
 206 shall be returned to the department for screening. The  
 207 fingerprints shall be taken by a law enforcement agency,  
 208 designated examination center, or other department-approved  
 209 entity; and

210 b. Have been certified, in a manner satisfactory to the  
 211 department, to conduct the inspections.

212 3. Provide a quality assurance program including a  
 213 reinspection component.

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

216 393.0655 Screening of direct service providers.—

217 (5) DISQUALIFYING OFFENSES.—The background screening  
 218 conducted under this section must ensure that, in addition to  
 219 the disqualifying offenses listed in s. 435.04, no person  
 220 subject to the provisions of this section has been found guilty  
 221 of, regardless of adjudication, or entered a plea of nolo  
 222 contendere or guilty to, any offense prohibited under any of the  
 223 following provisions of the Florida Statutes or under any  
 224 similar statute of another jurisdiction:



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

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

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

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

229 (e) Section 817.034, relating to fraudulent acts through

230 mail, wire, radio, electromagnetic, photoelectronic, or

231 photooptical systems.

232 (f) Section 817.234, relating to false and fraudulent

233 insurance claims.

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

235 (h) Section 817.568, relating to criminal use of personal

236 identification information.

237 (i) Section 817.60, relating to obtaining a credit card

238 through fraudulent means.

239 (j) Section 817.61, relating to fraudulent use of credit

240 cards, if the offense was a felony.

241 (k) Section 831.01, relating to forgery.

242 (l) Section 831.02, relating to uttering forged

243 instruments.

244 (m) Section 831.07, relating to forging bank bills,

245 checks, drafts, or promissory notes.

246 (n) Section 831.09, relating to uttering forged bank

247 bills, checks, drafts, or promissory notes.

248 Section 4. Section 394.4572, Florida Statutes, is amended  
249 to read:

250 394.4572 Screening of mental health personnel.—

251 (1) (a) The department and the Agency for Health Care

252 Administration shall require level 2 background ~~employment~~

253 screening pursuant to chapter 435 for mental health personnel  
 254 ~~using the standards for level 2 screening set forth in chapter~~  
 255 ~~435.~~ "Mental health personnel" includes all program directors,  
 256 professional clinicians, staff members, and volunteers working  
 257 in public or private mental health programs and facilities who  
 258 have direct contact with individuals held for examination or  
 259 admitted for mental health treatment ~~unmarried patients under~~  
 260 ~~the age of 18 years.~~ For purposes of this chapter, employment  
 261 screening of mental health personnel shall also include, but is  
 262 not limited to, employment screening as provided under chapter  
 263 435 and s. 408.809.

264 (b) Students in the health care professions who are  
 265 interning in a mental health facility licensed under chapter  
 266 395, where the primary purpose of the facility is not the  
 267 treatment of minors, are exempt from the fingerprinting and  
 268 screening requirements, if provided they are under direct  
 269 supervision in the actual physical presence of a licensed health  
 270 care professional.

271 (c) ~~Mental health personnel working in a facility licensed~~  
 272 ~~under chapter 395 who have less than 15 hours per week of direct~~  
 273 ~~contact with patients or who are health care professionals~~  
 274 ~~licensed by the Agency for Health Care Administration or a board~~  
 275 ~~thereunder are exempt from the fingerprinting and screening~~  
 276 ~~requirements, except for persons working in mental health~~  
 277 ~~facilities where the primary purpose of the facility is the~~  
 278 ~~treatment of minors.~~

279 (d) A volunteer who assists on an intermittent basis for  
 280 less than 40 hours per month is exempt from the fingerprinting

281 and screening requirements, provided the volunteer is under  
 282 direct and constant supervision by persons who meet the  
 283 screening requirements of paragraph (a).

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

287 ~~(3) Prospective mental health personnel who have  
 288 previously been fingerprinted or screened pursuant to this  
 289 chapter, chapter 393, chapter 397, chapter 402, or chapter 409,  
 290 or teachers who have been fingerprinted pursuant to chapter  
 291 1012, who have not been unemployed for more than 90 days  
 292 thereafter, and who under the penalty of perjury attest to the  
 293 completion of such fingerprinting or screening and to compliance  
 294 with the provisions of this section and the standards for level  
 295 1 screening contained in chapter 435, shall not be required to  
 296 be refingerprinted or rescreened in order to comply with any  
 297 screening requirements of this part.~~

298 Section 5. Section 400.215, Florida Statutes, is amended  
 299 to read:

300 400.215 Personnel screening requirement.—

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

- 306 ~~(a) Provide personal care or services to residents;~~
- 307 ~~(b) Have access to resident living areas; or~~
- 308 ~~(c) Have access to resident funds or other personal~~

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309 ~~property.~~

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

312 ~~(a) Notwithstanding the provisions of s. 435.05(1),~~  
313 ~~facilities must have in their possession evidence that level 1~~  
314 ~~screening has been completed before allowing an employee to~~  
315 ~~begin working with patients as provided in subsection (1). All~~  
316 ~~information necessary for conducting background screening using~~  
317 ~~level 1 standards as specified in s. 435.03 shall be submitted~~  
318 ~~by the nursing facility to the agency. Results of the background~~  
319 ~~screening shall be provided by the agency to the requesting~~  
320 ~~nursing facility.~~

321 ~~(b) Employees qualified under the provisions of paragraph~~  
322 ~~(a) who have not maintained continuous residency within the~~  
323 ~~state for the 5 years immediately preceding the date of request~~  
324 ~~for background screening must complete level 2 screening, as~~  
325 ~~provided in chapter 435. Such employees may work in a~~  
326 ~~conditional status up to 180 days pending the receipt of written~~  
327 ~~findings evidencing the completion of level 2 screening. Level 2~~  
328 ~~screening shall not be required of employees or prospective~~  
329 ~~employees who attest in writing under penalty of perjury that~~  
330 ~~they meet the residency requirement. Completion of level 2~~  
331 ~~screening shall require the employee or prospective employee to~~  
332 ~~furnish to the nursing facility a full set of fingerprints to~~  
333 ~~enable a criminal background investigation to be conducted. The~~  
334 ~~nursing facility shall submit the completed fingerprint card to~~  
335 ~~the agency. The agency shall establish a record of the request~~  
336 ~~in the database provided for in paragraph (c) and forward the~~

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337 ~~request to the Department of Law Enforcement, which is~~  
338 ~~authorized to submit the fingerprints to the Federal Bureau of~~  
339 ~~Investigation for a national criminal history records check. The~~  
340 ~~results of the national criminal history records check shall be~~  
341 ~~returned to the agency, which shall maintain the results in the~~  
342 ~~database provided for in paragraph (c). The agency shall notify~~  
343 ~~the administrator of the requesting nursing facility or the~~  
344 ~~administrator of any other facility licensed under chapter 393,~~  
345 ~~chapter 394, chapter 395, chapter 397, chapter 429, or this~~  
346 ~~chapter, as requested by such facility, as to whether or not the~~  
347 ~~employee has qualified under level 1 or level 2 screening. An~~  
348 ~~employee or prospective employee who has qualified under level 2~~  
349 ~~screening and has maintained such continuous residency within~~  
350 ~~the state shall not be required to complete a subsequent level 2~~  
351 ~~screening as a condition of employment at another facility.~~

352 ~~(c) The agency shall establish and maintain a database of~~  
353 ~~background screening information which shall include the results~~  
354 ~~of both level 1 and level 2 screening. The Department of Law~~  
355 ~~Enforcement shall timely provide to the agency, electronically,~~  
356 ~~the results of each statewide screening for incorporation into~~  
357 ~~the database. The agency shall, upon request from any facility,~~  
358 ~~agency, or program required by or authorized by law to screen~~  
359 ~~its employees or applicants, notify the administrator of the~~  
360 ~~facility, agency, or program of the qualifying or disqualifying~~  
361 ~~status of the employee or applicant named in the request.~~

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

364 ~~(3) The applicant is responsible for paying the fees~~

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365 ~~associated with obtaining the required screening. Payment for~~  
366 ~~the screening shall be submitted to the agency. The agency shall~~  
367 ~~establish a schedule of fees to cover the costs of level 1 and~~  
368 ~~level 2 screening. Facilities may reimburse employees for these~~  
369 ~~costs. The Department of Law Enforcement shall charge the agency~~  
370 ~~for a level 1 or level 2 screening a rate sufficient to cover~~  
371 ~~the costs of such screening pursuant to s. 943.053(3). The~~  
372 ~~agency shall, as allowable, reimburse nursing facilities for the~~  
373 ~~cost of conducting background screening as required by this~~  
374 ~~section. This reimbursement will not be subject to any rate~~  
375 ~~ceilings or payment targets in the Medicaid Reimbursement plan.~~

376 ~~(4)(a) As provided in s. 435.07, the agency may grant an~~  
377 ~~exemption from disqualification to an employee or prospective~~  
378 ~~employee who is subject to this section and who has not received~~  
379 ~~a professional license or certification from the Department of~~  
380 ~~Health.~~

381 ~~(b) As provided in s. 435.07, the appropriate regulatory~~  
382 ~~board within the Department of Health, or that department itself~~  
383 ~~when there is no board, may grant an exemption from~~  
384 ~~disqualification to an employee or prospective employee who is~~  
385 ~~subject to this section and who has received a professional~~  
386 ~~license or certification from the Department of Health or a~~  
387 ~~regulatory board within that department.~~

388 ~~(5) Any provision of law to the contrary notwithstanding,~~  
389 ~~persons who have been screened and qualified as required by this~~  
390 ~~section and who have not been unemployed for more than 180 days~~  
391 ~~thereafter, and who under penalty of perjury attest to not~~  
392 ~~having been convicted of a disqualifying offense since the~~

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393 ~~completion of such screening, shall not be required to be~~  
394 ~~rescreened. An employer may obtain, pursuant to s. 435.10,~~  
395 ~~written verification of qualifying screening results from the~~  
396 ~~previous employer or other entity which caused such screening to~~  
397 ~~be performed.~~

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

401 ~~(7) All employees shall comply with the requirements of~~  
402 ~~this section by October 1, 1998. No current employee of a~~  
403 ~~nursing facility as of the effective date of this act shall be~~  
404 ~~required to submit to rescreening if the nursing facility has in~~  
405 ~~its possession written evidence that the person has been~~  
406 ~~screened and qualified according to level 1 standards as~~  
407 ~~specified in s. 435.03(1). Any current employee who meets the~~  
408 ~~level 1 requirement but does not meet the 5-year residency~~  
409 ~~requirement as specified in this section must provide to the~~  
410 ~~employing nursing facility written attestation under penalty of~~  
411 ~~perjury that the employee has not been convicted of a~~  
412 ~~disqualifying offense in another state or jurisdiction. All~~  
413 ~~applicants hired on or after October 1, 1998, shall comply with~~  
414 ~~the requirements of this section.~~

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

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

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

424 400.506 Licensure of nurse registries; requirements;  
425 penalties.—

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

433 Section 7. Section 400.512, Florida Statutes, is amended  
434 to read:

435 400.512 Screening of home health agency personnel; nurse  
436 registry personnel; and companions and homemakers.—The agency  
437 shall require level 2 background screening for personnel as  
438 required in s. 408.809(1)(e) pursuant to chapter 435 and s.  
439 ~~408.809 employment or contractor screening as provided in~~  
440 ~~chapter 435, using the level 1 standards for screening set forth~~  
441 ~~in that chapter, for home health agency personnel; persons~~  
442 ~~referred for employment by nurse registries; and persons~~  
443 ~~employed by companion or homemaker services registered under s.~~  
444 ~~400.509.~~

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



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

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

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

462 ~~(3) As a prerequisite to operating as a home health~~  
463 ~~agency, nurse registry, or companion or homemaker service under~~  
464 ~~s. 400.509, the administrator or managing employee,~~  
465 ~~respectively, must submit to the agency his or her name and any~~  
466 ~~other information necessary to conduct a complete screening~~  
467 ~~according to this section. The agency shall submit the~~  
468 ~~information to the Department of Law Enforcement for state~~  
469 ~~processing. The agency shall review the record of the~~  
470 ~~administrator or manager with respect to the offenses specified~~  
471 ~~in this section and shall notify the owner of its findings. If~~  
472 ~~disposition information is missing on a criminal record, the~~  
473 ~~administrator or manager, upon request of the agency, must~~  
474 ~~obtain and supply within 30 days the missing disposition~~  
475 ~~information to the agency. Failure to supply missing information~~  
476 ~~within 30 days or to show reasonable efforts to obtain such~~

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477 ~~information will result in automatic disqualification.~~

478 ~~(4) Proof of compliance with the screening requirements of~~  
479 ~~chapter 435 shall be accepted in lieu of the requirements of~~  
480 ~~this section if the person has been continuously employed or~~  
481 ~~registered without a breach in service that exceeds 180 days,~~  
482 ~~the proof of compliance is not more than 2 years old, and the~~  
483 ~~person has been screened by the Department of Law Enforcement. A~~  
484 ~~home health agency, nurse registry, or companion or homemaker~~  
485 ~~service registered under s. 400.509 shall directly provide proof~~  
486 ~~of compliance to another home health agency, nurse registry, or~~  
487 ~~companion or homemaker service registered under s. 400.509. The~~  
488 ~~recipient home health agency, nurse registry, or companion or~~  
489 ~~homemaker service registered under s. 400.509 may not accept any~~  
490 ~~proof of compliance directly from the person who requires~~  
491 ~~screening. Proof of compliance with the screening requirements~~  
492 ~~of this section shall be provided upon request to the person~~  
493 ~~screened by the home health agencies; nurse registries; or~~  
494 ~~companion or homemaker services registered under s. 400.509.~~

495 ~~(5) There is no monetary liability on the part of, and no~~  
496 ~~cause of action for damages arises against, a licensed home~~  
497 ~~health agency, licensed nurse registry, or companion or~~  
498 ~~homemaker service registered under s. 400.509, that, upon notice~~  
499 ~~that the employee or contractor has been found guilty of,~~  
500 ~~regardless of adjudication, or entered a plea of nolo contendere~~  
501 ~~or guilty to, any offense prohibited under s. 435.03 or under~~  
502 ~~any similar statute of another jurisdiction, terminates the~~  
503 ~~employee or contractor, whether or not the employee or~~  
504 ~~contractor has filed for an exemption with the agency in~~

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505 ~~accordance with chapter 435 and whether or not the time for~~  
506 ~~filing has expired.~~

507 ~~(6) The costs of processing the statewide correspondence~~  
508 ~~criminal records checks must be borne by the home health agency,~~  
509 ~~the nurse registry, or the companion or homemaker service~~  
510 ~~registered under s. 400.509, or by the person being screened, at~~  
511 ~~the discretion of the home health agency, nurse registry, or s.~~  
512 ~~400.509 registrant.~~

513 Section 8. Section 400.6065, Florida Statutes, is amended  
514 to read:

515 400.6065 Background screening.—The agency shall require  
516 level 2 background employment or contractor screening for  
517 personnel as required in s. 408.809(1)(e) pursuant to chapter  
518 435 and s. 408.809 as provided in chapter 435, using the level 1  
519 standards for screening set forth in that chapter, for hospice  
520 personnel.

