

1 A bill to be entitled  
2 An act relating to background screening; amending s.  
3 39.001, F.S.; revising an exemption from screening  
4 requirements for volunteers; amending s.39.821, F.S.;  
5 revising background screening requirements for the  
6 Guardian Ad Litem Program; amending s. 215.5586, F.S.;  
7 removing reference to chapter 435, F.S., for background  
8 screening of hurricane mitigation inspectors; amending s.  
9 393.0655, F.S.; revising an exemption from screening  
10 requirements for volunteers, removing a temporary  
11 exemption for direct service providers awaiting completion  
12 of a background screening, and adding additional  
13 disqualifying offenses for the screening of direct service  
14 providers for persons with developmental disabilities;  
15 amending s. 394.4572, F.S.; revising background screening  
16 requirements for mental health personnel; amending s.  
17 400.215, F.S.; revising background screening requirements  
18 for nursing home personnel; amending s. 400.506, F.S.;  
19 conforming provisions to changes made by the act; amending  
20 s. 400.512, F.S.; revising background screening  
21 requirements for home health agency personnel, nurse  
22 registry personnel, and companions and homemakers;  
23 amending s. 400.6065, F.S.; revising background screening  
24 requirements for hospices; amending s. 400.801, F.S.;  
25 revising background screening requirements for homes for  
26 special services; amending s. 400.805, F.S.; revising  
27 background screening requirements for transitional living  
28 facilities; creating s. 400.9065, F.S.; providing

29 background screening requirements for prescribed pediatric  
30 extended care centers; amending s. 400.934, F.S.; revising  
31 minimum standards for home medical equipment providers;  
32 amending s. 400.953, F.S.; revising background screening  
33 requirements for home medical equipment providers;  
34 repealing s. 400.955, F.S., relating to the procedures for  
35 screening of home medical equipment provider personnel;  
36 amending s. 400.964, F.S.; revising background screening  
37 requirements for intermediate care facilities for  
38 developmentally disabled persons; amending s. 400.980,  
39 F.S.; revising background screening requirements for  
40 health care services pools; amending s. 400.991, F.S.;  
41 revising background screening requirements for health care  
42 clinics; amending s. 408.806, F.S.; adding a requirement  
43 for an affidavit relating to background screening to the  
44 license application process under the Agency for Health  
45 Care Administration; amending s. 408.808, F.S.; conforming  
46 provisions to changes made by the act; amending s.  
47 408.809, F.S.; revising background screening requirements  
48 under the Agency for Health Care Administration; requiring  
49 electronic submission of fingerprints; amending s.  
50 402.302, F.S.; revising exemptions from screening  
51 requirements for volunteers and students; amending s.  
52 409.175, F.S.; revising an exemption from screening  
53 requirements for volunteers; revising background screening  
54 requirements for employees and volunteers in summer day  
55 camps and summer 24-hour camps; repealing s. 409.1758,  
56 F.S., relating to screening of summer camp personnel;

57 | amending s. 409.221, F.S.; revising background screening  
58 | requirements for persons who render consumer-directed  
59 | care; amending s. 409.907, F.S.; revising background  
60 | screening requirements for Medicaid providers; amending s.  
61 | 429.14, F.S.; revising administrative penalty provisions  
62 | relating to assisted living facilities; amending s.  
63 | 429.174, F.S.; revising background screening requirements  
64 | for assisted living facilities; amending s. 429.67, F.S.;  
65 | revising licensure requirements for adult family-care  
66 | homes; amending s. 429.69, F.S.; revising background  
67 | screening requirements for adult family-care homes;  
68 | amending s. 429.911, F.S.; revising administrative penalty  
69 | provisions relating to adult day care centers; amending s.  
70 | 429.919, F.S.; revising background screening requirements  
71 | for adult day care centers; creating s. 430.60, F.S.;  
72 | providing background screening requirements for direct  
73 | service providers under the Department of Elderly Affairs;  
74 | amending s. 435.01, F.S.; revising provisions related to  
75 | the applicability of the chapter, statutory references to  
76 | the chapter, and rulemaking; providing construction with  
77 | respect to the doctrine of incorporation by reference;  
78 | amending s. 435.02, F.S.; revising and adding definitions;  
79 | amending s. 435.03, F.S.; revising level 1 screening  
80 | standards; adding disqualifying offenses; amending s.  
81 | 435.04, F.S.; revising level 2 screening standards;  
82 | requiring electronic submission of fingerprints after a  
83 | certain date; authorizing agencies to contract for  
84 | electronic fingerprinting; adding disqualifying offenses;

85 | amending s. 435.05, F.S.; revising background check  
86 | requirements for covered employees and employers; amending  
87 | s. 435.06, F.S.; revising provisions relating to exclusion  
88 | from employment; providing that an employer may not hire,  
89 | select, or otherwise allow an employee contact with any  
90 | vulnerable person until the screening process is  
91 | completed; requiring removal of an employee arrested for  
92 | disqualifying offenses from roles requiring background  
93 | screening until the employee's eligibility for employment  
94 | is determined; amending s. 435.07, F.S.; revising  
95 | provisions relating to exemptions from disqualification;  
96 | providing that disqualification from employment may not be  
97 | removed from, nor an exemption be granted to, any person  
98 | who has been designated as a sexual predator, career  
99 | offender, or sexual offender; amending s. 435.08, F.S.;  
100 | revising provisions relating to the payment for processing  
101 | of fingerprints and criminal history records checks;  
102 | amending s. 456.039, F.S.; deleting language relating to  
103 | criminal history records checks of designated health care  
104 | professionals; amending s. 464.203, F.S.; conforming  
105 | provisions to changes made by the act; amending s.  
106 | 489.115, F.S.; removing reference to chapter 435, F.S.,  
107 | for background screening of construction contractors;  
108 | amending s. 943.05, F.S.; revising provisions relating to  
109 | the Criminal Justice Information Program under the  
110 | Department of Law Enforcement; authorizing agencies to  
111 | request the retention of certain fingerprints by the  
112 | department; providing for rulemaking to require employers

113 to keep the agencies informed of any change in the  
 114 affiliation, employment, or contractual status of each  
 115 person whose fingerprints are retained in certain  
 116 circumstances; providing departmental duties upon  
 117 notification that a federal fingerprint retention program  
 118 is in effect; amending s. 943.053, F.S.; removing obsolete  
 119 references relating to the dissemination of criminal  
 120 justice information; amending s. 984.01, F.S.; revising an  
 121 exemption from screening requirements for volunteers with  
 122 programs for children; amending s. 985.644, F.S.; revising  
 123 background screening requirements for the Department of  
 124 Juvenile Justice; authorizing rulemaking; amending ss.  
 125 381.60225, 409.912, 464.018, 468.3101, 744.309, 744.474,  
 126 and 985.04, F.S.; conforming provisions to changes made to  
 127 ch. 435, F.S., by this act; providing for prospective  
 128 application of the act; providing an effective date.

129

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

131

132 Section 1. Paragraph (a) of subsection (2) of section  
 133 39.001, Florida Statutes, is amended to read:

134 39.001 Purposes and intent; personnel standards and  
 135 screening.—

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

141 established in, this chapter.

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

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

153 39.821 Qualifications of guardians ad litem.—

154 (1) Because of the special trust or responsibility placed  
 155 in a guardian ad litem, the Guardian Ad Litem Program may use  
 156 any private funds collected by the program, or any state funds  
 157 so designated, to conduct a security background investigation  
 158 before certifying a volunteer to serve. A security background  
 159 investigation must include, but need not be limited to,  
 160 employment history checks, checks of references, local criminal  
 161 history records checks through local law enforcement agencies,  
 162 and statewide criminal history records checks through the  
 163 Department of Law Enforcement. Upon request, an employer shall  
 164 furnish a copy of the personnel record for the employee or  
 165 former employee who is the subject of a security background  
 166 investigation conducted under this section. The information  
 167 contained in the personnel record may include, but need not be  
 168 limited to, disciplinary matters and the reason why the employee

169 was terminated from employment. An employer who releases a  
170 personnel record for purposes of a security background  
171 investigation is presumed to have acted in good faith and is not  
172 liable for information contained in the record without a showing  
173 that the employer maliciously falsified the record. A security  
174 background investigation conducted under this section must  
175 ensure that a person is not certified as a guardian ad litem if  
176 the person has an arrest awaiting final disposition for, been  
177 convicted of, regardless of adjudication, ~~or~~ entered a plea of  
178 nolo contendere or guilty to, or has been adjudicated delinquent  
179 and the record has not been sealed or expunged for, any offense  
180 prohibited under the provisions listed in s. 435.04. All  
181 applicants certified after July 1, 2010, must undergo a level 2  
182 background screening pursuant to chapter 435 before being  
183 certified ~~the provisions of the Florida Statutes specified in s.~~  
184 ~~435.04(2) or under any similar law in another jurisdiction.~~  
185 ~~Before certifying an applicant to serve as a guardian ad litem,~~  
186 ~~the Guardian Ad Litem Program may request a federal criminal~~  
187 ~~records check of the applicant through the Federal Bureau of~~  
188 ~~Investigation.~~ In analyzing and evaluating the information  
189 obtained in the security background investigation, the program  
190 must give particular emphasis to past activities involving  
191 children, including, but not limited to, child-related criminal  
192 offenses or child abuse. The program has the sole discretion in  
193 determining whether to certify a person based on his or her  
194 security background investigation. The information collected  
195 pursuant to the security background investigation is  
196 confidential and exempt from s. 119.07(1).