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

523 400.801 Homes for special services.—

524 (2) (a) The requirements of part II of chapter 408 apply to  
525 the provision of services that require licensure pursuant to  
526 this section and part II of chapter 408 and entities licensed by  
527 or applying for such licensure from the agency pursuant to this  
528 section. A license issued by the agency is required in order to  
529 operate a home for special services in this state.

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

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

535 400.805 Transitional living facilities.—

536 (2)

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

540 Section 11. Section 400.9065, Florida Statutes, is created  
541 to read:

542 400.9065 Background screening.—The agency shall require  
543 level 2 background screening for personnel as required in s.  
544 408.809(1)(e) pursuant to chapter 435 and s. 408.809.

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

547 400.934 Minimum standards.—As a requirement of licensure,  
548 home medical equipment providers shall:

549 (16) Establish procedures for maintaining a record of the  
550 employment history, including background screening as required  
551 by ss. ~~ss.~~ 400.953~~7~~ and 408.809(1) and chapter 435 of all home  
552 medical equipment provider personnel. A home medical equipment  
553 provider must require its personnel to submit an employment  
554 history to the home medical equipment provider and must verify  
555 the employment history for at least the previous 5 years, unless  
556 through diligent efforts such verification is not possible.  
557 There is no monetary liability on the part of, and no cause of  
558 action for damages arising against a former employer, a  
559 prospective employee, or a prospective independent contractor  
560 with a licensed home medical equipment provider, who reasonably

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

565 Section 13. Section 400.953, Florida Statutes, is amended  
566 to read:

567 400.953 Background screening of home medical equipment  
568 provider personnel.—The agency shall require level 2 background  
569 screening for personnel as required in s. 408.809(1)(e) pursuant  
570 to chapter 435 and s. 408.809 employment screening as provided  
571 in chapter 435, using the level 1 standards for screening set  
572 forth in that chapter, for home medical equipment provider  
573 personnel.

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

576 ~~(2) The general manager of each home medical equipment~~  
577 ~~provider must sign an affidavit annually, under penalty of~~  
578 ~~perjury, stating that all home medical equipment provider~~  
579 ~~personnel hired on or after July 1, 1999, who enter the home of~~  
580 ~~a patient in the capacity of their employment have been screened~~  
581 ~~and that its remaining personnel have worked for the home~~  
582 ~~medical equipment provider continuously since before July 1,~~  
583 ~~1999.~~

584 ~~(3) Proof of compliance with the screening requirements of~~  
585 ~~s. 110.1127, s. 393.0655, s. 394.4572, s. 397.451, s. 402.305,~~  
586 ~~s. 402.313, s. 409.175, s. 464.008, or s. 985.644 or this part~~  
587 ~~must be accepted in lieu of the requirements of this section if~~  
588 ~~the person has been continuously employed in the same type of~~

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589 ~~occupation for which he or she is seeking employment without a~~  
590 ~~breach in service that exceeds 180 days, the proof of compliance~~  
591 ~~is not more than 2 years old, and the person has been screened~~  
592 ~~by the Department of Law Enforcement. An employer or contractor~~  
593 ~~shall directly provide proof of compliance to another employer~~  
594 ~~or contractor, and a potential employer or contractor may not~~  
595 ~~accept any proof of compliance directly from the person~~  
596 ~~requiring screening. Proof of compliance with the screening~~  
597 ~~requirements of this section shall be provided, upon request, to~~  
598 ~~the person screened by the home medical equipment provider.~~

599 ~~(4) There is no monetary liability on the part of, and no~~  
600 ~~cause of action for damages arising against, a licensed home~~  
601 ~~medical equipment provider that, upon notice that an employee~~  
602 ~~has been found guilty of, regardless of adjudication, or entered~~  
603 ~~a plea of nolo contendere or guilty to, any offense prohibited~~  
604 ~~under s. 435.03 or under any similar statute of another~~  
605 ~~jurisdiction, terminates the employee, whether or not the~~  
606 ~~employee has filed for an exemption with the agency and whether~~  
607 ~~or not the time for filing has expired.~~

608 ~~(5) The costs of processing the statewide correspondence~~  
609 ~~criminal records checks must be borne by the home medical~~  
610 ~~equipment provider or by the person being screened, at the~~  
611 ~~discretion of the home medical equipment provider.~~

612 ~~(6) Neither the agency nor the home medical equipment~~  
613 ~~provider may use the criminal records or juvenile records of a~~  
614 ~~person for any purpose other than determining whether that~~  
615 ~~person meets minimum standards of good moral character for home~~  
616 ~~medical equipment provider personnel.~~

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

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

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

628 ~~3. Use information from the criminal records obtained~~  
629 ~~under this section for any purpose other than screening that~~  
630 ~~person for employment as specified in this section, or release~~  
631 ~~such information to any other person for any purpose other than~~  
632 ~~screening for employment under this section.~~

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

639 Section 14. Section 400.955, Florida Statutes, is  
640 repealed.

641 Section 15. Section 400.964, Florida Statutes, is amended  
642 to read:

643 400.964 Personnel screening requirement.—

644 ~~(1)~~ The agency shall require level 2 background screening

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645 for personnel as required in s. 408.809(1)(e) pursuant to  
646 chapter 435 and s. 408.809 ~~as provided in chapter 435 for all~~  
647 ~~employees or prospective employees of facilities licensed under~~  
648 ~~this part who are expected to be, or whose responsibilities are~~  
649 ~~such that they would be considered to be, a direct service~~  
650 ~~provider.~~

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

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

655 ~~(4) The applicant is responsible for paying the fees~~  
656 ~~associated with obtaining the required screening. Payment for~~  
657 ~~the screening must be submitted to the agency as prescribed by~~  
658 ~~the agency.~~

659 ~~(5) Notwithstanding any other provision of law, persons~~  
660 ~~who have been screened and qualified as required by this section~~  
661 ~~and who have not been unemployed for more than 180 days~~  
662 ~~thereafter, and who under penalty of perjury attest to not~~  
663 ~~having been convicted of a disqualifying offense since the~~  
664 ~~completion of such screening are not required to be rescreened.~~  
665 ~~An employer may obtain, pursuant to s. 435.10, written~~  
666 ~~verification of qualifying screening results from the previous~~  
667 ~~employer or other entity that caused such screening to be~~  
668 ~~performed.~~

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

670 ~~(7) All employees must comply with the requirements of~~  
671 ~~this section by October 1, 2000. A person employed by a facility~~  
672 ~~licensed pursuant to this part as of the effective date of this~~



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673 ~~act is not required to submit to rescreening if the facility has~~  
674 ~~in its possession written evidence that the person has been~~  
675 ~~screened and qualified according to level 1 standards as~~  
676 ~~specified in s. 435.03. Any current employee who meets the level~~  
677 ~~1 requirement but does not meet the 5-year residency requirement~~  
678 ~~must provide to the employing facility written attestation under~~  
679 ~~penalty of perjury that the employee has not been convicted of a~~  
680 ~~disqualifying offense in another state or jurisdiction. All~~  
681 ~~applicants hired on or after October 1, 1999, must comply with~~  
682 ~~the requirements of this section.~~

683 ~~(8) There is no monetary or unemployment liability on the~~  
684 ~~part of, and no cause of action for damages arises against an~~  
685 ~~employer that, upon notice of a disqualifying offense listed~~  
686 ~~under chapter 435 or an act of domestic violence, terminates the~~  
687 ~~employee, whether or not the employee has filed for an exemption~~  
688 ~~with the Department of Health or the Agency for Health Care~~  
689 ~~Administration.~~

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

692 400.980 Health care services pools.—

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

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

701 400.991 License requirements; background screenings;  
 702 prohibitions.-

703 ~~(5) Each applicant for licensure shall comply with the~~  
 704 ~~following requirements:-~~

705 (a) As used in this subsection, the term "applicant" means  
 706 individuals owning or controlling, directly or indirectly, 5  
 707 percent or more of an interest in a clinic; the medical or  
 708 clinic director, or a similarly titled person who is responsible  
 709 for the day-to-day operation of the licensed clinic; the  
 710 financial officer or similarly titled individual who is  
 711 responsible for the financial operation of the clinic; and  
 712 licensed health care practitioners at the clinic.

713 ~~(b) Upon receipt of a completed, signed, and dated~~  
 714 ~~application, The agency shall require level 2 background~~  
 715 ~~screening for applicants and personnel as required in s.~~  
 716 ~~408.809(1) (e) pursuant to chapter 435 and s. 408.809 of the~~  
 717 ~~applicant, in accordance with the level 2 standards for~~  
 718 ~~screening set forth in chapter 435. Proof of compliance with the~~  
 719 ~~level 2 background screening requirements of chapter 435 which~~  
 720 ~~has been submitted within the previous 5 years in compliance~~  
 721 ~~with any other health care licensure requirements of this state~~  
 722 ~~is acceptable in fulfillment of this paragraph. Applicants who~~  
 723 ~~own less than 10 percent of a health care clinic are not~~  
 724 ~~required to submit fingerprints under this section.~~

725 (c) Each applicant must submit to the agency, with the  
 726 application, a description and explanation of any exclusions,  
 727 permanent suspensions, or terminations of an applicant from the  
 728 Medicare or Medicaid programs. Proof of compliance with the

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729 requirements for disclosure of ownership and control interest  
730 under the Medicaid or Medicare programs may be accepted in lieu  
731 of this submission. The description and explanation may indicate  
732 whether such exclusions, suspensions, or terminations were  
733 voluntary or not voluntary on the part of the applicant.

734 ~~(d) A license may not be granted to a clinic if the~~  
735 ~~applicant has been found guilty of, regardless of adjudication,~~  
736 ~~or has entered a plea of nolo contendere or guilty to, any~~  
737 ~~offense prohibited under the level 2 standards for screening set~~  
738 ~~forth in chapter 435, or a violation of insurance fraud under s.~~  
739 ~~817.234, within the past 5 years. If the applicant has been~~  
740 ~~convicted of an offense prohibited under the level 2 standards~~  
741 ~~or insurance fraud in any jurisdiction, the applicant must show~~  
742 ~~that his or her civil rights have been restored prior to~~  
743 ~~submitting an application.~~

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

746 408.806 License application process.—

747 (1) An application for licensure must be made to the  
748 agency on forms furnished by the agency, submitted under oath,  
749 and accompanied by the appropriate fee in order to be accepted  
750 and considered timely. The application must contain information  
751 required by authorizing statutes and applicable rules and must  
752 include:

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

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

759 408.808 License categories.—

760 (2) PROVISIONAL LICENSE. ~~A provisional license may be~~  
761 ~~issued to an applicant pursuant to s. 408.809(3).~~ An applicant  
762 against whom a proceeding denying or revoking a license is  
763 pending at the time of license renewal may be issued a  
764 provisional license effective until final action not subject to  
765 further appeal. A provisional license may also be issued to an  
766 applicant applying for a change of ownership. A provisional  
767 license shall be limited in duration to a specific period of  
768 time, not to exceed 12 months, as determined by the agency.

769 Section 20. Section 408.809, Florida Statutes, is amended  
770 to read:

771 408.809 Background screening; prohibited offenses.—

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

776 (a) The licensee, if an individual.

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

779 (c) The financial officer or similarly titled individual  
780 who is responsible for the financial operation of the licensee  
781 or provider.

782 (d) Any person who is a controlling interest if the agency  
783 has reason to believe that such person has been convicted of any  
784 offense prohibited by s. 435.04. For each controlling interest

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785 | who has been convicted of any such offense, the licensee shall  
786 | submit to the agency a description and explanation of the  
787 | conviction at the time of license application.

788 |       (e) Any person, as required by authorizing statutes,  
789 | seeking employment with a licensee or provider who is expected  
790 | to, or whose responsibilities may require him or her to, provide  
791 | personal care or services directly to clients; and any person,  
792 | as required by authorizing statutes, contracting with a licensee  
793 | or provider whose responsibilities require him or her to provide  
794 | personal care or services directly to clients. Evidence of  
795 | contractor screening may be retained by the contractor's  
796 | employer or the licensee. A person who is employed by or  
797 | contracts with a licensee on or before June 30, 2010, is not  
798 | required to submit to rescreening until such time as he or she  
799 | is otherwise required to be rescreened pursuant to law if that  
800 | licensee has in its possession written evidence that the person  
801 | has been screened and qualified according to standards specified  
802 | in s. 435.03 or s. 435.04.

803 |       (2) Every 5 years following his or her licensure,  
804 | employment, or entry into a contract in a capacity that under  
805 | subsection (1) would require level 2 background screening under  
806 | chapter 435, each such person must submit to level 2 background  
807 | rescreening as a condition of retaining such license or  
808 | continuing in such employment or contractual status. For any  
809 | such rescreening, the agency shall request the Department of Law  
810 | Enforcement to forward the person's fingerprints to the Federal  
811 | Bureau of Investigation for a national criminal history record  
812 | check. If the fingerprints of such a person are not retained by

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813 the Department of Law Enforcement under s. 943.05(2)(g), the  
814 person must file a complete set of fingerprints with the agency.  
815 Upon the submission of fingerprints for this purpose, the agency  
816 shall request the Department of Law Enforcement to forward the  
817 fingerprints to the Federal Bureau of Investigation for a  
818 national criminal history record check, and the fingerprints may  
819 be retained by the Department of Law Enforcement under s.  
820 943.05(2)(g). The cost of the state and national criminal  
821 history records checks required by level 2 screening may be  
822 borne by the licensee or the person fingerprinted. Proof of  
823 compliance with level 2 screening standards submitted within the  
824 previous 5 years to meet any provider or professional licensure  
825 requirements of the agency, the Department of Health, the Agency  
826 for Persons with Disabilities, ~~or~~ the Department of Children and  
827 Family Services, or the Department of Financial Services for an  
828 applicant for a certificate of authority to operate a continuing  
829 care retirement community under chapter 651 satisfies the  
830 requirements of this section, provided that such proof is  
831 accompanied, under penalty of perjury, by an affidavit of  
832 compliance with the provisions of chapter 435 and this section  
833 using forms provided by the agency. ~~Proof of compliance with the~~  
834 ~~background screening requirements of the Department of Financial~~  
835 ~~Services submitted within the previous 5 years for an applicant~~  
836 ~~for a certificate of authority to operate a continuing care~~  
837 ~~retirement community under chapter 651 satisfies the Department~~  
838 ~~of Law Enforcement and Federal Bureau of Investigation portions~~  
839 ~~of a level 2 background check.~~

840 (3) All fingerprints must be provided in electronic

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841 format. Screening results shall be reviewed by the agency with  
842 respect to the offenses specified in s. 435.04 and this section  
843 and maintained in a database. The qualifying or disqualifying  
844 status of the person named in the request shall be posted on a  
845 secure website accessible to all licensees. A provisional  
846 license may be granted to an applicant when each individual  
847 required by this section to undergo background screening has met  
848 the standards for the Department of Law Enforcement background  
849 check but the agency has not yet received background screening  
850 results from the Federal Bureau of Investigation. A standard  
851 license may be granted to the licensee upon the agency's receipt  
852 of a report of the results of the Federal Bureau of  
853 Investigation background screening for each individual required  
854 by this section to undergo background screening that confirms  
855 that all standards have been met or upon the granting of an  
856 exemption from disqualification by the agency as set forth in  
857 chapter 435.

858 ~~(4) When a person is newly employed in a capacity that~~  
859 ~~requires screening under this section, the licensee must notify~~  
860 ~~the agency of the change within the time period specified in the~~  
861 ~~authorizing statute or rules and must submit to the agency~~  
862 ~~information necessary to conduct level 2 screening or provide~~  
863 ~~evidence of compliance with background screening requirements of~~  
864 ~~this section. The person may serve in his or her capacity~~  
865 ~~pending the agency's receipt of the report from the Federal~~  
866 ~~Bureau of Investigation if he or she has met the standards for~~  
867 ~~the Department of Law Enforcement background check. However, the~~  
868 ~~person may not continue to serve in his or her capacity if the~~

869 ~~report indicates any violation of background screening standards~~  
 870 ~~unless an exemption from disqualification has been granted by~~  
 871 ~~the agency as set forth in chapter 435.~~

872 (4) ~~(5)~~ ~~Effective October 1, 2009,~~ In addition to the  
 873 offenses listed in ss. 435.03 and 435.04, all persons required  
 874 to undergo background screening pursuant to this part or  
 875 authorizing statutes must not have been found guilty of,  
 876 regardless of adjudication, or entered a plea of nolo contendere  
 877 or guilty to, any of the following offenses or any similar  
 878 offense of another jurisdiction:

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

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

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

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

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

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

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

889 (f) ~~(h)~~ Section 817.034, relating to fraudulent acts  
 890 through mail, wire, radio, electromagnetic, photoelectronic, or  
 891 photooptical systems.

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

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

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



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

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

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

902        (m)~~(o)~~ Section 831.02, relating to uttering forged  
 903 instruments.

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

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

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

910        (q)~~(s)~~ Section 831.31, relating to the sale, manufacture,  
 911 delivery, or possession with the intent to sell, manufacture, or  
 912 deliver any counterfeit controlled substance, if the offense was  
 913 a felony.

914  
 915 A person who serves as a controlling interest of or is employed  
 916 by a licensee on September 30, 2009, is not required by law to  
 917 submit to rescreening if that licensee has in its possession  
 918 written evidence that the person has been screened and qualified  
 919 according to the standards specified in s. 435.03 or s. 435.04.  
 920 However, if such person has a disqualifying offense listed in  
 921 this section, he or she may apply for an exemption from the  
 922 appropriate licensing agency before September 30, 2009, and if  
 923 agreed to by the employer, may continue to perform his or her  
 924 duties until the licensing agency renders a decision on the

925 application for exemption for offenses listed in this section.  
 926 Exemptions from disqualification may be granted pursuant to s.  
 927 435.07.

928 (5) ~~(6)~~ The costs associated with obtaining the required  
 929 screening must be borne either by the licensee or the person  
 930 subject to screening. Licensees may reimburse persons for these  
 931 costs. The Department of Law Enforcement shall charge the agency  
 932 for screening pursuant to s. 943.053(3). The agency shall  
 933 establish a schedule of fees to cover the costs of screening ~~The~~  
 934 ~~attestations required under ss. 435.04(5) and 435.05(3) must be~~  
 935 ~~submitted at the time of license renewal, notwithstanding the~~  
 936 ~~provisions of ss. 435.04(5) and 435.05(3) which require annual~~  
 937 ~~submission of an affidavit of compliance with background~~  
 938 ~~screening requirements.~~

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

945 (b) As provided in chapter 435, the appropriate regulatory  
 946 board within the Department of Health, or the department itself  
 947 when there is no board, may grant an exemption from  
 948 disqualification to a person who is subject to this section and  
 949 who has received a professional license or certification from  
 950 the Department of Health or a regulatory board within that  
 951 department and that person is providing a service within the  
 952 scope of his or her licensed or certified practice.

953           (7) The agency and the Department of Health may adopt  
 954 rules pursuant to ss. 120.536(1) and 120.54 to implement this  
 955 section, chapter 435, and authorizing statutes requiring  
 956 background screening and to implement and adopt criteria  
 957 relating to retaining fingerprints pursuant to s. 943.05(2).

958           (8) There is no unemployment compensation or other  
 959 monetary liability on the part of, and no cause of action for  
 960 damages arising against, an employer that, upon notice of a  
 961 disqualifying offense listed under chapter 435 or this section,  
 962 terminates the person against whom the report was issued,  
 963 whether or not that person has filed for an exemption with the  
 964 Department of Health or the agency.

965           Section 21. Paragraph (k) of subsection (2) of section  
 966 409.175, Florida Statutes, is amended to read:

967           409.175 Licensure of family foster homes, residential  
 968 child-caring agencies, and child-placing agencies; public  
 969 records exemption.—

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

971           (k) "Screening" means the act of assessing the background  
 972 of personnel and includes, but is not limited to, employment  
 973 history checks as provided in chapter 435, using the level 2  
 974 standards for screening set forth in that chapter. Screening for  
 975 employees and volunteers in summer day camps and summer 24-hour  
 976 camps and screening for all volunteers included under the  
 977 definition of "personnel" shall be conducted as provided in  
 978 chapter 435, using the level 2 ~~level 1~~ standards set forth in  
 979 that chapter.

980           Section 22. Paragraph (i) of subsection (4) of section

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981 409.221, Florida Statutes, is amended to read:

982 409.221 Consumer-directed care program.—

983 (4) CONSUMER-DIRECTED CARE.—

984 (i) Background screening requirements.—All persons who  
 985 render care under this section must undergo level 2 background  
 986 screening pursuant to chapter 435 ~~shall comply with the~~  
 987 ~~requirements of s. 435.05. Persons shall be excluded from~~  
 988 ~~employment pursuant to s. 435.06.~~

989 ~~1. Persons excluded from employment may request an~~  
 990 ~~exemption from disqualification, as provided in s. 435.07.~~  
 991 ~~Persons not subject to certification or professional licensure~~  
 992 ~~may request an exemption from the agency. In considering a~~  
 993 ~~request for an exemption, the agency shall comply with the~~  
 994 ~~provisions of s. 435.07.~~

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

998  
 999 For purposes of this section, a person who has undergone  
 1000 screening, who is qualified for employment under this section  
 1001 and applicable rule, and who has not been unemployed for more  
 1002 than 90 ~~180~~ days following such screening is not required to be  
 1003 rescreened. Such person must attest under penalty of perjury to  
 1004 not having been convicted of a disqualifying offense since  
 1005 completing such screening.

1006 Section 23. Subsection (8) of section 409.907, Florida  
 1007 Statutes, is amended to read:

1008 409.907 Medicaid provider agreements.—The agency may make

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1009 | payments for medical assistance and related services rendered to  
 1010 | Medicaid recipients only to an individual or entity who has a  
 1011 | provider agreement in effect with the agency, who is performing  
 1012 | services or supplying goods in accordance with federal, state,  
 1013 | and local law, and who agrees that no person shall, on the  
 1014 | grounds of handicap, race, color, or national origin, or for any  
 1015 | other reason, be subjected to discrimination under any program  
 1016 | or activity for which the provider receives payment from the  
 1017 | agency.

1018 |       (8) (a) Each provider, or each principal of the provider if  
 1019 | the provider is a corporation, partnership, association, or  
 1020 | other entity, seeking to participate in the Medicaid program  
 1021 | must submit a complete set of his or her fingerprints to the  
 1022 | agency for the purpose of conducting a criminal history record  
 1023 | check. Principals of the provider include any officer, director,  
 1024 | billing agent, managing employee, or affiliated person, or any  
 1025 | partner or shareholder who has an ownership interest equal to 5  
 1026 | percent or more in the provider. However, a director of a not-  
 1027 | for-profit corporation or organization is not a principal for  
 1028 | purposes of a background investigation as required by this  
 1029 | section if the director: serves solely in a voluntary capacity  
 1030 | for the corporation or organization, does not regularly take  
 1031 | part in the day-to-day operational decisions of the corporation  
 1032 | or organization, receives no remuneration from the not-for-  
 1033 | profit corporation or organization for his or her service on the  
 1034 | board of directors, has no financial interest in the not-for-  
 1035 | profit corporation or organization, and has no family members  
 1036 | with a financial interest in the not-for-profit corporation or

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1037 organization; and if the director submits an affidavit, under  
 1038 penalty of perjury, to this effect to the agency and the not-  
 1039 for-profit corporation or organization submits an affidavit,  
 1040 under penalty of perjury, to this effect to the agency as part  
 1041 of the corporation's or organization's Medicaid provider  
 1042 agreement application. Notwithstanding the above, the agency may  
 1043 require a background check for any person reasonably suspected  
 1044 by the agency to have been convicted of a crime. This subsection  
 1045 shall not apply to:

- 1046 1. A hospital licensed under chapter 395;
- 1047 2. A nursing home licensed under chapter 400;
- 1048 3. A hospice licensed under chapter 400;
- 1049 4. An assisted living facility licensed under chapter 429;
- 1050 5. A unit of local government, except that requirements of  
 1051 this subsection apply to nongovernmental providers and entities  
 1052 when contracting with the local government to provide Medicaid  
 1053 services. The actual cost of the state and national criminal  
 1054 history record checks must be borne by the nongovernmental  
 1055 provider or entity; or

1056 6. Any business that derives more than 50 percent of its  
 1057 revenue from the sale of goods to the final consumer, and the  
 1058 business or its controlling parent either is required to file a  
 1059 form 10-K or other similar statement with the Securities and  
 1060 Exchange Commission or has a net worth of \$50 million or more.

1061 (b) Background screening shall be conducted in accordance  
 1062 with chapter 435 and s. 408.809 ~~The agency shall submit the~~  
 1063 ~~fingerprints to the Department of Law Enforcement. The~~  
 1064 ~~department shall conduct a state criminal background~~

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1065 ~~investigation and forward the fingerprints to the Federal Bureau~~  
 1066 ~~of Investigation for a national criminal history record check.~~  
 1067 The cost of the state and national criminal record check shall  
 1068 be borne by the provider.

1069 (c) ~~The agency may permit a provider to participate in the~~  
 1070 ~~Medicaid program pending the results of the criminal record~~  
 1071 ~~check. However, such permission is fully revocable if the record~~  
 1072 ~~check reveals any crime-related history as provided in~~  
 1073 ~~subsection (10).~~

1074 ~~(d)~~ Proof of compliance with the requirements of level 2  
 1075 screening under chapter 435 s. 435.04 conducted within 12 months  
 1076 prior to the date that the Medicaid provider application is  
 1077 submitted to the agency shall fulfill the requirements of this  
 1078 subsection. ~~Proof of compliance with the requirements of level 1~~  
 1079 ~~screening under s. 435.03 conducted within 12 months prior to~~  
 1080 ~~the date that the Medicaid provider application is submitted to~~  
 1081 ~~the agency shall meet the requirement that the Department of Law~~  
 1082 ~~Enforcement conduct a state criminal history record check.~~

1083 Section 24. Subsection (1) of section 429.14, Florida  
 1084 Statutes, is amended to read:

1085 429.14 Administrative penalties.—

1086 (1) In addition to the requirements of part II of chapter  
 1087 408, the agency may deny, revoke, and suspend any license issued  
 1088 under this part and impose an administrative fine in the manner  
 1089 provided in chapter 120 against a licensee ~~of an assisted living~~  
 1090 ~~facility~~ for a violation of any provision of this part, part II  
 1091 of chapter 408, or applicable rules, or for any of the following  
 1092 actions by a licensee ~~of an assisted living facility~~, for the

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1093 actions of any person subject to level 2 background screening  
 1094 under s. 408.809, or for the actions of any facility employee:

1095 (a) An intentional or negligent act seriously affecting  
 1096 the health, safety, or welfare of a resident of the facility.