197 Section 3. Paragraph (b) of subsection (1) of section  
 198 215.5586, Florida Statutes, is amended to read:

199 215.5586 My Safe Florida Home Program.—There is  
 200 established within the Department of Financial Services the My  
 201 Safe Florida Home Program. The department shall provide fiscal  
 202 accountability, contract management, and strategic leadership  
 203 for the program, consistent with this section. This section does  
 204 not create an entitlement for property owners or obligate the  
 205 state in any way to fund the inspection or retrofitting of  
 206 residential property in this state. Implementation of this  
 207 program is subject to annual legislative appropriations. It is  
 208 the intent of the Legislature that the My Safe Florida Home  
 209 Program provide trained and certified inspectors to perform  
 210 inspections for owners of site-built, single-family, residential  
 211 properties and grants to eligible applicants as funding allows.  
 212 The program shall develop and implement a comprehensive and  
 213 coordinated approach for hurricane damage mitigation that may  
 214 include the following:

215 (1) HURRICANE MITIGATION INSPECTIONS.—

216 (b) To qualify for selection by the department as a wind  
 217 certification entity to provide hurricane mitigation  
 218 inspections, the entity shall, at a minimum, meet the following  
 219 requirements:

- 220 1. Use hurricane mitigation inspectors who:
  - 221 a. Are certified as a building inspector under s. 468.607;
  - 222 b. Are licensed as a general or residential contractor
  - 223 under s. 489.111;
  - 224 c. Are licensed as a professional engineer under s.



225 471.015 and who have passed the appropriate equivalency test of  
 226 the building code training program as required by s. 553.841;

227 d. Are licensed as a professional architect under s.  
 228 481.213; or

229 e. Have at least 2 years of experience in residential  
 230 construction or residential building inspection and have  
 231 received specialized training in hurricane mitigation  
 232 procedures. Such training may be provided by a class offered  
 233 online or in person.

234 2. Use hurricane mitigation inspectors who also:

235 a. Have undergone drug testing and a level 2 background  
 236 screening checks pursuant to s. ~~435.04~~. The department may  
 237 conduct criminal history records ~~record~~ checks of inspectors  
 238 used by wind certification entities. Inspectors must submit a  
 239 set of the fingerprints to the department for state and national  
 240 criminal history records checks and must pay the fingerprint  
 241 processing fee set forth in s. 624.501. The fingerprints shall  
 242 be sent by the department to the Department of Law Enforcement  
 243 and forwarded to the Federal Bureau of Investigation for  
 244 processing. The results shall be returned to the department for  
 245 screening. The fingerprints shall be taken by a law enforcement  
 246 agency, designated examination center, or other department-  
 247 approved entity; and

248 b. Have been certified, in a manner satisfactory to the  
 249 department, to conduct the inspections.

250 3. Provide a quality assurance program including a  
 251 reinspection component.

252 Section 4. Paragraphs (a) and (e) of subsection (1) of

253 section 393.0655, Florida Statutes, are amended, and subsection  
 254 (5) is added to that section, to read:

255 393.0655 Screening of direct service providers.—

256 (1) MINIMUM STANDARDS.—The agency shall require level 2  
 257 employment screening pursuant to chapter 435 for direct service  
 258 providers who are unrelated to their clients, including support  
 259 coordinators, and managers and supervisors of residential  
 260 facilities or comprehensive transitional education programs  
 261 licensed under this chapter and any other person, including  
 262 volunteers, who provide care or services, who have access to a  
 263 client's living areas, or who have access to a client's funds or  
 264 personal property. Background screening shall include employment  
 265 history checks as provided in s. 435.03(1) and local criminal  
 266 records checks through local law enforcement agencies.

267 (a) A volunteer who assists on an intermittent basis for  
 268 less than 10 ~~40~~ hours per month does not have to be screened,  
 269 provided a person who meets the screening requirement of this  
 270 section is always present and has the volunteer within his or  
 271 her line of sight ~~if the volunteer is under the direct and~~  
 272 ~~constant visual supervision of persons who meet the screening~~  
 273 ~~requirements of this section.~~

274 ~~(c) A direct service provider who is awaiting the~~  
 275 ~~completion of background screening is temporarily exempt from~~  
 276 ~~the screening requirements under this section if the provider is~~  
 277 ~~under the direct and constant visual supervision of persons who~~  
 278 ~~meet the screening requirements of this section. Such exemption~~  
 279 ~~expires 90 days after the direct service provider first provides~~  
 280 ~~care or services to clients, has access to a client's living~~

281 ~~areas, or has access to a client's funds or personal property.~~

282 (5) DISQUALIFYING OFFENSES.—The background screening  
283 conducted under this section must ensure that, in addition to  
284 the disqualifying offenses listed in s. 435.04, no person  
285 subject to the provisions of this section has an arrest awaiting  
286 final disposition for, has been found guilty of, regardless of  
287 adjudication, has entered a plea of nolo contendere or guilty  
288 to, or has been adjudicated delinquent and the record has not  
289 been sealed or expunged for, any offense prohibited under any of  
290 the following provisions of the Florida Statutes or under any  
291 similar statute of another jurisdiction:

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

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

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

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

296 (e) Section 817.034, relating to fraudulent acts through  
297 mail, wire, radio, electromagnetic, photoelectronic, or  
298 photooptical systems.

299 (f) Section 817.234, relating to false and fraudulent  
300 insurance claims.

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

302 (h) Section 817.568, relating to criminal use of personal  
303 identification information.

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

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

308 (k) Section 831.01, relating to forgery.

309        (l) Section 831.02, relating to uttering forged  
 310 instruments.

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

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

315        Section 5. Section 394.4572, Florida Statutes, is amended  
 316 to read:

317        394.4572 Screening of mental health personnel.—

318        (1) (a) The department and the Agency for Health Care  
 319 Administration shall require level 2 background employment  
 320 screening pursuant to chapter 435 for mental health personnel  
 321 ~~using the standards for level 2 screening set forth in chapter~~  
 322 ~~435.~~ "Mental health personnel" includes all program directors,  
 323 professional clinicians, staff members, and volunteers working  
 324 in public or private mental health programs and facilities who  
 325 have direct contact with individuals held for examination or  
 326 admitted for mental health treatment ~~unmarried patients under~~  
 327 ~~the age of 18 years.~~ For purposes of this chapter, employment  
 328 screening of mental health personnel shall also include, but is  
 329 not limited to, employment screening as provided under chapter  
 330 435 and s. 408.809.

331        (b) Students in the health care professions who are  
 332 interning in a mental health facility licensed under chapter  
 333 395, where the primary purpose of the facility is not the  
 334 treatment of minors, are exempt from the fingerprinting and  
 335 screening requirements, if provided they are under direct  
 336 supervision in the actual physical presence of a licensed health

337 care professional.