1097 (b) The determination by the agency that the owner lacks  
 1098 the financial ability to provide continuing adequate care to  
 1099 residents.

1100 (c) Misappropriation or conversion of the property of a  
 1101 resident of the facility.

1102 (d) Failure to follow the criteria and procedures provided  
 1103 under part I of chapter 394 relating to the transportation,  
 1104 voluntary admission, and involuntary examination of a facility  
 1105 resident.

1106 (e) A citation of any of the following deficiencies as  
 1107 specified in s. 429.19:

- 1108 1. One or more cited class I deficiencies.
- 1109 2. Three or more cited class II deficiencies.
- 1110 3. Five or more cited class III deficiencies that have  
 1111 been cited on a single survey and have not been corrected within  
 1112 the times specified.

1113 (f) Failure to comply with the ~~A determination that a~~  
 1114 ~~person subject to level 2 background screening under s. 408.809~~  
 1115 ~~does not meet the screening standards of this part, s.~~  
 1116 408.809(1), chapter 435 s. 435.04 ~~or that the facility is~~  
 1117 ~~retaining an employee subject to level 1 background screening~~  
 1118 ~~standards under s. 429.174 who does not meet the screening~~  
 1119 ~~standards of s. 435.03 and for whom exemptions from~~  
 1120 ~~disqualification have not been provided by the agency.~~



1121           (g) ~~A determination that an employee, volunteer,~~  
 1122 ~~administrator, or owner, or person who otherwise has access to~~  
 1123 ~~the residents of a facility does not meet the criteria specified~~  
 1124 ~~in s. 435.03(2), and the owner or administrator has not taken~~  
 1125 ~~action to remove the person. Exemptions from disqualification~~  
 1126 ~~may be granted as set forth in s. 435.07. No administrative~~  
 1127 ~~action may be taken against the facility if the person is~~  
 1128 ~~granted an exemption.~~

1129           ~~(h)~~ Violation of a moratorium.

1130           (h)~~(i)~~ Failure of the license applicant, the licensee  
 1131 during relicensure, or a licensee that holds a provisional  
 1132 license to meet the minimum license requirements of this part,  
 1133 or related rules, at the time of license application or renewal.

1134           (i)~~(j)~~ An intentional or negligent life-threatening act in  
 1135 violation of the uniform firesafety standards for assisted  
 1136 living facilities or other firesafety standards that threatens  
 1137 the health, safety, or welfare of a resident of a facility, as  
 1138 communicated to the agency by the local authority having  
 1139 jurisdiction or the State Fire Marshal.

1140           (j)~~(k)~~ Knowingly operating any unlicensed facility or  
 1141 providing without a license any service that must be licensed  
 1142 under this chapter or chapter 400.

1143           (k)~~(l)~~ Any act constituting a ground upon which  
 1144 application for a license may be denied.

1145           Section 25. Section 429.174, Florida Statutes, is amended  
 1146 to read:

1147           429.174 Background screening; ~~exemptions.~~ The agency shall  
 1148 require level 2 background screening for personnel as required

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1149 in s. 408.809(1)(e) pursuant to chapter 435 and s. 408.809 The  
1150 ~~owner or administrator of an assisted living facility must~~  
1151 ~~conduct level 1 background screening, as set forth in chapter~~  
1152 ~~435, on all employees hired on or after October 1, 1998, who~~  
1153 ~~perform personal services as defined in s. 429.02(16). The~~  
1154 ~~agency may exempt an individual from employment disqualification~~  
1155 ~~as set forth in chapter 435. Such persons shall be considered as~~  
1156 ~~having met this requirement if:~~

1157 ~~(1) Proof of compliance with level 1 screening~~  
1158 ~~requirements obtained to meet any professional license~~  
1159 ~~requirements in this state is provided and accompanied, under~~  
1160 ~~penalty of perjury, by a copy of the person's current~~  
1161 ~~professional license and an affidavit of current compliance with~~  
1162 ~~the background screening requirements.~~

1163 ~~(2) The person required to be screened has been~~  
1164 ~~continuously employed in the same type of occupation for which~~  
1165 ~~the person is seeking employment without a breach in service~~  
1166 ~~which exceeds 180 days, and proof of compliance with the level 1~~  
1167 ~~screening requirement which is no more than 2 years old is~~  
1168 ~~provided. Proof of compliance shall be provided directly from~~  
1169 ~~one employer or contractor to another, and not from the person~~  
1170 ~~screened. Upon request, a copy of screening results shall be~~  
1171 ~~provided by the employer retaining documentation of the~~  
1172 ~~screening to the person screened.~~

1173 ~~(3) The person required to be screened is employed by a~~  
1174 ~~corporation or business entity or related corporation or~~  
1175 ~~business entity that owns, operates, or manages more than one~~  
1176 ~~facility or agency licensed under this chapter, and for whom a~~

1177 ~~level 1 screening was conducted by the corporation or business~~  
 1178 ~~entity as a condition of initial or continued employment.~~

1179 Section 26. Subsection (4) of section 429.67, Florida  
 1180 Statutes, is amended to read:

1181 429.67 Licensure.—

1182 (4) ~~Upon receipt of a completed license application or~~  
 1183 ~~license renewal, and the fee,~~ The agency shall require level 2  
 1184 initiate a level 1 background screening for personnel as  
 1185 required in s. 408.809(1)(e), including as provided under  
 1186 chapter 435 on the adult family-care home provider, the  
 1187 designated relief person, and all adult household members,  
 1188 pursuant to chapter 435 and s. 408.809, and all staff members.

1189 ~~(a) Proof of compliance with level 1 screening standards~~  
 1190 ~~which has been submitted within the previous 5 years to meet any~~  
 1191 ~~facility or professional licensure requirements of the agency or~~  
 1192 ~~the Department of Health satisfies the requirements of this~~  
 1193 ~~subsection. Such proof must be accompanied, under penalty of~~  
 1194 ~~perjury, by a copy of the person's current professional license~~  
 1195 ~~and an affidavit of current compliance with the background~~  
 1196 ~~screening requirements.~~

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

1205 ~~provided to the person screened by the employer retaining~~  
 1206 ~~documentation of the screening.~~

1207 Section 27. Section 429.69, Florida Statutes, is amended  
 1208 to read:

1209 429.69 Denial, revocation, and suspension of a license.—In  
 1210 addition to the requirements of part II of chapter 408, the  
 1211 agency may deny, suspend, and revoke a license for any of the  
 1212 following reasons:

1213 (1) Failure to comply with the ~~of any of the persons~~  
 1214 ~~required to undergo~~ background screening standards of this part,  
 1215 s. 408.809(1), or chapter 435 under s. 429.67 to meet the level  
 1216 ~~1 screening standards of s. 435.03, unless an exemption from~~  
 1217 ~~disqualification has been provided by the agency.~~

1218 (2) Failure to correct cited fire code violations that  
 1219 threaten the health, safety, or welfare of residents.

1220 Section 28. Paragraph (c) of subsection (2) of section  
 1221 429.911, Florida Statutes, is amended to read:

1222 429.911 Denial, suspension, revocation of license;  
 1223 emergency action; administrative fines; investigations and  
 1224 inspections.—

1225 (2) Each of the following actions by the owner of an adult  
 1226 day care center or by its operator or employee is a ground for  
 1227 action by the agency against the owner of the center or its  
 1228 operator or employee:

1229 (c) A Failure to comply with the ~~of persons subject to~~  
 1230 ~~level 2~~ background screening standards of this part, s.  
 1231 408.809(1), or chapter 435 under s. 408.809 to meet the  
 1232 ~~screening standards of s. 435.04, or the retention by the center~~

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1233 ~~of an employee subject to level 1 background screening standards~~  
 1234 ~~under s. 429.174 who does not meet the screening standards of s.~~  
 1235 ~~435.03 and for whom exemptions from disqualification have not~~  
 1236 ~~been provided by the agency.~~

1237 Section 29. Section 429.919, Florida Statutes, is amended  
 1238 to read:

1239 429.919 Background screening.~~The agency shall require~~  
 1240 level 2 background screening for personnel as required in s.  
 1241 408.809(1)(e) pursuant to chapter 435 and s. 408.809 ~~The owner~~  
 1242 ~~or administrator of an adult day care center must conduct level~~  
 1243 ~~1 background screening as set forth in chapter 435 on all~~  
 1244 ~~employees hired on or after October 1, 1998, who provide basic~~  
 1245 ~~services or supportive and optional services to the~~  
 1246 ~~participants. Such persons satisfy this requirement if:~~

1247 ~~(1) Proof of compliance with level 1 screening~~  
 1248 ~~requirements obtained to meet any professional license~~  
 1249 ~~requirements in this state is provided and accompanied, under~~  
 1250 ~~penalty of perjury, by a copy of the person's current~~  
 1251 ~~professional license and an affidavit of current compliance with~~  
 1252 ~~the background screening requirements.~~

1253 ~~(2) The person required to be screened has been~~  
 1254 ~~continuously employed, without a breach in service that exceeds~~  
 1255 ~~180 days, in the same type of occupation for which the person is~~  
 1256 ~~seeking employment and provides proof of compliance with the~~  
 1257 ~~level 1 screening requirement which is no more than 2 years old.~~  
 1258 ~~Proof of compliance must be provided directly from one employer~~  
 1259 ~~or contractor to another, and not from the person screened. Upon~~  
 1260 ~~request, a copy of screening results shall be provided to the~~

1261 ~~person screened by the employer retaining documentation of the~~  
 1262 ~~screening.~~

1263 ~~(3) The person required to be screened is employed by a~~  
 1264 ~~corporation or business entity or related corporation or~~  
 1265 ~~business entity that owns, operates, or manages more than one~~  
 1266 ~~facility or agency licensed under chapter 400 or this chapter,~~  
 1267 ~~and for whom a level 1 screening was conducted by the~~  
 1268 ~~corporation or business entity as a condition of initial or~~  
 1269 ~~continued employment.~~

1270 Section 30. Section 430.60, Florida Statutes, is created  
 1271 to read:

1272 430.60 Screening of direct service providers.-

1273 (1) (a) Level 2 background screening pursuant to chapter  
 1274 435 is required for direct service providers. Background  
 1275 screening shall include employment history checks as provided in  
 1276 s. 435.03(1) and local criminal records checks through local law  
 1277 enforcement agencies.

1278 (b) For purposes of this section, the term "direct service  
 1279 provider" means a person 18 years of age or older who is  
 1280 unrelated to his or her clients and who has direct, face-to-face  
 1281 contact with a client while providing services to the client and  
 1282 has access to the client's living areas or to the client's funds  
 1283 or personal property. The term includes coordinators, managers,  
 1284 and supervisors of residential facilities and volunteers.

1285 (2) Licensed physicians, nurses, or other professionals  
 1286 licensed by the Department of Health are not subject to  
 1287 background screening pursuant to this section if they are  
 1288 providing a service that is within the scope of their licensed

1289 practice.

1290 (3) Refusal on the part of an employer to dismiss a  
 1291 manager, supervisor, or direct service provider who has been  
 1292 found to be in noncompliance with standards of this section  
 1293 shall result in the automatic denial, termination, or revocation  
 1294 of the license or certification, rate agreement, purchase order,  
 1295 or contract, in addition to any other remedies authorized by  
 1296 law.

1297 (4) The background screening conducted pursuant to this  
 1298 section must ensure that, in addition to the disqualifying  
 1299 offenses listed in s. 435.04, no person subject to the  
 1300 provisions of this section has been found guilty of, regardless  
 1301 of adjudication, or entered a plea of nolo contendere or guilty  
 1302 to, any offense prohibited under any of the following provisions  
 1303 of the Florida Statutes or under any similar statute of another  
 1304 jurisdiction:

1305 (a) Any authorizing statutes, if the offense was a felony.

1306 (b) Section 409.920, relating to Medicaid provider fraud.

1307 (c) Section 409.9201, relating to Medicaid fraud.

1308 (d) Section 817.034, relating to fraudulent acts through  
 1309 mail, wire, radio, electromagnetic, photoelectronic, or  
 1310 photooptical systems.

1311 (e) Section 817.234, relating to false and fraudulent  
 1312 insurance claims.

1313 (f) Section 817.505, relating to patient brokering.

1314 (g) Section 817.568, relating to criminal use of personal  
 1315 identification information.

1316 (h) Section 817.60, relating to obtaining a credit card

1317 through fraudulent means.  
 1318 (i) Section 817.61, relating to fraudulent use of credit  
 1319 cards, if the offense was a felony.  
 1320 (j) Section 831.01, relating to forgery.  
 1321 (k) Section 831.02, relating to uttering forged  
 1322 instruments.  
 1323 (l) Section 831.07, relating to forging bank bills,  
 1324 checks, drafts, or promissory notes.  
 1325 (m) Section 831.09, relating to uttering forged bank  
 1326 bills, checks, drafts, or promissory notes.  
 1327 Section 31. Section 435.01, Florida Statutes, is amended  
 1328 to read:  
 1329 435.01 Applicability of this chapter; statutory  
 1330 references; rulemaking.—  
 1331 (1) (a) Unless otherwise provided by law, whenever a  
 1332 background screening for employment or a background security  
 1333 check is required by law to be conducted pursuant to this  
 1334 chapter for employment, unless otherwise provided by law, the  
 1335 provisions of this chapter shall apply.  
 1336 (b) Unless expressly provided otherwise, a reference in  
 1337 any section of the Florida Statutes to chapter 435 or to any  
 1338 section or sections or portion of a section of chapter 435  
 1339 includes, and shall be understood as including, all subsequent  
 1340 amendments to chapter 435 or to the referenced section or  
 1341 sections or portions of a section. The purpose of this chapter  
 1342 is to facilitate uniform background screening and, to this end,  
 1343 a reference to this chapter, or to any section or subdivision  
 1344 within this chapter, constitutes a general reference under the



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1345 doctrine of incorporation by reference.