338 ~~(c) Mental health personnel working in a facility licensed~~  
339 ~~under chapter 395 who have less than 15 hours per week of direct~~  
340 ~~contact with patients or who are health care professionals~~  
341 ~~licensed by the Agency for Health Care Administration or a board~~  
342 ~~thereunder are exempt from the fingerprinting and screening~~  
343 ~~requirements, except for persons working in mental health~~  
344 ~~facilities where the primary purpose of the facility is the~~  
345 ~~treatment of minors.~~

346 ~~(d)~~ A volunteer who assists on an intermittent basis for  
347 less than 10 ~~40~~ hours per month is exempt from the  
348 fingerprinting and screening requirements, provided a person who  
349 meets the screening requirement of paragraph (a) is always  
350 present and has the volunteer within his or her line of sight  
351 ~~the volunteer is under direct and constant supervision by~~  
352 ~~persons who meet the screening requirements of paragraph (a).~~

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

356 ~~(3) Prospective mental health personnel who have~~  
357 ~~previously been fingerprinted or screened pursuant to this~~  
358 ~~chapter, chapter 393, chapter 397, chapter 402, or chapter 409,~~  
359 ~~or teachers who have been fingerprinted pursuant to chapter~~  
360 ~~1012, who have not been unemployed for more than 90 days~~  
361 ~~thereafter, and who under the penalty of perjury attest to the~~  
362 ~~completion of such fingerprinting or screening and to compliance~~  
363 ~~with the provisions of this section and the standards for level~~  
364 ~~1 screening contained in chapter 435, shall not be required to~~

365 ~~be refingerprinted or rescreened in order to comply with any~~  
366 ~~screening requirements of this part.~~

367 Section 6. Section 400.215, Florida Statutes, is amended  
368 to read:

369 400.215 Personnel screening requirement.—

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

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

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

377 ~~(c) Have access to resident funds or other personal~~  
378 ~~property.~~

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

381 ~~(a) Notwithstanding the provisions of s. 435.05(1),~~  
382 ~~facilities must have in their possession evidence that level 1~~  
383 ~~screening has been completed before allowing an employee to~~  
384 ~~begin working with patients as provided in subsection (1). All~~  
385 ~~information necessary for conducting background screening using~~  
386 ~~level 1 standards as specified in s. 435.03 shall be submitted~~  
387 ~~by the nursing facility to the agency. Results of the background~~  
388 ~~screening shall be provided by the agency to the requesting~~  
389 ~~nursing facility.~~

390 ~~(b) Employees qualified under the provisions of paragraph~~

391 ~~(a) who have not maintained continuous residency within the~~

392 ~~state for the 5 years immediately preceding the date of request~~

393 ~~for background screening must complete level 2 screening, as~~  
394 ~~provided in chapter 435. Such employees may work in a~~  
395 ~~conditional status up to 180 days pending the receipt of written~~  
396 ~~findings evidencing the completion of level 2 screening. Level 2~~  
397 ~~screening shall not be required of employees or prospective~~  
398 ~~employees who attest in writing under penalty of perjury that~~  
399 ~~they meet the residency requirement. Completion of level 2~~  
400 ~~screening shall require the employee or prospective employee to~~  
401 ~~furnish to the nursing facility a full set of fingerprints to~~  
402 ~~enable a criminal background investigation to be conducted. The~~  
403 ~~nursing facility shall submit the completed fingerprint card to~~  
404 ~~the agency. The agency shall establish a record of the request~~  
405 ~~in the database provided for in paragraph (c) and forward the~~  
406 ~~request to the Department of Law Enforcement, which is~~  
407 ~~authorized to submit the fingerprints to the Federal Bureau of~~  
408 ~~Investigation for a national criminal history records check. The~~  
409 ~~results of the national criminal history records check shall be~~  
410 ~~returned to the agency, which shall maintain the results in the~~  
411 ~~database provided for in paragraph (c). The agency shall notify~~  
412 ~~the administrator of the requesting nursing facility or the~~  
413 ~~administrator of any other facility licensed under chapter 393,~~  
414 ~~chapter 394, chapter 395, chapter 397, chapter 429, or this~~  
415 ~~chapter, as requested by such facility, as to whether or not the~~  
416 ~~employee has qualified under level 1 or level 2 screening. An~~  
417 ~~employee or prospective employee who has qualified under level 2~~  
418 ~~screening and has maintained such continuous residency within~~  
419 ~~the state shall not be required to complete a subsequent level 2~~  
420 ~~screening as a condition of employment at another facility.~~

421           ~~(c) The agency shall establish and maintain a database of~~  
422 ~~background screening information which shall include the results~~  
423 ~~of both level 1 and level 2 screening. The Department of Law~~  
424 ~~Enforcement shall timely provide to the agency, electronically,~~  
425 ~~the results of each statewide screening for incorporation into~~  
426 ~~the database. The agency shall, upon request from any facility,~~  
427 ~~agency, or program required by or authorized by law to screen~~  
428 ~~its employees or applicants, notify the administrator of the~~  
429 ~~facility, agency, or program of the qualifying or disqualifying~~  
430 ~~status of the employee or applicant named in the request.~~

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

433           ~~(3) The applicant is responsible for paying the fees~~  
434 ~~associated with obtaining the required screening. Payment for~~  
435 ~~the screening shall be submitted to the agency. The agency shall~~  
436 ~~establish a schedule of fees to cover the costs of level 1 and~~  
437 ~~level 2 screening. Facilities may reimburse employees for these~~  
438 ~~costs. The Department of Law Enforcement shall charge the agency~~  
439 ~~for a level 1 or level 2 screening a rate sufficient to cover~~  
440 ~~the costs of such screening pursuant to s. 943.053(3). The~~  
441 ~~agency shall, as allowable, reimburse nursing facilities for the~~  
442 ~~cost of conducting background screening as required by this~~  
443 ~~section. This reimbursement will not be subject to any rate~~  
444 ~~ceilings or payment targets in the Medicaid Reimbursement plan.~~

445           ~~(4)(a) As provided in s. 435.07, the agency may grant an~~  
446 ~~exemption from disqualification to an employee or prospective~~  
447 ~~employee who is subject to this section and who has not received~~  
448 ~~a professional license or certification from the Department of~~



449 Health.

450 ~~(b) As provided in s. 435.07, the appropriate regulatory~~  
451 ~~board within the Department of Health, or that department itself~~  
452 ~~when there is no board, may grant an exemption from~~  
453 ~~disqualification to an employee or prospective employee who is~~  
454 ~~subject to this section and who has received a professional~~  
455 ~~license or certification from the Department of Health or a~~  
456 ~~regulatory board within that department.~~

457 ~~(5) Any provision of law to the contrary notwithstanding,~~  
458 ~~persons who have been screened and qualified as required by this~~  
459 ~~section and who have not been unemployed for more than 180 days~~  
460 ~~thereafter, and who under penalty of perjury attest to not~~  
461 ~~having been convicted of a disqualifying offense since the~~  
462 ~~completion of such screening, shall not be required to be~~  
463 ~~rescreened. An employer may obtain, pursuant to s. 435.10,~~  
464 ~~written verification of qualifying screening results from the~~  
465 ~~previous employer or other entity which caused such screening to~~  
466 ~~be performed.~~

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

470 ~~(7) All employees shall comply with the requirements of~~  
471 ~~this section by October 1, 1998. No current employee of a~~  
472 ~~nursing facility as of the effective date of this act shall be~~  
473 ~~required to submit to rescreening if the nursing facility has in~~  
474 ~~its possession written evidence that the person has been~~  
475 ~~screened and qualified according to level 1 standards as~~  
476 ~~specified in s. 435.03(1). Any current employee who meets the~~

477 ~~level 1 requirement but does not meet the 5-year residency~~  
478 ~~requirement as specified in this section must provide to the~~  
479 ~~employing nursing facility written attestation under penalty of~~  
480 ~~perjury that the employee has not been convicted of a~~  
481 ~~disqualifying offense in another state or jurisdiction. All~~  
482 ~~applicants hired on or after October 1, 1998, shall comply with~~  
483 ~~the requirements of this section.~~

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

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

493 400.506 Licensure of nurse registries; requirements;  
494 penalties.—

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

502 Section 8. Section 400.512, Florida Statutes, is amended  
503 to read:

504 400.512 Screening of home health agency personnel; nurse

505 registry personnel; and companions and homemakers.—The agency  
 506 shall require level 2 background screening for personnel as  
 507 required in s. 408.809(1)(e) pursuant to chapter 435 and s.  
 508 408.809 employment or contractor screening as provided in  
 509 chapter 435, using the level 1 standards for screening set forth  
 510 in that chapter, for home health agency personnel; persons  
 511 referred for employment by nurse registries; and persons  
 512 employed by companion or homemaker services registered under s.  
 513 400.509.

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

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

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

531 (3) ~~As a prerequisite to operating as a home health~~  
 532 ~~agency, nurse registry, or companion or homemaker service under~~

533 ~~s. 400.509, the administrator or managing employee,~~  
534 ~~respectively, must submit to the agency his or her name and any~~  
535 ~~other information necessary to conduct a complete screening~~  
536 ~~according to this section. The agency shall submit the~~  
537 ~~information to the Department of Law Enforcement for state~~  
538 ~~processing. The agency shall review the record of the~~  
539 ~~administrator or manager with respect to the offenses specified~~  
540 ~~in this section and shall notify the owner of its findings. If~~  
541 ~~disposition information is missing on a criminal record, the~~  
542 ~~administrator or manager, upon request of the agency, must~~  
543 ~~obtain and supply within 30 days the missing disposition~~  
544 ~~information to the agency. Failure to supply missing information~~  
545 ~~within 30 days or to show reasonable efforts to obtain such~~  
546 ~~information will result in automatic disqualification.~~

547 ~~(4) Proof of compliance with the screening requirements of~~  
548 ~~chapter 435 shall be accepted in lieu of the requirements of~~  
549 ~~this section if the person has been continuously employed or~~  
550 ~~registered without a breach in service that exceeds 180 days,~~  
551 ~~the proof of compliance is not more than 2 years old, and the~~  
552 ~~person has been screened by the Department of Law Enforcement. A~~  
553 ~~home health agency, nurse registry, or companion or homemaker~~  
554 ~~service registered under s. 400.509 shall directly provide proof~~  
555 ~~of compliance to another home health agency, nurse registry, or~~  
556 ~~companion or homemaker service registered under s. 400.509. The~~  
557 ~~recipient home health agency, nurse registry, or companion or~~  
558 ~~homemaker service registered under s. 400.509 may not accept any~~  
559 ~~proof of compliance directly from the person who requires~~  
560 ~~screening. Proof of compliance with the screening requirements~~

561 ~~of this section shall be provided upon request to the person~~  
562 ~~screened by the home health agencies; nurse registries; or~~  
563 ~~companion or homemaker services registered under s. 400.509.~~

564 ~~(5) There is no monetary liability on the part of, and no~~  
565 ~~cause of action for damages arises against, a licensed home~~  
566 ~~health agency, licensed nurse registry, or companion or~~  
567 ~~homemaker service registered under s. 400.509, that, upon notice~~  
568 ~~that the employee or contractor has been found guilty of,~~  
569 ~~regardless of adjudication, or entered a plea of nolo contendere~~  
570 ~~or guilty to, any offense prohibited under s. 435.03 or under~~  
571 ~~any similar statute of another jurisdiction, terminates the~~  
572 ~~employee or contractor, whether or not the employee or~~  
573 ~~contractor has filed for an exemption with the agency in~~  
574 ~~accordance with chapter 435 and whether or not the time for~~  
575 ~~filing has expired.~~

576 ~~(6) The costs of processing the statewide correspondence~~  
577 ~~criminal records checks must be borne by the home health agency;~~  
578 ~~the nurse registry; or the companion or homemaker service~~  
579 ~~registered under s. 400.509, or by the person being screened, at~~  
580 ~~the discretion of the home health agency, nurse registry, or s.~~  
581 ~~400.509 registrant.~~

582 Section 9. Section 400.6065, Florida Statutes, is amended  
583 to read:

584 400.6065 Background screening.—The agency shall require  
585 level 2 background employment or contractor screening for  
586 personnel as required in s. 408.809(1)(e) pursuant to chapter  
587 435 and s. 408.809 as provided in chapter 435, using the level 1  
588 standards for screening set forth in that chapter, for hospice

589 ~~personnel.~~

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

592 400.801 Homes for special services.—

593 (2) (a) The requirements of part II of chapter 408 apply to  
594 the provision of services that require licensure pursuant to  
595 this section and part II of chapter 408 and entities licensed by  
596 or applying for such licensure from the agency pursuant to this  
597 section. A license issued by the agency is required in order to  
598 operate a home for special services in this state.

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

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

604 400.805 Transitional living facilities.—

605 (2)

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

609 Section 12. Section 400.9065, Florida Statutes, is created  
610 to read:

611 400.9065 Background screening.—The agency shall require  
612 level 2 background screening for personnel as required in s.  
613 408.809(1)(e) pursuant to chapter 435 and s. 408.809.

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

616 400.934 Minimum standards.—As a requirement of licensure,

617 home medical equipment providers shall:

618 (16) Establish procedures for maintaining a record of the  
 619 employment history, including background screening as required  
 620 by ss. ~~s.~~ 400.953, and 408.809(1) and chapter 435 of all home  
 621 medical equipment provider personnel. A home medical equipment  
 622 provider must require its personnel to submit an employment  
 623 history to the home medical equipment provider and must verify  
 624 the employment history for at least the previous 5 years, unless  
 625 through diligent efforts such verification is not possible.  
 626 There is no monetary liability on the part of, and no cause of  
 627 action for damages arising against a former employer, a  
 628 prospective employee, or a prospective independent contractor  
 629 with a licensed home medical equipment provider, who reasonably  
 630 and in good faith communicates his or her honest opinions about  
 631 a former employee's job performance. This subsection does not  
 632 affect the official immunity of an officer or employee of a  
 633 public corporation.

634 Section 14. Section 400.953, Florida Statutes, is amended  
 635 to read:

636 400.953 Background screening of home medical equipment  
 637 provider personnel.—The agency shall require level 2 background  
 638 screening for personnel as required in s. 408.809(1)(e) pursuant  
 639 to chapter 435 and s. 408.809 ~~employment screening as provided~~  
 640 ~~in chapter 435, using the level 1 standards for screening set~~  
 641 ~~forth in that chapter, for home medical equipment provider~~  
 642 ~~personnel.~~

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

645       ~~(2) The general manager of each home medical equipment~~  
646 ~~provider must sign an affidavit annually, under penalty of~~  
647 ~~perjury, stating that all home medical equipment provider~~  
648 ~~personnel hired on or after July 1, 1999, who enter the home of~~  
649 ~~a patient in the capacity of their employment have been screened~~  
650 ~~and that its remaining personnel have worked for the home~~  
651 ~~medical equipment provider continuously since before July 1,~~  
652 ~~1999.~~

653       ~~(3) Proof of compliance with the screening requirements of~~  
654 ~~s. 110.1127, s. 393.0655, s. 394.4572, s. 397.451, s. 402.305,~~  
655 ~~s. 402.313, s. 409.175, s. 464.008, or s. 985.644 or this part~~  
656 ~~must be accepted in lieu of the requirements of this section if~~  
657 ~~the person has been continuously employed in the same type of~~  
658 ~~occupation for which he or she is seeking employment without a~~  
659 ~~breach in service that exceeds 180 days, the proof of compliance~~  
660 ~~is not more than 2 years old, and the person has been screened~~  
661 ~~by the Department of Law Enforcement. An employer or contractor~~  
662 ~~shall directly provide proof of compliance to another employer~~  
663 ~~or contractor, and a potential employer or contractor may not~~  
664 ~~accept any proof of compliance directly from the person~~  
665 ~~requiring screening. Proof of compliance with the screening~~  
666 ~~requirements of this section shall be provided, upon request, to~~  
667 ~~the person screened by the home medical equipment provider.~~

668       ~~(4) There is no monetary liability on the part of, and no~~  
669 ~~cause of action for damages arising against, a licensed home~~  
670 ~~medical equipment provider that, upon notice that an employee~~  
671 ~~has been found guilty of, regardless of adjudication, or entered~~  
672 ~~a plea of nolo contendere or guilty to, any offense prohibited~~



673 ~~under s. 435.03 or under any similar statute of another~~  
674 ~~jurisdiction, terminates the employee, whether or not the~~  
675 ~~employee has filed for an exemption with the agency and whether~~  
676 ~~or not the time for filing has expired.~~

677 ~~(5) The costs of processing the statewide correspondence~~  
678 ~~criminal records checks must be borne by the home medical~~  
679 ~~equipment provider or by the person being screened, at the~~  
680 ~~discretion of the home medical equipment provider.~~

681 ~~(6) Neither the agency nor the home medical equipment~~  
682 ~~provider may use the criminal records or juvenile records of a~~  
683 ~~person for any purpose other than determining whether that~~  
684 ~~person meets minimum standards of good moral character for home~~  
685 ~~medical equipment provider personnel.~~

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

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

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

697 ~~3. Use information from the criminal records obtained~~  
698 ~~under this section for any purpose other than screening that~~  
699 ~~person for employment as specified in this section, or release~~  
700 ~~such information to any other person for any purpose other than~~

701 ~~screening for employment under this section.~~

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

708 Section 15. Section 400.955, Florida Statutes, is  
 709 repealed.

710 Section 16. Section 400.964, Florida Statutes, is amended  
 711 to read:

712 400.964 Personnel screening requirement.—

713 ~~(1) The agency shall require level 2 background screening~~  
 714 ~~for personnel as required in s. 408.809(1)(e) pursuant to~~  
 715 ~~chapter 435 and s. 408.809 as provided in chapter 435 for all~~  
 716 ~~employees or prospective employees of facilities licensed under~~  
 717 ~~this part who are expected to be, or whose responsibilities are~~  
 718 ~~such that they would be considered to be, a direct service~~  
 719 ~~provider.~~

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

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

724 ~~(4) The applicant is responsible for paying the fees~~  
 725 ~~associated with obtaining the required screening. Payment for~~  
 726 ~~the screening must be submitted to the agency as prescribed by~~  
 727 ~~the agency.~~