1346 (2) Agencies may adopt rules pursuant to ss. 120.536(1)  
1347 and 120.54 necessary to implement the provisions of this  
1348 chapter.

1349 Section 32. Section 435.02, Florida Statutes, is amended  
1350 to read:

1351 435.02 Definitions.—For the purposes of this chapter, the  
1352 term:

1353 (1)~~(3)~~ "Licensing Agency" means any state, ~~or~~ county, or  
1354 municipal agency that ~~which~~ grants licenses or registration  
1355 permitting the operation of an employer or is itself an employer  
1356 or that otherwise facilitates the screening of employees  
1357 pursuant to this chapter. When there is no state ~~licensing~~  
1358 agency or the municipal or county ~~licensing~~ agency chooses not  
1359 to conduct employment screening, "licensing agency" means the  
1360 Department of Children and Family Services.

1361 (2)~~(1)~~ "Employee" means any person required by law to be  
1362 screened pursuant to the provisions of this chapter.

1363 (3)~~(2)~~ "Employer" means any person or entity required by  
1364 law to conduct screening of employees pursuant to this chapter.

1365 (4) "Employment" means any activity or service sought to  
1366 be performed by an employee that requires the employee to be  
1367 subject to screening pursuant to this chapter.

1368 (5) "Vulnerable person" means a minor or a vulnerable  
1369 adult as defined in s. 415.102.

1370 Section 33. Section 435.03, Florida Statutes, is amended  
1371 to read:

1372 435.03 Level 1 screening standards.—

1373           (1) All employees required by law to be screened pursuant  
 1374 to this section must ~~shall be required to~~ undergo background  
 1375 screening as a condition of employment and continued employment  
 1376 that includes. ~~For the purposes of this subsection, level 1~~  
 1377 ~~screenings shall include~~, but need not be limited to, employment  
 1378 history checks and statewide criminal correspondence checks  
 1379 through the ~~Florida~~ Department of Law Enforcement, and may  
 1380 include local criminal records checks through local law  
 1381 enforcement agencies.

1382           (2) Any person required by law to be screened pursuant to  
 1383 this section ~~for whom employment screening is required by~~  
 1384 ~~statute~~ must not have been found guilty of, regardless of  
 1385 adjudication, or entered a plea of nolo contendere or guilty to,  
 1386 any offense prohibited under any provision of s. 435.04(2) ~~of~~  
 1387 ~~the following provisions of the Florida Statutes~~ or under any  
 1388 similar statute of another jurisdiction. ÷

1389           ~~(a) Section 393.135, relating to sexual misconduct with~~  
 1390 ~~certain developmentally disabled clients and reporting of such~~  
 1391 ~~sexual misconduct.~~

1392           ~~(b) Section 394.4593, relating to sexual misconduct with~~  
 1393 ~~certain mental health patients and reporting of such sexual~~  
 1394 ~~misconduct.~~

1395           ~~(c) Section 415.111, relating to abuse, neglect, or~~  
 1396 ~~exploitation of a vulnerable adult.~~

1397           ~~(d) Section 782.04, relating to murder.~~

1398           ~~(e) Section 782.07, relating to manslaughter, aggravated~~  
 1399 ~~manslaughter of an elderly person or disabled adult, or~~  
 1400 ~~aggravated manslaughter of a child.~~

- 1401        ~~(f) Section 782.071, relating to vehicular homicide.~~
- 1402        ~~(g) Section 782.09, relating to killing of an unborn quick~~
- 1403 ~~child by injury to the mother.~~
- 1404        ~~(h) Section 784.011, relating to assault, if the victim of~~
- 1405 ~~the offense was a minor.~~
- 1406        ~~(i) Section 784.021, relating to aggravated assault.~~
- 1407        ~~(j) Section 784.03, relating to battery, if the victim of~~
- 1408 ~~the offense was a minor.~~
- 1409        ~~(k) Section 784.045, relating to aggravated battery.~~
- 1410        ~~(l) Section 787.01, relating to kidnapping.~~
- 1411        ~~(m) Section 787.02, relating to false imprisonment.~~
- 1412        ~~(n) Section 794.011, relating to sexual battery.~~
- 1413        ~~(o) Former s. 794.041, relating to prohibited acts of~~
- 1414 ~~persons in familial or custodial authority.~~
- 1415        ~~(p) Chapter 796, relating to prostitution.~~
- 1416        ~~(q) Section 798.02, relating to lewd and lascivious~~
- 1417 ~~behavior.~~
- 1418        ~~(r) Chapter 800, relating to lewdness and indecent~~
- 1419 ~~exposure.~~
- 1420        ~~(s) Section 806.01, relating to arson.~~
- 1421        ~~(t) Chapter 812, relating to theft, robbery, and related~~
- 1422 ~~crimes, if the offense was a felony.~~
- 1423        ~~(u) Section 817.563, relating to fraudulent sale of~~
- 1424 ~~controlled substances, only if the offense was a felony.~~
- 1425        ~~(v) Section 825.102, relating to abuse, aggravated abuse,~~
- 1426 ~~or neglect of an elderly person or disabled adult.~~
- 1427        ~~(w) Section 825.1025, relating to lewd or lascivious~~
- 1428 ~~offenses committed upon or in the presence of an elderly person~~

1429 ~~or disabled adult.~~

1430 ~~(x) Section 825.103, relating to exploitation of an~~

1431 ~~elderly person or disabled adult, if the offense was a felony.~~

1432 ~~(y) Section 826.04, relating to incest.~~

1433 ~~(z) Section 827.03, relating to child abuse, aggravated~~

1434 ~~child abuse, or neglect of a child.~~

1435 ~~(aa) Section 827.04, relating to contributing to the~~

1436 ~~delinquency or dependency of a child.~~

1437 ~~(bb) Former s. 827.05, relating to negligent treatment of~~

1438 ~~children.~~

1439 ~~(cc) Section 827.071, relating to sexual performance by a~~

1440 ~~child.~~

1441 ~~(dd) Chapter 847, relating to obscene literature.~~

1442 ~~(ee) Chapter 893, relating to drug abuse prevention and~~

1443 ~~control, only if the offense was a felony or if any other person~~

1444 ~~involved in the offense was a minor.~~

1445 ~~(ff) Section 916.1075, relating to sexual misconduct with~~

1446 ~~certain forensic clients and reporting of such sexual~~

1447 ~~misconduct.~~

1448 (3) The security background investigations under this

1449 section must ensure that no person subject to the provisions of

1450 this section has been found guilty of, regardless of

1451 adjudication, or entered a plea of nolo contendere or guilty to,

1452 any offense that constitutes domestic violence as defined in s.

1453 741.28, whether such act was committed in this state or in

1454 another jurisdiction Standards must also ensure that the person:

1455 ~~(a) For employees and employers licensed or registered~~

1456 ~~pursuant to chapter 400 or chapter 429, and for employees and~~

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1457 ~~employers of developmental disabilities centers as defined in s.~~  
 1458 ~~393.063, intermediate care facilities for the developmentally~~  
 1459 ~~disabled as defined in s. 400.960, and mental health treatment~~  
 1460 ~~facilities as defined in s. 394.455, meets the requirements of~~  
 1461 ~~this chapter.~~

1462 ~~(b) Has not committed an act that constitutes domestic~~  
 1463 ~~violence as defined in s. 741.28.~~

1464 Section 34. Section 435.04, Florida Statutes, is amended  
 1465 to read:

1466 435.04 Level 2 screening standards.—

1467 (1) (a) All employees required by law to be screened  
 1468 pursuant to this section must ~~in positions designated by law as~~  
 1469 ~~positions of trust or responsibility shall be required to~~  
 1470 undergo security background investigations as a condition of  
 1471 employment and continued employment that includes. ~~For the~~  
 1472 ~~purposes of this subsection, security background investigations~~  
 1473 ~~shall include, but need~~ not be limited to, fingerprinting for  
 1474 statewide criminal history records ~~all purposes and checks in~~  
 1475 ~~this subsection, statewide criminal and juvenile records checks~~  
 1476 through the ~~Florida~~ Department of Law Enforcement, and national  
 1477 ~~federal~~ criminal history records checks through the Federal  
 1478 Bureau of Investigation, and may include local criminal records  
 1479 checks through local law enforcement agencies.

1480 (b) Fingerprints submitted pursuant to this section on or  
 1481 after July 1, 2012, must be submitted electronically to the  
 1482 Department of Law Enforcement by, or on the behalf of, the  
 1483 employee or employer.

1484 (c) An agency may contract with one or more vendors to

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1485 perform all or part of the electronic fingerprinting pursuant to  
1486 this section. Such contracts must ensure that the owners and  
1487 personnel of the vendor performing the electronic fingerprinting  
1488 are qualified and will ensure the integrity and security of all  
1489 personal information.

1490 (d) An agency may require by rule adopted pursuant to  
1491 chapter 120 that fingerprints submitted pursuant to this section  
1492 must be submitted electronically to the Department of Law  
1493 Enforcement by, or on the behalf of, the employee or employer on  
1494 a date earlier than July 1, 2012.

1495 (2) The security background investigations under this  
1496 section must ensure that no persons subject to the provisions of  
1497 this section have been found guilty of, regardless of  
1498 adjudication, or entered a plea of nolo contendere or guilty to,  
1499 any offense prohibited under any of the following provisions of  
1500 the Florida Statutes or under any similar statute of another  
1501 jurisdiction:

1502 (a) Section 393.135, relating to sexual misconduct with  
1503 certain developmentally disabled clients and reporting of such  
1504 sexual misconduct.

1505 (b) Section 394.4593, relating to sexual misconduct with  
1506 certain mental health patients and reporting of such sexual  
1507 misconduct.

1508 (c) Section 415.111, relating to adult abuse, neglect, or  
1509 exploitation of aged persons or disabled adults.

1510 (d) Section 782.04, relating to murder.

1511 (e) Section 782.07, relating to manslaughter, aggravated  
1512 manslaughter of an elderly person or disabled adult, or

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- 1513 aggravated manslaughter of a child.
- 1514       (f) Section 782.071, relating to vehicular homicide.
- 1515       (g) Section 782.09, relating to killing of an unborn quick
- 1516 child by injury to the mother.
- 1517       (h) Chapter 784, relating to assault, battery, and
- 1518 culpable negligence, if the offense was a felony.
- 1519       (i)~~(h)~~ Section 784.011, relating to assault, if the victim
- 1520 of the offense was a minor.
- 1521       ~~(i) Section 784.021, relating to aggravated assault.~~
- 1522       (j) Section 784.03, relating to battery, if the victim of
- 1523 the offense was a minor.
- 1524       ~~(k) Section 784.045, relating to aggravated battery.~~
- 1525       ~~(l) Section 784.075, relating to battery on a detention or~~
- 1526 ~~commitment facility staff.~~
- 1527       (k)~~(m)~~ Section 787.01, relating to kidnapping.
- 1528       (l)~~(n)~~ Section 787.02, relating to false imprisonment.
- 1529       (m) Section 787.025, relating to luring or enticing a
- 1530 child.
- 1531       (n)~~(o)~~ Section 787.04(2), relating to taking, enticing, or
- 1532 removing a child beyond the state limits with criminal intent
- 1533 pending custody proceedings.
- 1534       (o)~~(p)~~ Section 787.04(3), relating to carrying a child
- 1535 beyond the state lines with criminal intent to avoid producing a
- 1536 child at a custody hearing or delivering the child to the
- 1537 designated person.
- 1538       (p)~~(q)~~ Section 790.115(1), relating to exhibiting firearms
- 1539 or weapons within 1,000 feet of a school.
- 1540       (q)~~(r)~~ Section 790.115(2)(b), relating to possessing an

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1541 electric weapon or device, destructive device, or other weapon  
 1542 on school property.

1543 (r)~~(s)~~ Section 794.011, relating to sexual battery.

1544 (s)~~(t)~~ Former s. 794.041, relating to prohibited acts of  
 1545 persons in familial or custodial authority.

1546 (t) Section 794.05, relating to unlawful sexual activity  
 1547 with certain minors.

1548 (u) Chapter 796, relating to prostitution.

1549 (v) Section 798.02, relating to lewd and lascivious  
 1550 behavior.

1551 (w) Chapter 800, relating to lewdness and indecent  
 1552 exposure.

1553 (x) Section 806.01, relating to arson.

1554 (y) Section 810.02, relating to burglary.

1555 (z) Section 810.14, relating to voyeurism, if the offense  
 1556 is a felony.

1557 (aa) Section 810.145, relating to video voyeurism, if the  
 1558 offense is a felony.

1559 (bb)~~(y)~~ Chapter 812, relating to theft, robbery, and  
 1560 related crimes, if the offense is a felony.

1561 (cc)~~(z)~~ Section 817.563, relating to fraudulent sale of  
 1562 controlled substances, only if the offense was a felony.

1563 (dd)~~(aa)~~ Section 825.102, relating to abuse, aggravated  
 1564 abuse, or neglect of an elderly person or disabled adult.

1565 (ee)~~(bb)~~ Section 825.1025, relating to lewd or lascivious  
 1566 offenses committed upon or in the presence of an elderly person  
 1567 or disabled adult.