728 ~~(5) Notwithstanding any other provision of law, persons~~

729 ~~who have been screened and qualified as required by this section~~  
730 ~~and who have not been unemployed for more than 180 days~~  
731 ~~thereafter, and who under penalty of perjury attest to not~~  
732 ~~having been convicted of a disqualifying offense since the~~  
733 ~~completion of such screening are not required to be rescreened.~~  
734 ~~An employer may obtain, pursuant to s. 435.10, written~~  
735 ~~verification of qualifying screening results from the previous~~  
736 ~~employer or other entity that caused such screening to be~~  
737 ~~performed.~~

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

739 ~~(7) All employees must comply with the requirements of~~  
740 ~~this section by October 1, 2000. A person employed by a facility~~  
741 ~~licensed pursuant to this part as of the effective date of this~~  
742 ~~act is not required to submit to rescreening if the facility has~~  
743 ~~in its possession written evidence that the person has been~~  
744 ~~screened and qualified according to level 1 standards as~~  
745 ~~specified in s. 435.03. Any current employee who meets the level~~  
746 ~~1 requirement but does not meet the 5-year residency requirement~~  
747 ~~must provide to the employing facility written attestation under~~  
748 ~~penalty of perjury that the employee has not been convicted of a~~  
749 ~~disqualifying offense in another state or jurisdiction. All~~  
750 ~~applicants hired on or after October 1, 1999, must comply with~~  
751 ~~the requirements of this section.~~

752 ~~(8) There is no monetary or unemployment liability on the~~  
753 ~~part of, and no cause of action for damages arises against an~~  
754 ~~employer that, upon notice of a disqualifying offense listed~~  
755 ~~under chapter 435 or an act of domestic violence, terminates the~~  
756 ~~employee, whether or not the employee has filed for an exemption~~

757 ~~with the Department of Health or the Agency for Health Care~~  
 758 ~~Administration.~~

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

761 400.980 Health care services pools.—

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

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

770 400.991 License requirements; background screenings;  
 771 prohibitions.—

772 (5) ~~Each applicant for licensure shall comply with the~~  
 773 ~~following requirements:~~

774 (a) As used in this subsection, the term "applicant" means  
 775 individuals owning or controlling, directly or indirectly, 5  
 776 percent or more of an interest in a clinic; the medical or  
 777 clinic director, or a similarly titled person who is responsible  
 778 for the day-to-day operation of the licensed clinic; the  
 779 financial officer or similarly titled individual who is  
 780 responsible for the financial operation of the clinic; and  
 781 licensed health care practitioners at the clinic.

782 (b) ~~Upon receipt of a completed, signed, and dated~~  
 783 ~~application,~~ The agency shall require level 2 background  
 784 screening for applicants and personnel as required in s.

785 ~~408.809(1)(e) pursuant to chapter 435 and s. 408.809 of the~~  
786 ~~applicant, in accordance with the level 2 standards for~~  
787 ~~screening set forth in chapter 435. Proof of compliance with the~~  
788 ~~level 2 background screening requirements of chapter 435 which~~  
789 ~~has been submitted within the previous 5 years in compliance~~  
790 ~~with any other health care licensure requirements of this state~~  
791 ~~is acceptable in fulfillment of this paragraph. Applicants who~~  
792 ~~own less than 10 percent of a health care clinic are not~~  
793 ~~required to submit fingerprints under this section.~~

794 (c) Each applicant must submit to the agency, with the  
795 application, a description and explanation of any exclusions,  
796 permanent suspensions, or terminations of an applicant from the  
797 Medicare or Medicaid programs. Proof of compliance with the  
798 requirements for disclosure of ownership and control interest  
799 under the Medicaid or Medicare programs may be accepted in lieu  
800 of this submission. The description and explanation may indicate  
801 whether such exclusions, suspensions, or terminations were  
802 voluntary or not voluntary on the part of the applicant.

803 ~~(d) A license may not be granted to a clinic if the~~  
804 ~~applicant has been found guilty of, regardless of adjudication,~~  
805 ~~or has entered a plea of nolo contendere or guilty to, any~~  
806 ~~offense prohibited under the level 2 standards for screening set~~  
807 ~~forth in chapter 435, or a violation of insurance fraud under s.~~  
808 ~~817.234, within the past 5 years. If the applicant has been~~  
809 ~~convicted of an offense prohibited under the level 2 standards~~  
810 ~~or insurance fraud in any jurisdiction, the applicant must show~~  
811 ~~that his or her civil rights have been restored prior to~~  
812 ~~submitting an application.~~

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

815 408.806 License application process.—

816 (1) An application for licensure must be made to the  
 817 agency on forms furnished by the agency, submitted under oath,  
 818 and accompanied by the appropriate fee in order to be accepted  
 819 and considered timely. The application must contain information  
 820 required by authorizing statutes and applicable rules and must  
 821 include:

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

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

827 408.808 License categories.—

828 (2) PROVISIONAL LICENSE.—~~A provisional license may be~~  
 829 ~~issued to an applicant pursuant to s. 408.809(3).~~ An applicant  
 830 against whom a proceeding denying or revoking a license is  
 831 pending at the time of license renewal may be issued a  
 832 provisional license effective until final action not subject to  
 833 further appeal. A provisional license may also be issued to an  
 834 applicant applying for a change of ownership. A provisional  
 835 license shall be limited in duration to a specific period of  
 836 time, not to exceed 12 months, as determined by the agency.

837 Section 21. Section 408.809, Florida Statutes, is amended  
 838 to read:

839 408.809 Background screening; prohibited offenses.—

840 (1) Level 2 background screening pursuant to chapter 435

841 must be conducted through the agency on each of the following  
 842 persons, who shall be considered an employee for the purposes of  
 843 conducting screening under chapter 435:

844 (a) The licensee, if an individual.

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

847 (c) The financial officer or similarly titled individual  
 848 who is responsible for the financial operation of the licensee  
 849 or provider.

850 (d) Any person who is a controlling interest if the agency  
 851 has reason to believe that such person has been convicted of any  
 852 offense prohibited by s. 435.04. For each controlling interest  
 853 who has been convicted of any such offense, the licensee shall  
 854 submit to the agency a description and explanation of the  
 855 conviction at the time of license application.

856 (e) Any person, as required by authorizing statutes,  
 857 seeking employment with a licensee or provider who is expected  
 858 to, or whose responsibilities may require him or her to, provide  
 859 personal care or services directly to clients or have access to  
 860 client funds, personal property, or living areas; and any  
 861 person, as required by authorizing statutes, contracting with a  
 862 licensee or provider whose responsibilities require him or her  
 863 to provide personal care or personal services directly to  
 864 clients. Evidence of contractor screening may be retained by the  
 865 contractor's employer or the licensee.

866 (2) Every 5 years following his or her licensure,  
 867 employment, or entry into a contract in a capacity that under  
 868 subsection (1) would require level 2 background screening under

869 chapter 435, each such person must submit to level 2 background  
 870 rescreening as a condition of retaining such license or  
 871 continuing in such employment or contractual status. For any  
 872 such rescreening, the agency shall request the Department of Law  
 873 Enforcement to forward the person's fingerprints to the Federal  
 874 Bureau of Investigation for a national criminal history records  
 875 check. If the fingerprints of such a person are not retained by  
 876 the Department of Law Enforcement under s. 943.05(2)(g), the  
 877 person must file a complete set of fingerprints with the agency  
 878 and the agency shall forward the fingerprints to the Department  
 879 of Law Enforcement for state processing and the Department of  
 880 Law Enforcement shall forward the fingerprints to the Federal  
 881 Bureau of Investigation for national processing. The  
 882 fingerprints may be retained by the Department of Law  
 883 Enforcement under s. 943.05(2)(g). The cost of the state and  
 884 national criminal history records checks required by level 2  
 885 screening may be borne by the licensee or the person  
 886 fingerprinted. Proof of compliance with level 2 screening  
 887 standards submitted within the previous 5 years to meet any  
 888 provider or professional licensure requirements of the agency,  
 889 the Department of Health, the Agency for Persons with  
 890 Disabilities, ~~or~~ the Department of Children and Family Services,  
 891 or the Department of Financial Services for an applicant for a  
 892 certificate of authority or provisional certificate of authority  
 893 to operate a continuing care retirement community under chapter  
 894 651 satisfies the requirements of this section, provided the  
 895 person subject to screening has not been unemployed for more  
 896 than 90 consecutive days and that such proof is accompanied,



897 | under penalty of perjury, by an affidavit of compliance with the  
898 | provisions of chapter 435 and this section using forms provided  
899 | by the agency. ~~Proof of compliance with the background screening~~  
900 | ~~requirements of the Department of Financial Services submitted~~  
901 | ~~within the previous 5 years for an applicant for a certificate~~  
902 | ~~of authority to operate a continuing care retirement community~~  
903 | ~~under chapter 651 satisfies the Department of Law Enforcement~~  
904 | ~~and Federal Bureau of Investigation portions of a level 2~~  
905 | ~~background check.~~

906 |       (3) All fingerprints must be provided in electronic  
907 | format. Screening results shall be reviewed by the agency with  
908 | respect to the offenses specified in s. 435.04 and this section  
909 | and the qualifying or disqualifying status of the person named  
910 | in the request shall be maintained in a database. The qualifying  
911 | or disqualifying status of the person named in the request shall  
912 | be posted on a secure website for retrieval by the licensee or a  
913 | designated agent on the licensee's behalf. A provisional license  
914 | ~~may be granted to an applicant when each individual required by~~  
915 | ~~this section to undergo background screening has met the~~  
916 | ~~standards for the Department of Law Enforcement background check~~  
917 | ~~but the agency has not yet received background screening results~~  
918 | ~~from the Federal Bureau of Investigation. A standard license may~~  
919 | ~~be granted to the licensee upon the agency's receipt of a report~~  
920 | ~~of the results of the Federal Bureau of Investigation background~~  
921 | ~~screening for each individual required by this section to~~  
922 | ~~undergo background screening that confirms that all standards~~  
923 | ~~have been met or upon the granting of an exemption from~~  
924 | ~~disqualification by the agency as set forth in chapter 435.~~

925 ~~(4) When a person is newly employed in a capacity that~~  
 926 ~~requires screening under this section, the licensee must notify~~  
 927 ~~the agency of the change within the time period specified in the~~  
 928 ~~authorizing statute or rules and must submit to the agency~~  
 929 ~~information necessary to conduct level 2 screening or provide~~  
 930 ~~evidence of compliance with background screening requirements of~~  
 931 ~~this section. The person may serve in his or her capacity~~  
 932 ~~pending the agency's receipt of the report from the Federal~~  
 933 ~~Bureau of Investigation if he or she has met the standards for~~  
 934 ~~the Department of Law Enforcement background check. However, the~~  
 935 ~~person may not continue to serve in his or her capacity if the~~  
 936 ~~report indicates any violation of background screening standards~~  
 937 ~~unless an exemption from disqualification has been granted by~~  
 938 ~~the agency as set forth in chapter 435.~~

939 ~~(4)(5)~~ Effective October 1, 2009, In addition to the  
 940 offenses listed in s. ss. 435.03 and 435.04, all persons  
 941 required to undergo background screening pursuant to this part  
 942 or authorizing statutes must not have an arrest awaiting final  
 943 disposition for, been found guilty of, regardless of  
 944 adjudication, ~~or~~ entered a plea of nolo contendere or guilty to,  
 945 or have been adjudicated delinquent and the record has not been  
 946 sealed or expunged for, any of the following offenses or any  
 947 similar offense of another jurisdiction:

- 948 (a) Any authorizing statutes, if the offense was a felony.
- 949 (b) This chapter, if the offense was a felony.
- 950 (c) Section 409.920, relating to Medicaid provider fraud,  
 951 ~~if the offense was a felony.~~
- 952 (d) Section 409.9201, relating to Medicaid fraud,~~if the~~

953 ~~offense was a felony.~~

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

955 ~~(f) Chapter 784, relating to assault, battery, and~~

956 ~~culpable negligence, if the offense was a felony.~~

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

958 (f)~~(h)~~ Section 817.034, relating to fraudulent acts

959 through mail, wire, radio, electromagnetic, photoelectronic, or

960 photooptical systems.

961 (g)~~(i)~~ Section 817.234, relating to false and fraudulent

962 insurance claims.

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

964 (i)~~(k)~~ Section 817.568, relating to criminal use of

965 personal identification information.

966 (j)~~(l)~~ Section 817.60, relating to obtaining a credit card

967 through fraudulent means.

968 (k)~~(m)~~ Section 817.61, relating to fraudulent use of

969 credit cards, if the offense was a felony.

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

971 (m)~~(o)~~ Section 831.02, relating to uttering forged

972 instruments.

973 (n)~~(p)~~ Section 831.07, relating to forging bank bills,

974 checks, drafts, or promissory notes.

975 (o)~~(q)~~ Section 831.09, relating to uttering forged bank

976 bills, checks, drafts, or promissory notes.

977 (p)~~(r)~~ Section 831.30, relating to fraud in obtaining

978 medicinal drugs.

979 (q)~~(s)~~ Section 831.31, relating to the sale, manufacture,

980 delivery, or possession with the intent to sell, manufacture, or

981 deliver any counterfeit controlled substance, if the offense was  
982 a felony.

983  
984 A person who serves as a controlling interest of, ~~or~~ is employed  
985 by, or contracts with a licensee on June 30, 2010 ~~September 30,~~  
986 ~~2009,~~ who has been screened and qualified according to standards  
987 specified in s. 435.03 or s. 435.04 must be rescreened by June  
988 30, 2015. The agency may adopt rules pursuant to ss. 120.536(1)  
989 and 120.54 to establish a schedule to stagger the implementation  
990 of the required rescreening over the 5-year period starting June  
991 30, 2010, through June 30, 2015. If upon rescreening, is not  
992 ~~required by law to submit to rescreening if that licensee has in~~  
993 ~~its possession written evidence that the person has been~~  
994 ~~screened and qualified according to the standards specified in~~  
995 ~~s. 435.03 or s. 435.04. However, if such person has a~~  
996 ~~disqualifying offense that was not a disqualifying offense at~~  
997 ~~the time of the last screening, but is now a disqualifying~~  
998 ~~offense and was committed prior to the last screening listed in~~  
999 ~~this section,~~ he or she may apply for an exemption from the  
1000 appropriate licensing agency ~~before September 30, 2009,~~ and, if  
1001 agreed to by the employer, may continue to perform his or her  
1002 duties until the licensing agency renders a decision on the  
1003 application for exemption as long as the person is eligible to  
1004 apply for an exemption and the exemption request is received by  
1005 the agency within 30 days after receipt of the rescreening  
1006 results by the person for offenses listed in this section.  
1007 ~~Exemptions from disqualification may be granted pursuant to s.~~  
1008 ~~435.07.~~

1009        (5) ~~(6)~~ The costs associated with obtaining the required  
 1010 screening must be borne either by the licensee or the person  
 1011 subject to screening. Licensees may reimburse persons for these  
 1012 costs. The Department of Law Enforcement shall charge the agency  
 1013 for screening pursuant to s. 943.053(3). The agency shall  
 1014 establish a schedule of fees to cover the costs of screening ~~The~~  
 1015 ~~attestations required under ss. 435.04(5) and 435.05(3) must be~~  
 1016 ~~submitted at the time of license renewal, notwithstanding the~~  
 1017 ~~provisions of ss. 435.04(5) and 435.05(3) which require annual~~  
 1018 ~~submission of an affidavit of compliance with background~~  
 1019 ~~screening requirements.~~

1020        (6) (a) As provided in chapter 435, the agency may grant an  
 1021 exemption from disqualification to a person who is subject to  
 1022 this section and who:

- 1023        1. Has not received a professional license or
- 1024 certification from the Department of Health; or
- 1025        2. Has received a professional license or certification
- 1026 from the Department of Health but is not providing a service
- 1027 within the scope of that license or certification.

1028        (b) As provided in chapter 435, the appropriate regulatory  
 1029 board within the Department of Health, or the department itself  
 1030 when there is no board, may grant an exemption from  
 1031 disqualification to a person who is subject to this section and  
 1032 who has received a professional license or certification from  
 1033 the Department of Health or a regulatory board within that  
 1034 department and that person is providing a service within the  
 1035 scope of his or her licensed or certified practice.

1036        (7) The agency and the Department of Health may adopt

1037 rules pursuant to ss. 120.536(1) and 120.54 to implement this  
 1038 section, chapter 435, and authorizing statutes requiring  
 1039 background screening and to implement and adopt criteria  
 1040 relating to retaining fingerprints pursuant to s. 943.05(2).

1041 (8) There is no unemployment compensation or other  
 1042 monetary liability on the part of, and no cause of action for  
 1043 damages arising against, an employer that, upon notice of a  
 1044 disqualifying offense listed under chapter 435 or this section,  
 1045 terminates the person against whom the report was issued,  
 1046 whether or not that person has filed for an exemption with the  
 1047 Department of Health or the agency.