1568 (ff)~~(ee)~~ Section 825.103, relating to exploitation of an



1569 elderly person or disabled adult, if the offense was a felony.  
 1570 (gg)~~(dd)~~ Section 826.04, relating to incest.  
 1571 (hh)~~(ee)~~ Section 827.03, relating to child abuse,  
 1572 aggravated child abuse, or neglect of a child.  
 1573 (ii)~~(ff)~~ Section 827.04, relating to contributing to the  
 1574 delinquency or dependency of a child.  
 1575 (jj)~~(gg)~~ Former s. 827.05, relating to negligent treatment  
 1576 of children.  
 1577 (kk)~~(hh)~~ Section 827.071, relating to sexual performance  
 1578 by a child.  
 1579 (ll)~~(ii)~~ Section 843.01, relating to resisting arrest with  
 1580 violence.  
 1581 (mm)~~(jj)~~ Section 843.025, relating to depriving a law  
 1582 enforcement, correctional, or correctional probation officer  
 1583 means of protection or communication.  
 1584 (nn)~~(kk)~~ Section 843.12, relating to aiding in an escape.  
 1585 (oo)~~(ll)~~ Section 843.13, relating to aiding in the escape  
 1586 of juvenile inmates in correctional institutions.  
 1587 (pp)~~(mm)~~ Chapter 847, relating to obscene literature.  
 1588 (qq)~~(nn)~~ Section 874.05(1), relating to encouraging or  
 1589 recruiting another to join a criminal gang.  
 1590 (rr)~~(oo)~~ Chapter 893, relating to drug abuse prevention  
 1591 and control, only if the offense was a felony or if any other  
 1592 person involved in the offense was a minor.  
 1593 (ss)~~(pp)~~ Section 916.1075, relating to sexual misconduct  
 1594 with certain forensic clients and reporting of such sexual  
 1595 misconduct.  
 1596 (tt)~~(qq)~~ Section 944.35(3), relating to inflicting cruel

1597 or inhuman treatment on an inmate resulting in great bodily  
 1598 harm.

1599 (uu) Section 944.40, relating to escape.

1600 ~~(vv) (rr)~~ Section 944.46, relating to harboring,  
 1601 concealing, or aiding an escaped prisoner.

1602 ~~(ww) (ss)~~ Section 944.47, relating to introduction of  
 1603 contraband into a correctional facility.

1604 ~~(xx) (tt)~~ Section 985.701, relating to sexual misconduct in  
 1605 juvenile justice programs.

1606 ~~(yy) (uu)~~ Section 985.711, relating to contraband  
 1607 introduced into detention facilities.

1608 (3) The security background investigations under this  
 1609 section must ensure that no person subject to this section has  
 1610 been found guilty of, regardless of adjudication, or entered a  
 1611 plea of nolo contendere or guilty to, any offense that  
 1612 constitutes domestic violence as defined in s. 741.28, whether  
 1613 such act was committed in this state or in another jurisdiction.

1614 ~~The security background investigations conducted under this~~  
 1615 ~~section for employees of the Department of Juvenile Justice must~~  
 1616 ~~ensure that no persons subject to the provisions of this section~~  
 1617 ~~have been found guilty of, regardless of adjudication, or~~  
 1618 ~~entered a plea of nolo contendere or guilty to, any offense~~  
 1619 ~~prohibited under any of the following provisions of the Florida~~  
 1620 ~~Statutes or under any similar statute of another jurisdiction:~~

1621 ~~(a) Section 784.07, relating to assault or battery of law~~  
 1622 ~~enforcement officers, firefighters, emergency medical care~~  
 1623 ~~providers, public transit employees or agents, or other~~  
 1624 ~~specified officers.~~

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1625 ~~(b) Section 810.02, relating to burglary, if the offense~~  
1626 ~~is a felony.~~

1627 ~~(c) Section 944.40, relating to escape.~~

1628

1629 ~~The Department of Juvenile Justice may not remove a~~  
1630 ~~disqualification from employment or grant an exemption to any~~  
1631 ~~person who is disqualified under this section for any offense~~  
1632 ~~disposed of during the most recent 7-year period.~~

1633 ~~(4) Standards must also ensure that the person:~~

1634 ~~(a) For employees or employers licensed or registered~~  
1635 ~~pursuant to chapter 400 or chapter 429, does not have a~~  
1636 ~~confirmed report of abuse, neglect, or exploitation as defined~~  
1637 ~~in s. 415.102(6), which has been uncontested or upheld under s.~~  
1638 ~~415.103.~~

1639 ~~(b) Has not committed an act that constitutes domestic~~  
1640 ~~violence as defined in s. 741.30.~~

1641 ~~(5) Under penalty of perjury, all employees in such~~  
1642 ~~positions of trust or responsibility shall attest to meeting the~~  
1643 ~~requirements for qualifying for employment and agreeing to~~  
1644 ~~inform the employer immediately if convicted of any of the~~  
1645 ~~disqualifying offenses while employed by the employer. Each~~  
1646 ~~employer of employees in such positions of trust or~~  
1647 ~~responsibilities which is licensed or registered by a state~~  
1648 ~~agency shall submit to the licensing agency annually or at the~~  
1649 ~~time of license renewal, under penalty of perjury, an affidavit~~  
1650 ~~of compliance with the provisions of this section.~~

1651 Section 35. Section 435.05, Florida Statutes, is amended  
1652 to read:

1653           435.05 Requirements for covered employees and employers.-  
 1654 Except as otherwise provided by law, the following requirements  
 1655 shall apply to covered employees and employers:

1656           (1) (a) Every person required by law to be screened  
 1657 pursuant to the provisions of this chapter must ~~employed in a~~  
 1658 ~~position for which employment screening is required must, within~~  
 1659 ~~5 working days after starting to work, submit to the employer a~~  
 1660 complete set of information necessary to conduct a screening  
 1661 under this chapter section.

1662           (b) For level 1 screening, the employer must submit the  
 1663 information necessary for screening to the ~~Florida~~ Department of  
 1664 Law Enforcement within 5 working days after receiving it. The  
 1665 ~~Florida~~ Department of Law Enforcement will conduct a search of  
 1666 its records and will respond to the employer or agency. The  
 1667 employer will inform the employee whether screening has revealed  
 1668 any disqualifying information.

1669           (c) For level 2 screening, the employer or ~~licensing~~  
 1670 agency must submit the information necessary for screening to  
 1671 the ~~Florida~~ Department of Law Enforcement within 5 working days  
 1672 after receiving it. The ~~Florida~~ Department of Law Enforcement  
 1673 will perform a criminal history record check of its ~~conduct a~~  
 1674 ~~search of its criminal and juvenile records and will request~~  
 1675 that the Federal Bureau of Investigation perform a national  
 1676 criminal history record check ~~conduct a search~~ of its records  
 1677 for each employee for whom the request is made. The ~~Florida~~  
 1678 Department of Law Enforcement will respond to the employer or  
 1679 ~~licensing~~ agency, and the employer or ~~licensing~~ agency will  
 1680 inform the employee whether screening has revealed disqualifying

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1681 information.

1682 (d) The person whose background is being checked must  
1683 supply any missing criminal or other necessary information upon  
1684 request to the requesting employer or agency within 30 days  
1685 after receiving the ~~employer makes a request~~ for the information  
1686 ~~or be subject to automatic disqualification.~~

1687 (2) Every employee must attest, subject to penalty of  
1688 perjury, to meeting the requirements for qualifying for  
1689 employment pursuant to this chapter and agreeing to inform the  
1690 employer immediately if arrested for any of the disqualifying  
1691 offenses while employed by the employer ~~Unless otherwise~~  
1692 ~~prohibited by state or federal law, new employees may be placed~~  
1693 ~~on probationary status pending a determination of compliance~~  
1694 ~~with minimum standards set forth in this chapter.~~

1695 (3) Each employer that is licensed or registered with an  
1696 agency and is required by law to conduct level 2 background  
1697 screening must submit to the agency ~~sign an affidavit~~ annually  
1698 or at the time of license renewal, under penalty of perjury, a  
1699 signed affidavit attesting to compliance with the provisions of  
1700 this chapter ~~stating that all covered employees have been~~  
1701 ~~screened or are newly hired and are awaiting the results of the~~  
1702 ~~required screening checks.~~

1703 Section 36. Section 435.06, Florida Statutes, is amended  
1704 to read:

1705 435.06 Exclusion from employment.—

1706 (1) When an employer or ~~licensing~~ agency has reasonable  
1707 cause to believe that grounds exist for the denial or  
1708 termination of employment of any employee as a result of

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1709 background screening, it shall notify the employee in writing,  
1710 stating the specific record ~~that~~ which indicates noncompliance  
1711 with the standards in this chapter ~~section~~. It shall be the  
1712 responsibility of the affected employee to contest his or her  
1713 disqualification or to request exemption from disqualification.  
1714 The only basis for contesting the disqualification shall be  
1715 proof of mistaken identity.

1716 (2) (a) An employer may not hire, select, or otherwise  
1717 allow an employee to have contact with any vulnerable person  
1718 that would place the employee in a role that would require  
1719 background screening until such time as the screening process is  
1720 completed and demonstrates the absence of any grounds for the  
1721 denial or termination of employment. If the screening process  
1722 shows any grounds for the denial or termination of employment,  
1723 the employer may not hire, select, or otherwise allow the  
1724 employee to have contact with any vulnerable person that would  
1725 place the employee in a role that would require background  
1726 screening unless the employee is granted an exemption for the  
1727 disqualification by the agency as provided under s. 435.07.

1728 (b) If at any time an employer becomes aware that an  
1729 employee has been arrested for a disqualifying offense, the  
1730 employer must remove the employee from contact with any  
1731 vulnerable person that would place the employee in a role that  
1732 would require background screening until such time as the arrest  
1733 is resolved in such a way that the employer determines that the  
1734 employee is still eligible for employment under this chapter.

1735 (c) The employer must either terminate the employment of  
1736 any of its personnel found to be in noncompliance with the

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1737 minimum standards of this chapter ~~for good moral character~~  
1738 ~~contained in this section~~ or place the employee in a position  
1739 for which background screening is not required unless the  
1740 employee is granted an exemption from disqualification pursuant  
1741 to s. 435.07.

1742 (3) Any employee ~~person who is required to undergo~~  
1743 ~~employment screening~~ and who refuses to cooperate in such  
1744 screening or refuses to timely submit the information necessary  
1745 to complete the screening, including fingerprints when required,  
1746 must ~~shall~~ be disqualified for employment in such position or,  
1747 if employed, must ~~shall~~ be dismissed.

1748 Section 37. Section 435.07, Florida Statutes, is amended  
1749 to read:

1750 435.07 Exemptions from disqualification.—Unless otherwise  
1751 provided by law, the provisions of this section shall apply to  
1752 exemptions from disqualification pursuant to this chapter.

1753 (1) The head of the appropriate ~~licensing~~ agency may grant  
1754 to any employee otherwise disqualified from employment an  
1755 exemption from disqualification for:

1756 (a) Felonies for which at least 3 years have elapsed since  
1757 the applicant for the exemption has completed or been lawfully  
1758 released from confinement, supervision, or sanction for the  
1759 disqualifying felony ~~committed more than 3 years prior to the~~  
1760 ~~date of disqualification;~~

1761 (b) Misdemeanors prohibited under any of the Florida  
1762 Statutes cited in this chapter or under similar statutes of  
1763 other jurisdictions;

1764 (c) Offenses that were felonies when committed but are now

1765 | misdemeanors; or  
 1766 |       (d) Findings of delinquency; ~~or~~  
 1767 |       ~~(e) Commissions of acts of domestic violence as defined in~~  
 1768 | ~~s. 741.30.~~

1769 |  
 1770 | For the purposes of this subsection, the term "felonies" means  
 1771 | both felonies prohibited under any of the Florida Statutes cited  
 1772 | in this chapter or under similar statutes of other  
 1773 | jurisdictions.

1774 |       (2) Persons employed, or applicants for employment, by  
 1775 | treatment providers who treat adolescents 13 years of age and  
 1776 | older who are disqualified from employment solely because of  
 1777 | crimes under s. 817.563, s. 893.13, or s. 893.147 may be  
 1778 | exempted from disqualification from employment pursuant to this  
 1779 | chapter section without application of the ~~3-year~~ waiting period  
 1780 | in paragraph (1) (a).

1781 |       (3) (a) In order for the head of an agency ~~a licensing~~  
 1782 | ~~department~~ to grant an exemption to any employee, the employee  
 1783 | must demonstrate by clear and convincing evidence that the  
 1784 | employee should not be disqualified from employment. Employees  
 1785 | seeking an exemption have the burden of setting forth clear and  
 1786 | convincing ~~sufficient~~ evidence of rehabilitation, including, but  
 1787 | not limited to, the circumstances surrounding the criminal  
 1788 | incident for which an exemption is sought, the time period that  
 1789 | has elapsed since the incident, the nature of the harm caused to  
 1790 | the victim, and the history of the employee since the incident,  
 1791 | or any other evidence or circumstances indicating that the  
 1792 | employee will not present a danger if employment or continued



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1793 employment is allowed.

1794 (b) The agency may consider as part of its deliberations  
1795 of the employee's rehabilitation the fact that the employee has,  
1796 subsequent to the conviction for the disqualifying offense for  
1797 which the exemption is being sought, been arrested for or  
1798 convicted of another crime, even if that crime is not a  
1799 disqualifying offense.

1800 (c) The decision of the head of an agency ~~licensing~~  
1801 department regarding an exemption may be contested through the  
1802 hearing procedures set forth in chapter 120. The standard of  
1803 review by the administrative law judge is whether the agency's  
1804 intended action is an abuse of discretion.

1805 (4) (a) Disqualification from employment under this chapter  
1806 subsection (1) may not be removed from, nor may an exemption be  
1807 granted to, any personnel who is found guilty of, regardless of  
1808 adjudication, or who has entered a plea of nolo contendere or  
1809 guilty to, any felony covered by s. 435.03 or s. 435.04 solely  
1810 by reason of any pardon, executive clemency, or restoration of  
1811 civil rights.

1812 (b) Disqualification from employment under this chapter  
1813 may not be removed from, nor may an exemption be granted to, any  
1814 person who has been designated as a sexual predator pursuant to  
1815 s. 775.21.

1816 (5) Exemptions granted by one ~~licensing~~ agency shall be  
1817 considered by subsequent ~~licensing~~ agencies, but are not binding  
1818 on the subsequent ~~licensing~~ agency.