1048 Section 22. Subsection (3) of section 402.302, Florida  
 1049 Statutes, is amended to read:

1050 402.302 Definitions.—

1051 (3) "Child care personnel" means all owners, operators,  
 1052 employees, and volunteers working in a child care facility. The  
 1053 term does not include persons who work in a child care facility  
 1054 after hours when children are not present or parents of children  
 1055 in Head Start. For purposes of screening, the term includes any  
 1056 member, over the age of 12 years, of a child care facility  
 1057 operator's family, or person, over the age of 12 years, residing  
 1058 with a child care facility operator if the child care facility  
 1059 is located in or adjacent to the home of the operator or if the  
 1060 family member of, or person residing with, the child care  
 1061 facility operator has any direct contact with the children in  
 1062 the facility during its hours of operation. Members of the  
 1063 operator's family or persons residing with the operator who are  
 1064 between the ages of 12 years and 18 years shall not be required

1065 to be fingerprinted but shall be screened for delinquency  
 1066 records. For purposes of screening, the term shall also include  
 1067 persons who work in child care programs which provide care for  
 1068 children 15 hours or more each week in public or nonpublic  
 1069 schools, ~~summer day camps,~~ family day care homes, or those  
 1070 programs otherwise exempted under s. 402.316. The term does not  
 1071 include public or nonpublic school personnel who are providing  
 1072 care during regular school hours, or after hours for activities  
 1073 related to a school's program for grades kindergarten through  
 1074 12. A volunteer who assists on an intermittent basis for less  
 1075 than 10 ~~40~~ hours per month is not included in the term  
 1076 "personnel" for the purposes of screening and training, provided  
 1077 a person who meets the screening requirement of s. 402.305(2) is  
 1078 always present and has the volunteer in his or her line of sight  
 1079 ~~that the volunteer is under direct and constant supervision by~~  
 1080 ~~persons who meet the personnel requirements of s. 402.305(2).~~  
 1081 Students who observe and participate in a child care facility as  
 1082 a part of their required coursework shall not be considered  
 1083 child care personnel, provided such observation and  
 1084 participation are on an intermittent basis and a person who  
 1085 meets the screening requirement of s. 402.305(2) is always  
 1086 present and has the student in his or her line of sight ~~the~~  
 1087 ~~students are under direct and constant supervision of child care~~  
 1088 ~~personnel.~~

1089 Section 23. Paragraphs (i) and (k) of subsection (2) of  
 1090 section 409.175, Florida Statutes, are amended to read:

1091 409.175 Licensure of family foster homes, residential  
 1092 child-caring agencies, and child-placing agencies; public

1093 records exemption.—  
 1094 (2) As used in this section, the term:  
 1095 (i) "Personnel" means all owners, operators, employees,  
 1096 and volunteers working in a child-placing agency, family foster  
 1097 home, or residential child-caring agency who may be employed by  
 1098 or do volunteer work for a person, corporation, or agency which  
 1099 holds a license as a child-placing agency or a residential  
 1100 child-caring agency, but the term does not include those who do  
 1101 not work on the premises where child care is furnished and  
 1102 either have no direct contact with a child or have no contact  
 1103 with a child outside of the presence of the child's parent or  
 1104 guardian. For purposes of screening, the term shall include any  
 1105 member, over the age of 12 years, of the family of the owner or  
 1106 operator or any person other than a client, over the age of 12  
 1107 years, residing with the owner or operator if the agency or  
 1108 family foster home is located in or adjacent to the home of the  
 1109 owner or operator or if the family member of, or person residing  
 1110 with, the owner or operator has any direct contact with the  
 1111 children. Members of the family of the owner or operator, or  
 1112 persons residing with the owner or operator, who are between the  
 1113 ages of 12 years and 18 years shall not be required to be  
 1114 fingerprinted, but shall be screened for delinquency records.  
 1115 For purposes of screening, the term "personnel" shall also  
 1116 include owners, operators, employees, and volunteers working in  
 1117 summer day camps, or summer 24-hour camps providing care for  
 1118 children. A volunteer who assists on an intermittent basis for  
 1119 less than 10 ~~40~~ hours per month shall not be included in the  
 1120 term "personnel" for the purposes of screening, provided a a



1121 person who meets the screening requirement of this section is  
 1122 always present and has the volunteer in his or her line of sight  
 1123 ~~that the volunteer is under direct and constant supervision by~~  
 1124 ~~persons who meet the personnel requirements of this section.~~

1125 (k) "Screening" means the act of assessing the background  
 1126 of personnel and includes, but is not limited to, employment  
 1127 history checks as provided in chapter 435, using the level 2  
 1128 standards for screening set forth in that chapter. ~~Screening for~~  
 1129 ~~employees and volunteers in summer day camps and summer 24-hour~~  
 1130 ~~camps and screening for all volunteers included under the~~  
 1131 ~~definition of "personnel" shall be conducted as provided in~~  
 1132 ~~chapter 435, using the level 1 standards set forth in that~~  
 1133 ~~chapter.~~

1134 Section 24. Section 409.1758, Florida Statutes, is  
 1135 repealed.

1136 Section 25. Paragraph (i) of subsection (4) of section  
 1137 409.221, Florida Statutes, is amended to read:

1138 409.221 Consumer-directed care program.—

1139 (4) CONSUMER-DIRECTED CARE.—

1140 (i) Background screening requirements.—All persons who  
 1141 render care under this section must undergo level 2 background  
 1142 screening pursuant to chapter 435 ~~shall comply with the~~  
 1143 ~~requirements of s. 435.05. Persons shall be excluded from~~  
 1144 ~~employment pursuant to s. 435.06.~~

1145 ~~1. Persons excluded from employment may request an~~  
 1146 ~~exemption from disqualification, as provided in s. 435.07.~~  
 1147 ~~Persons not subject to certification or professional licensure~~  
 1148 ~~may request an exemption from the agency. In considering a~~

1149 ~~request for an exemption, the agency shall comply with the~~  
 1150 ~~provisions of s. 435.07.~~

1151 2. The agency shall, as allowable, reimburse consumer-  
 1152 employed caregivers for the cost of conducting background  
 1153 screening as required by this section.

1154  
 1155 For purposes of this section, a person who has undergone  
 1156 screening, who is qualified for employment under this section  
 1157 and applicable rule, and who has not been unemployed for more  
 1158 than 90 ~~180~~ days following such screening is not required to be  
 1159 rescreened. Such person must attest under penalty of perjury to  
 1160 not having been convicted of a disqualifying offense since  
 1161 completing such screening.

1162 Section 26. Subsection (8) of section 409.907, Florida  
 1163 Statutes, is amended to read:

1164 409.907 Medicaid provider agreements.—The agency may make  
 1165 payments for medical assistance and related services rendered to  
 1166 Medicaid recipients only to an individual or entity who has a  
 1167 provider agreement in effect with the agency, who is performing  
 1168 services or supplying goods in accordance with federal, state,  
 1169 and local law, and who agrees that no person shall, on the  
 1170 grounds of handicap, race, color, or national origin, or for any  
 1171 other reason, be subjected to discrimination under any program  
 1172 or activity for which the provider receives payment from the  
 1173 agency.

1174 (8) (a) Each provider, or each principal of the provider if  
 1175 the provider is a corporation, partnership, association, or  
 1176 other entity, seeking to participate in the Medicaid program

1177 | must submit a complete set of his or her fingerprints to the  
1178 | agency for the purpose of conducting a criminal history records  
1179 | ~~record~~ check. Principals of the provider include any officer,  
1180 | director, billing agent, managing employee, or affiliated  
1181 | person, or any partner or shareholder who has an ownership  
1182 | interest equal to 5 percent or more in the provider. However, a  
1183 | director of a not-for-profit corporation or organization is not  
1184 | a principal for purposes of a background investigation as  
1185 | required by this section if the director: serves solely in a  
1186 | voluntary capacity for the corporation or organization, does not  
1187 | regularly take part in the day-to-day operational decisions of  
1188 | the corporation or organization, receives no remuneration from  
1189 | the not-for-profit corporation or organization for his or her  
1190 | service on the board of directors, has no financial interest in  
1191 | the not-for-profit corporation or organization, and has no  
1192 | family members with a financial interest in the not-for-profit  
1193 | corporation or organization; and if the director submits an  
1194 | affidavit, under penalty of perjury, to this effect to the  
1195 | agency and the not-for-profit corporation or organization  
1196 | submits an affidavit, under penalty of perjury, to this effect  
1197 | to the agency as part of the corporation's or organization's  
1198 | Medicaid provider agreement application. Notwithstanding the  
1199 | above, the agency may require a background check for any person  
1200 | reasonably suspected by the agency to have been convicted of a  
1201 | crime. This subsection shall not apply to:

- 1202 | 1. A hospital licensed under chapter 395;
- 1203 | 2. A nursing home licensed under chapter 400;
- 1204 | 3. A hospice licensed under chapter 400;

1205 4. An assisted living facility licensed under chapter 429;

1206 5. A unit of local government, except that requirements of  
 1207 this subsection apply to nongovernmental providers and entities  
 1208 when contracting with the local government to provide Medicaid  
 1209 services. The actual cost of the state and national criminal  
 1210 history records ~~record~~ checks must be borne by the  
 1211 nongovernmental provider or entity; or

1212 6. Any business that derives more than 50 percent of its  
 1213 revenue from the sale of goods to the final consumer, and the  
 1214 business or its controlling parent either is required to file a  
 1215 form 10-K or other similar statement with the Securities and  
 1216 Exchange Commission or has a net worth of \$50 million or more.