1819 Section 38. Section 435.08, Florida Statutes, is amended  
1820 to read:

1821           435.08 Payment for processing of fingerprints and state  
 1822 criminal records checks.—Either the employer or the employee is  
 1823 responsible for paying the costs of screening. Payment shall be  
 1824 submitted to the ~~Florida~~ Department of Law Enforcement with the  
 1825 request for screening. The appropriate agency is responsible for  
 1826 collecting and paying any fee related to fingerprints retained  
 1827 on its behalf to the Department of Law Enforcement for costs  
 1828 resulting from the fingerprint information retention services.  
 1829 The amount of the annual fee and procedures for the submission  
 1830 and retention of fingerprint information and for the  
 1831 dissemination of search results shall be established by rule of  
 1832 the Department of Law Enforcement.

1833           Section 39. Subsection (1) of section 464.203, Florida  
 1834 Statutes, is amended to read:

1835           464.203 Certified nursing assistants; certification  
 1836 requirement.—

1837           (1) The board shall issue a certificate to practice as a  
 1838 certified nursing assistant to any person who demonstrates a  
 1839 minimum competency to read and write and successfully passes the  
 1840 required background ~~Level I or Level II~~ screening pursuant to s.  
 1841 400.215 and meets one of the following requirements:

1842           (a) Has successfully completed an approved training  
 1843 program and achieved a minimum score, established by rule of the  
 1844 board, on the nursing assistant competency examination, which  
 1845 consists of a written portion and skills-demonstration portion  
 1846 approved by the board and administered at a site and by  
 1847 personnel approved by the department.

1848           (b) Has achieved a minimum score, established by rule of

1849 the board, on the nursing assistant competency examination,  
 1850 which consists of a written portion and skills-demonstration  
 1851 portion, approved by the board and administered at a site and by  
 1852 personnel approved by the department and:

1853 1. Has a high school diploma, or its equivalent; or

1854 2. Is at least 18 years of age.

1855 (c) Is currently certified in another state; is listed on  
 1856 that state's certified nursing assistant registry; and has not  
 1857 been found to have committed abuse, neglect, or exploitation in  
 1858 that state.

1859 (d) Has completed the curriculum developed under the  
 1860 Enterprise Florida Jobs and Education Partnership Grant and  
 1861 achieved a minimum score, established by rule of the board, on  
 1862 the nursing assistant competency examination, which consists of  
 1863 a written portion and skills-demonstration portion, approved by  
 1864 the board and administered at a site and by personnel approved  
 1865 by the department.

1866 Section 40. Subsection (9) of section 489.115, Florida  
 1867 Statutes, is amended to read:

1868 489.115 Certification and registration; endorsement;  
 1869 reciprocity; renewals; continuing education.—

1870 (9) An initial applicant shall submit, along with the  
 1871 application, a complete set of fingerprints in a form and manner  
 1872 required by the department. The fingerprints shall be submitted  
 1873 to the Department of Law Enforcement for state processing, and  
 1874 the Department of Law Enforcement shall forward them to the  
 1875 Federal Bureau of Investigation for the purpose of processing  
 1876 the fingerprint submission to determine if the applicant has a

1877 criminal history record ~~conducting a level 2 background check~~  
 1878 ~~pursuant to s. 435.04.~~ The department shall and the board may  
 1879 review the background results to determine if an applicant meets  
 1880 licensure requirements. The cost for the fingerprint processing  
 1881 shall be borne by the person subject to the background  
 1882 screening. These fees are to be collected by the authorized  
 1883 agencies or vendors. The authorized agencies or vendors are  
 1884 responsible for paying the processing costs to the Department of  
 1885 Law Enforcement.

1886 Section 41. Paragraphs (g) and (h) of subsection (2) of  
 1887 section 943.05, Florida Statutes, are amended, and subsection  
 1888 (4) is added to that section, to read:

1889 943.05 Criminal Justice Information Program; duties; crime  
 1890 reports.—

1891 (2) The program shall:

1892 (g) Upon official written request from the agency  
 1893 executive director or secretary, or from his or her designee, or  
 1894 from qualified entities participating in the volunteer and  
 1895 employee criminal history screening system under s. 943.0542, or  
 1896 as otherwise required ~~As authorized~~ by law, retain fingerprints  
 1897 submitted by criminal and noncriminal justice agencies to the  
 1898 department for a criminal history background screening in a  
 1899 manner provided by rule and enter the fingerprints in the  
 1900 statewide automated fingerprint identification system authorized  
 1901 by paragraph (b). Such fingerprints shall thereafter be  
 1902 available for all purposes and uses authorized for arrest  
 1903 fingerprint submissions ~~cards~~ entered into the statewide  
 1904 automated fingerprint identification system pursuant to s.

1905 943.051.  
 1906 (h)~~4~~. For each agency or qualified entity that officially  
 1907 requests retention of fingerprints or for which retention is  
 1908 otherwise required ~~As authorized~~ by law, search all arrest  
 1909 fingerprint submissions ~~cards~~ received under s. 943.051 against  
 1910 the fingerprints retained in the statewide automated fingerprint  
 1911 identification system under paragraph (g).

1912 1. Any arrest record that is identified with the retained  
 1913 fingerprints of a person subject to background screening as  
 1914 provided in paragraph (g) shall be reported to the appropriate  
 1915 agency or qualified entity.

1916 2. To Agencies ~~may~~ participate in this search process,  
 1917 agencies or qualified entities must notify each person  
 1918 fingerprinted that his or her fingerprints will be retained, pay  
 1919 by payment of an annual fee to the department, and inform by  
 1920 informing the department of any change in the affiliation,  
 1921 employment, or contractual status ~~or place of affiliation,~~  
 1922 ~~employment, or contracting of~~ each person ~~the persons~~ whose  
 1923 fingerprints are retained under paragraph (g) when such change  
 1924 removes or eliminates the agency or qualified entity's basis or  
 1925 need for receiving reports of any arrest of that person, so that  
 1926 the agency or qualified entity will not be obligated to pay the  
 1927 upcoming annual fee for the retention and searching of that  
 1928 person's fingerprints to the department. The department shall  
 1929 adopt a rule setting the amount of the annual fee to be imposed  
 1930 upon each participating agency or qualified entity for  
 1931 performing these searches and establishing the procedures for  
 1932 the retention of fingerprints and the dissemination of search

1933 results. The fee may be borne by the agency, qualified entity,  
 1934 or person subject to fingerprint retention or as otherwise  
 1935 provided by law. Fees may be waived or reduced by the executive  
 1936 director for good cause shown. Consistent with the recognition  
 1937 of criminal justice agencies expressed in s. 943.053(3), these  
 1938 services will be provided to criminal justice agencies for  
 1939 criminal justice purposes free of charge.

1940 3. Agencies that participate in the fingerprint retention  
 1941 and search process may adopt rules pursuant to ss. 120.536(1)  
 1942 and 120.54 to require employers to keep the agency informed of  
 1943 any change in the affiliation, employment, or contractual status  
 1944 of each person whose fingerprints are retained under paragraph  
 1945 (g) when such change removes or eliminates the agency's basis or  
 1946 need for receiving reports of any arrest of that person, so that  
 1947 the agency will not be obligated to pay the upcoming annual fee  
 1948 for the retention and searching of that person's fingerprints to  
 1949 the department.

1950 (4) Upon notification that a federal fingerprint retention  
 1951 program is in effect, and subject to the department being funded  
 1952 and equipped to participate in such a program, the department  
 1953 shall, when state and national criminal history records checks  
 1954 and retention of submitted prints are authorized or required by  
 1955 law, retain the fingerprints as provided in paragraphs (2)(g)  
 1956 and (h) and advise the Federal Bureau of Investigation to retain  
 1957 the fingerprints at the national level for searching against  
 1958 arrest fingerprint submissions received at the national level.

1959 Section 42. Subsections (6) and (11) of section 943.053,  
 1960 Florida Statutes, are amended to read:

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1961 943.053 Dissemination of criminal justice information;  
 1962 fees.—

1963 (6) Notwithstanding any other provision of law, the  
 1964 department shall provide to the ~~Florida~~ Department of Revenue  
 1965 ~~Child Support Enforcement~~ access to Florida criminal records  
 1966 which are not exempt from disclosure under chapter 119, and to  
 1967 such information as may be lawfully available from other states  
 1968 via the National Law Enforcement Telecommunications System, for  
 1969 the purpose of locating subjects who owe or potentially owe  
 1970 support, as defined in s. 409.2554, or to whom such obligation  
 1971 is owed pursuant to Title IV-D of the Social Security Act. Such  
 1972 information may be provided to child support enforcement  
 1973 authorities in other states for these specific purposes.

1974 (11) A criminal justice agency that is authorized under  
 1975 federal rules or law to conduct a criminal history background  
 1976 check on an agency employee who is not certified by the Criminal  
 1977 Justice Standards and Training Commission under s. 943.12 may  
 1978 submit to the department the fingerprints of the noncertified  
 1979 employee to obtain state and national criminal history  
 1980 information. ~~Effective January 15, 2007,~~ The fingerprints  
 1981 submitted shall be retained and entered in the statewide  
 1982 automated fingerprint identification system authorized by s.  
 1983 943.05 and shall be available for all purposes and uses  
 1984 authorized for arrest fingerprint submissions ~~cards~~ entered in  
 1985 the statewide automated fingerprint identification system  
 1986 pursuant to s. 943.051. The department shall search all arrest  
 1987 fingerprint submissions ~~cards~~ received pursuant to s. 943.051  
 1988 against the fingerprints retained in the statewide automated

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1989 fingerprint identification system pursuant to this section. In  
 1990 addition to all purposes and uses authorized for arrest  
 1991 fingerprint submissions ~~cards~~ for which submitted fingerprints  
 1992 may be used, any arrest record that is identified with the  
 1993 retained employee fingerprints must be reported to the  
 1994 submitting employing agency.

1995 Section 43. Section 985.644, Florida Statutes, is amended  
 1996 to read:

1997 985.644 Departmental contracting powers; personnel  
 1998 standards and screening.—

1999 (1) ~~The department of Juvenile Justice or the Department~~  
 2000 ~~of Children and Family Services, as appropriate,~~ may contract  
 2001 with the Federal Government, other state departments and  
 2002 agencies, county and municipal governments and agencies, public  
 2003 and private agencies, and private individuals and corporations  
 2004 in carrying out the purposes of, and the responsibilities  
 2005 established in, this chapter.

2006 (a) ~~When the Department of Juvenile Justice or the~~  
 2007 ~~Department of Children and Family Services contracts with a~~  
 2008 ~~provider for any program for children, all personnel, including~~  
 2009 ~~owners, operators, employees, and volunteers, in the facility~~  
 2010 ~~must be of good moral character.~~ Each contract entered into by  
 2011 the either department for services delivered on an appointment  
 2012 or intermittent basis by a provider that does not have regular  
 2013 custodial responsibility for children and each contract with a  
 2014 school for before or aftercare services must ensure that the all  
 2015 owners, operators, and ~~all~~ personnel who have direct contact  
 2016 with children are subject to level 2 background screening



2017 pursuant to chapter 435 ~~of good moral character.~~

2018 (b) A volunteer who assists the department or any program  
 2019 for children on an intermittent basis for less than 40 hours per  
 2020 month need not be screened if the volunteer is under direct and  
 2021 constant supervision by persons who meet the screening  
 2022 requirements.

2023 ~~(b) The Department of Juvenile Justice and the Department~~  
 2024 ~~of Children and Family Services shall require employment~~  
 2025 ~~screening pursuant to chapter 435, using the level 2 standards~~  
 2026 ~~set forth in that chapter for personnel in programs for children~~  
 2027 ~~or youths.~~

2028 ~~(c) The Department of Juvenile Justice or the Department~~  
 2029 ~~of Children and Family Services may grant exemptions from~~  
 2030 ~~disqualification from working with children as provided in s.~~  
 2031 ~~435.07.~~

2032 (2) ~~The department may contract with the Federal~~  
 2033 ~~Government, other state departments and agencies, county and~~  
 2034 ~~municipal governments and agencies, public and private agencies,~~  
 2035 ~~and private individuals and corporations in carrying out the~~  
 2036 ~~purposes and the responsibilities of the delinquency services~~  
 2037 ~~and programs of the department.~~

2038 ~~(3)~~ The department shall adopt a rule pursuant to chapter  
 2039 120 establishing a procedure to provide notice of policy changes  
 2040 that affect contracted delinquency services and programs. A  
 2041 policy is defined as an operational requirement that applies to  
 2042 only the specified contracted delinquency service or program.

2043 The procedure shall include:

2044 (a) Public notice of policy development.

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2045 (b) Opportunity for public comment on the proposed policy.

2046 (c) Assessment for fiscal impact upon the department and  
2047 providers.

2048 (d) The department's response to comments received.

2049 ~~(4) When the department contracts with a provider for any~~  
2050 ~~delinquency service or program, all personnel, including all~~  
2051 ~~owners, operators, employees, and volunteers in the facility or~~  
2052 ~~providing the service or program shall be of good moral~~  
2053 ~~character. A volunteer who assists on an intermittent basis for~~  
2054 ~~less than 40 hours per month is not required to be screened if~~  
2055 ~~the volunteer is under direct and constant supervision by~~  
2056 ~~persons who meet the screening requirements.~~

2057 (3)-(5) (a) All employees of the department and all  
2058 personnel of contract providers for any program for children,  
2059 including all owners, operators, employees, persons who have  
2060 access to confidential juvenile records, and volunteers, must  
2061 complete ~~For any person employed by the department, or by a~~  
2062 ~~provider under contract with the department, in delinquency~~  
2063 ~~facilities, services, or programs, the department shall require:~~

2064 1. A level 2 employment screening pursuant to chapter 435  
2065 prior to employment. The security background investigations  
2066 conducted under this section must ensure that, in addition to  
2067 the disqualifying offenses listed in s. 435.04, no person  
2068 subject to the background screening provisions of this section  
2069 has been found guilty of, regardless of adjudication, or entered  
2070 a plea of nolo contendere or guilty to, any offense prohibited  
2071 under any of the following provisions of the Florida Statutes or  
2072 under any similar statute of another jurisdiction:

2073 |       a. Section 784.07, relating to assault or battery of law  
 2074 | enforcement officers, firefighters, emergency medical care  
 2075 | providers, public transit employees or agents, or other  
 2076 | specified officers.

2077 |       b. Section 817.568, relating to criminal use of personal  
 2078 | identification information.

2079 |       2. A national ~~federal~~ criminal records check by the  
 2080 | Federal Bureau of Investigation every 5 years following the date  
 2081 | of the person's employment.

2082 |       (b) Except for law enforcement, correctional, and  
 2083 | correctional probation officers, to whom s. 943.13(5) applies,  
 2084 | the department shall electronically submit to the Department of  
 2085 | Law Enforcement:

2086 |       1. Fingerprint information obtained during the employment  
 2087 | screening required by subparagraph (a)1.

2088 |       2. ~~Beginning on December 15, 2005,~~ Fingerprint information  
 2089 | for all persons employed by the department, or by a provider  
 2090 | under contract with the department, in delinquency facilities,  
 2091 | services, or programs if such fingerprint information has not  
 2092 | previously been electronically submitted to the Department of  
 2093 | Law Enforcement under this paragraph.

2094 |       (c) All fingerprint information electronically submitted  
 2095 | to the Department of Law Enforcement under paragraph (b) shall  
 2096 | be retained by the Department of Law Enforcement and entered  
 2097 | into the statewide automated fingerprint identification system  
 2098 | authorized by s. 943.05(2) (b). Thereafter, such fingerprint  
 2099 | information shall be available for all purposes and uses  
 2100 | authorized for arrest fingerprint information entered into the

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2101 statewide automated fingerprint identification system pursuant  
2102 to s. 943.051 until the fingerprint information is removed  
2103 pursuant to paragraph (e). The Department of Law Enforcement  
2104 shall search all arrest fingerprint information received  
2105 pursuant to s. 943.051 against the fingerprint information  
2106 entered into the statewide automated fingerprint system pursuant  
2107 to this subsection. Any arrest records identified as a result of  
2108 the search shall be reported to the department in the manner and  
2109 timeframe established by the Department of Law Enforcement by  
2110 rule.

2111 (d) The department shall pay an annual fee to the  
2112 Department of Law Enforcement for its costs resulting from the  
2113 fingerprint information retention services required by this  
2114 subsection. The amount of the annual fee and procedures for the  
2115 submission and retention of fingerprint information and for the  
2116 dissemination of search results shall be established by the  
2117 Department of Law Enforcement by a rule that is applicable to  
2118 the department individually pursuant to this subsection or that  
2119 is applicable to the department and other employing agencies  
2120 pursuant to rulemaking authority otherwise provided by law.

2121 (e) The department shall notify the Department of Law  
2122 Enforcement when a person whose fingerprint information is  
2123 retained by the Department of Law Enforcement under this  
2124 subsection is no longer employed by the department, or by a  
2125 provider under contract with the department, in a delinquency  
2126 facility, service, or program. This notice shall be provided by  
2127 the department to the Department of Law Enforcement no later  
2128 than 6 months after the date of the change in the person's

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2129 employment status. Fingerprint information for persons  
 2130 identified by the department in the notice shall be removed from  
 2131 the statewide automated fingerprint system.

2132 (6) The department may grant exemptions from  
 2133 disqualification from working with children as provided in s.  
 2134 435.07.

2135 (7) The department may adopt rules pursuant to ss.  
 2136 120.536(1) and 120.54 to describe the procedure and requirements  
 2137 necessary to implement the employment screening and fingerprint  
 2138 retention services for all employees of the department and all  
 2139 personnel of contract providers for any program for children,  
 2140 including all owners, operators, employees, and volunteers,  
 2141 including the collection of associated fees.

2142 Section 44. Paragraph (a) of subsection (1) of section  
 2143 381.60225, Florida Statutes, is amended to read:

2144 381.60225 Background screening.-

2145 (1) Each applicant for certification must comply with the  
 2146 following requirements:

2147 (a) Upon receipt of a completed, signed, and dated  
 2148 application, the Agency for Health Care Administration shall  
 2149 require background screening, in accordance with the level 2  
 2150 standards for screening set forth in chapter 435, of the  
 2151 managing employee, or other similarly titled individual  
 2152 responsible for the daily operation of the organization, agency,  
 2153 or entity, and financial officer, or other similarly titled  
 2154 individual who is responsible for the financial operation of the  
 2155 organization, agency, or entity, including billings for  
 2156 services. The applicant must comply with the procedures for

2157 level 2 background screening as set forth in chapter 435, ~~as~~  
 2158 ~~well as the requirements of s. 435.03(3).~~

2159 Section 45. Subsection (32) of section 409.912, Florida  
 2160 Statutes, is amended to read:

2161 409.912 Cost-effective purchasing of health care.—The  
 2162 agency shall purchase goods and services for Medicaid recipients  
 2163 in the most cost-effective manner consistent with the delivery  
 2164 of quality medical care. To ensure that medical services are  
 2165 effectively utilized, the agency may, in any case, require a  
 2166 confirmation or second physician's opinion of the correct  
 2167 diagnosis for purposes of authorizing future services under the  
 2168 Medicaid program. This section does not restrict access to  
 2169 emergency services or poststabilization care services as defined  
 2170 in 42 C.F.R. part 438.114. Such confirmation or second opinion  
 2171 shall be rendered in a manner approved by the agency. The agency  
 2172 shall maximize the use of prepaid per capita and prepaid  
 2173 aggregate fixed-sum basis services when appropriate and other  
 2174 alternative service delivery and reimbursement methodologies,  
 2175 including competitive bidding pursuant to s. 287.057, designed  
 2176 to facilitate the cost-effective purchase of a case-managed  
 2177 continuum of care. The agency shall also require providers to  
 2178 minimize the exposure of recipients to the need for acute  
 2179 inpatient, custodial, and other institutional care and the  
 2180 inappropriate or unnecessary use of high-cost services. The  
 2181 agency shall contract with a vendor to monitor and evaluate the  
 2182 clinical practice patterns of providers in order to identify  
 2183 trends that are outside the normal practice patterns of a  
 2184 provider's professional peers or the national guidelines of a

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2185 provider's professional association. The vendor must be able to  
2186 provide information and counseling to a provider whose practice  
2187 patterns are outside the norms, in consultation with the agency,  
2188 to improve patient care and reduce inappropriate utilization.  
2189 The agency may mandate prior authorization, drug therapy  
2190 management, or disease management participation for certain  
2191 populations of Medicaid beneficiaries, certain drug classes, or  
2192 particular drugs to prevent fraud, abuse, overuse, and possible  
2193 dangerous drug interactions. The Pharmaceutical and Therapeutics  
2194 Committee shall make recommendations to the agency on drugs for  
2195 which prior authorization is required. The agency shall inform  
2196 the Pharmaceutical and Therapeutics Committee of its decisions  
2197 regarding drugs subject to prior authorization. The agency is  
2198 authorized to limit the entities it contracts with or enrolls as  
2199 Medicaid providers by developing a provider network through  
2200 provider credentialing. The agency may competitively bid single-  
2201 source-provider contracts if procurement of goods or services  
2202 results in demonstrated cost savings to the state without  
2203 limiting access to care. The agency may limit its network based  
2204 on the assessment of beneficiary access to care, provider  
2205 availability, provider quality standards, time and distance  
2206 standards for access to care, the cultural competence of the  
2207 provider network, demographic characteristics of Medicaid  
2208 beneficiaries, practice and provider-to-beneficiary standards,  
2209 appointment wait times, beneficiary use of services, provider  
2210 turnover, provider profiling, provider licensure history,  
2211 previous program integrity investigations and findings, peer  
2212 review, provider Medicaid policy and billing compliance records,

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2213 clinical and medical record audits, and other factors. Providers  
 2214 shall not be entitled to enrollment in the Medicaid provider  
 2215 network. The agency shall determine instances in which allowing  
 2216 Medicaid beneficiaries to purchase durable medical equipment and  
 2217 other goods is less expensive to the Medicaid program than long-  
 2218 term rental of the equipment or goods. The agency may establish  
 2219 rules to facilitate purchases in lieu of long-term rentals in  
 2220 order to protect against fraud and abuse in the Medicaid program  
 2221 as defined in s. 409.913. The agency may seek federal waivers  
 2222 necessary to administer these policies.

2223 (32) Each managed care plan that is under contract with  
 2224 the agency to provide health care services to Medicaid  
 2225 recipients shall annually conduct a background check with the  
 2226 Florida Department of Law Enforcement of all persons with  
 2227 ownership interest of 5 percent or more or executive management  
 2228 responsibility for the managed care plan and shall submit to the  
 2229 agency information concerning any such person who has been found  
 2230 guilty of, regardless of adjudication, or has entered a plea of  
 2231 nolo contendere or guilty to, any of the offenses listed in s.  
 2232 435.04 ~~435.03~~.

2233 Section 46. Paragraph (e) of subsection (1) of section  
 2234 464.018, Florida Statutes, is amended to read:

2235 464.018 Disciplinary actions.—

2236 (1) The following acts constitute grounds for denial of a  
 2237 license or disciplinary action, as specified in s. 456.072(2):

2238 (e) Having been found guilty of, regardless of  
 2239 adjudication, or entered a plea of nolo contendere or guilty to,  
 2240 any offense prohibited under s. 435.04 ~~435.03~~ or under any



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2241 similar statute of another jurisdiction; or having committed an  
 2242 act which constitutes domestic violence as defined in s. 741.28.

2243 Section 47. Paragraph (m) of subsection (1) of section  
 2244 468.3101, Florida Statutes, is amended to read:

2245 468.3101 Disciplinary grounds and actions.—

2246 (1) The department may make or require to be made any  
 2247 investigations, inspections, evaluations, and tests, and require  
 2248 the submission of any documents and statements, which it  
 2249 considers necessary to determine whether a violation of this  
 2250 part has occurred. The following acts shall be grounds for  
 2251 disciplinary action as set forth in this section:

2252 (m) Having been found guilty of, regardless of  
 2253 adjudication, or pleading guilty or nolo contendere to, any  
 2254 offense prohibited under s. 435.04 ~~435.03~~ or under any similar  
 2255 statute of another jurisdiction.

2256 Section 48. Subsection (3) of section 744.309, Florida  
 2257 Statutes, is amended to read:

2258 744.309 Who may be appointed guardian of a resident ward.—

2259 (3) DISQUALIFIED PERSONS.—No person who has been convicted  
 2260 of a felony or who, from any incapacity or illness, is incapable  
 2261 of discharging the duties of a guardian, or who is otherwise  
 2262 unsuitable to perform the duties of a guardian, shall be  
 2263 appointed to act as guardian. Further, no person who has been  
 2264 judicially determined to have committed abuse, abandonment, or  
 2265 neglect against a child as defined in s. 39.01 or s. 984.03(1),  
 2266 (2), and (37), or who has been found guilty of, regardless of  
 2267 adjudication, or entered a plea of nolo contendere or guilty to,  
 2268 any offense prohibited under s. 435.04 ~~435.03~~ or under any

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2269 similar statute of another jurisdiction, shall be appointed to  
 2270 act as a guardian. Except as provided in subsection (5) or  
 2271 subsection (6), a person who provides substantial services to  
 2272 the proposed ward in a professional or business capacity, or a  
 2273 creditor of the proposed ward, may not be appointed guardian and  
 2274 retain that previous professional or business relationship. A  
 2275 person may not be appointed a guardian if he or she is in the  
 2276 employ of any person, agency, government, or corporation that  
 2277 provides service to the proposed ward in a professional or  
 2278 business capacity, except that a person so employed may be  
 2279 appointed if he or she is the spouse, adult child, parent, or  
 2280 sibling of the proposed ward or the court determines that the  
 2281 potential conflict of interest is insubstantial and that the  
 2282 appointment would clearly be in the proposed ward's best  
 2283 interest. The court may not appoint a guardian in any other  
 2284 circumstance in which a conflict of interest may occur.

2285 Section 49. Subsection (12) of section 744.474, Florida  
 2286 Statutes, is amended to read:

2287 744.474 Reasons for removal of guardian.—A guardian may be  
 2288 removed for any of the following reasons, and the removal shall  
 2289 be in addition to any other penalties prescribed by law:

2290 (12) Having been found guilty of, regardless of  
 2291 adjudication, or entered a plea of nolo contendere or guilty to,  
 2292 any offense prohibited under s. 435.04 ~~435.03~~ or under any  
 2293 similar statute of another jurisdiction.

2294 Section 50. Paragraph (a) of subsection (6) of section  
 2295 985.04, Florida Statutes, is amended to read:

2296 985.04 Oaths; records; confidential information.—

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2297 (6) (a) Records maintained by the department, including  
2298 copies of records maintained by the court, which pertain to a  
2299 child found to have committed a delinquent act which, if  
2300 committed by an adult, would be a crime specified in s. ~~ss.~~  
2301 ~~435.03~~ and 435.04 may not be destroyed under this section for a  
2302 period of 25 years after the youth's final referral to the  
2303 department, except in cases of the death of the child. Such  
2304 records, however, shall be sealed by the court for use only in  
2305 meeting the screening requirements for personnel in s. 402.3055  
2306 and the other sections cited above, or under departmental rule;  
2307 however, current criminal history information must be obtained  
2308 from the Department of Law Enforcement in accordance with s.  
2309 943.053. The information shall be released to those persons  
2310 specified in the above cited sections for the purposes of  
2311 complying with those sections. The court may punish by contempt  
2312 any person who releases or uses the records for any unauthorized  
2313 purpose.

2314 Section 51. The changes made by this act are intended to  
2315 be prospective in nature. It is not intended that persons who  
2316 are employed or licensed on the effective date of this act be  
2317 rescreened until such time as they are otherwise required to be  
2318 rescreened pursuant to law, at which time they must meet the  
2319 requirements for screening as set forth in this act.

2320 Section 52. This act shall take effect July 1, 2010.