1217 (b) Background screening shall be conducted in accordance  
 1218 with chapter 435 and s. 408.809 ~~The agency shall submit the~~  
 1219 ~~fingerprints to the Department of Law Enforcement. The~~  
 1220 ~~department shall conduct a state criminal-background~~  
 1221 ~~investigation and forward the fingerprints to the Federal Bureau~~  
 1222 ~~of Investigation for a national criminal-history record check.~~  
 1223 The cost of the state and national criminal history records  
 1224 ~~record~~ check shall be borne by the provider.

1225 (c) ~~The agency may permit a provider to participate in the~~  
 1226 ~~Medicaid program pending the results of the criminal record~~  
 1227 ~~check. However, such permission is fully revocable if the record~~  
 1228 ~~check reveals any crime-related history as provided in~~  
 1229 ~~subsection (10).~~

1230 ~~(d)~~ Proof of compliance with the requirements of level 2  
 1231 screening under chapter 435 ~~s. 435.04~~ conducted within 12 months  
 1232 prior to the date that the Medicaid provider application is

1233 submitted to the agency shall fulfill the requirements of this  
 1234 subsection. ~~Proof of compliance with the requirements of level 1~~  
 1235 ~~screening under s. 435.03 conducted within 12 months prior to~~  
 1236 ~~the date that the Medicaid provider application is submitted to~~  
 1237 ~~the agency shall meet the requirement that the Department of Law~~  
 1238 ~~Enforcement conduct a state criminal history record check.~~

1239 Section 27. Subsection (1) of section 429.14, Florida  
 1240 Statutes, is amended to read:

1241 429.14 Administrative penalties.—

1242 (1) In addition to the requirements of part II of chapter  
 1243 408, the agency may deny, revoke, and suspend any license issued  
 1244 under this part and impose an administrative fine in the manner  
 1245 provided in chapter 120 against a licensee ~~of an assisted living~~  
 1246 ~~facility~~ for a violation of any provision of this part, part II  
 1247 of chapter 408, or applicable rules, or for any of the following  
 1248 actions by a licensee ~~of an assisted living facility~~, for the  
 1249 actions of any person subject to level 2 background screening  
 1250 under s. 408.809, or for the actions of any facility employee:

1251 (a) An intentional or negligent act seriously affecting  
 1252 the health, safety, or welfare of a resident of the facility.

1253 (b) The determination by the agency that the owner lacks  
 1254 the financial ability to provide continuing adequate care to  
 1255 residents.

1256 (c) Misappropriation or conversion of the property of a  
 1257 resident of the facility.

1258 (d) Failure to follow the criteria and procedures provided  
 1259 under part I of chapter 394 relating to the transportation,  
 1260 voluntary admission, and involuntary examination of a facility

1261 resident.

1262 (e) A citation of any of the following deficiencies as  
 1263 specified in s. 429.19:

- 1264 1. One or more cited class I deficiencies.
- 1265 2. Three or more cited class II deficiencies.
- 1266 3. Five or more cited class III deficiencies that have  
 1267 been cited on a single survey and have not been corrected within  
 1268 the times specified.

1269 (f) Failure to comply with the ~~A determination that a~~  
 1270 ~~person subject to level 2 background screening under s. 408.809~~  
 1271 ~~does not meet the screening standards of this part, s.~~  
 1272 408.809(1), chapter 435 s. 435.04 ~~or that the facility is~~  
 1273 ~~retaining an employee subject to level 1 background screening~~  
 1274 ~~standards under s. 429.174 who does not meet the screening~~  
 1275 ~~standards of s. 435.03 and for whom exemptions from~~  
 1276 ~~disqualification have not been provided by the agency.~~

1277 (g) ~~A determination that an employee, volunteer,~~  
 1278 ~~administrator, or owner, or person who otherwise has access to~~  
 1279 ~~the residents of a facility does not meet the criteria specified~~  
 1280 ~~in s. 435.03(2), and the owner or administrator has not taken~~  
 1281 ~~action to remove the person. Exemptions from disqualification~~  
 1282 ~~may be granted as set forth in s. 435.07. No administrative~~  
 1283 ~~action may be taken against the facility if the person is~~  
 1284 ~~granted an exemption.~~

1285 (h) Violation of a moratorium.

1286 (h) ~~(i)~~ Failure of the license applicant, the licensee  
 1287 during relicensure, or a licensee that holds a provisional  
 1288 license to meet the minimum license requirements of this part,

1289 or related rules, at the time of license application or renewal.

1290 (i)~~(j)~~ An intentional or negligent life-threatening act in  
 1291 violation of the uniform firesafety standards for assisted  
 1292 living facilities or other firesafety standards that threatens  
 1293 the health, safety, or welfare of a resident of a facility, as  
 1294 communicated to the agency by the local authority having  
 1295 jurisdiction or the State Fire Marshal.

1296 (j)~~(k)~~ Knowingly operating any unlicensed facility or  
 1297 providing without a license any service that must be licensed  
 1298 under this chapter or chapter 400.

1299 (k)~~(l)~~ Any act constituting a ground upon which  
 1300 application for a license may be denied.

1301 Section 28. Section 429.174, Florida Statutes, is amended  
 1302 to read:

1303 429.174 Background screening;~~exemptions.~~The agency shall  
 1304 require level 2 background screening for personnel as required  
 1305 in s. 408.809(1)(e) pursuant to chapter 435 and s. 408.809 ~~The~~  
 1306 ~~owner or administrator of an assisted living facility must~~  
 1307 ~~conduct level 1 background screening, as set forth in chapter~~  
 1308 ~~435, on all employees hired on or after October 1, 1998, who~~  
 1309 ~~perform personal services as defined in s. 429.02(16). The~~  
 1310 ~~agency may exempt an individual from employment disqualification~~  
 1311 ~~as set forth in chapter 435. Such persons shall be considered as~~  
 1312 ~~having met this requirement if:~~

1313 ~~(1) Proof of compliance with level 1 screening~~  
 1314 ~~requirements obtained to meet any professional license~~  
 1315 ~~requirements in this state is provided and accompanied, under~~  
 1316 ~~penalty of perjury, by a copy of the person's current~~

1317 ~~professional license and an affidavit of current compliance with~~  
1318 ~~the background screening requirements.~~

1319 ~~(2) The person required to be screened has been~~  
1320 ~~continuously employed in the same type of occupation for which~~  
1321 ~~the person is seeking employment without a breach in service~~  
1322 ~~which exceeds 180 days, and proof of compliance with the level 1~~  
1323 ~~screening requirement which is no more than 2 years old is~~  
1324 ~~provided. Proof of compliance shall be provided directly from~~  
1325 ~~one employer or contractor to another, and not from the person~~  
1326 ~~screened. Upon request, a copy of screening results shall be~~  
1327 ~~provided by the employer retaining documentation of the~~  
1328 ~~screening to the person screened.~~

1329 ~~(3) The person required to be screened is employed by a~~  
1330 ~~corporation or business entity or related corporation or~~  
1331 ~~business entity that owns, operates, or manages more than one~~  
1332 ~~facility or agency licensed under this chapter, and for whom a~~  
1333 ~~level 1 screening was conducted by the corporation or business~~  
1334 ~~entity as a condition of initial or continued employment.~~

1335 Section 29. Subsection (4) of section 429.67, Florida  
1336 Statutes, is amended to read:

1337 429.67 Licensure.—

1338 (4) ~~Upon receipt of a completed license application or~~  
1339 ~~license renewal, and the fee, The agency shall require level 2~~  
1340 ~~initiate a level 1 background screening for personnel as~~  
1341 ~~required in s. 408.809(1)(e), including as provided under~~  
1342 ~~chapter 435 on the adult family-care home provider, the~~  
1343 ~~designated relief person, and all adult household members,~~  
1344 ~~pursuant to chapter 435 and s. 408.809, and all staff members.~~



1345 ~~(a) Proof of compliance with level 1 screening standards~~  
 1346 ~~which has been submitted within the previous 5 years to meet any~~  
 1347 ~~facility or professional licensure requirements of the agency or~~  
 1348 ~~the Department of Health satisfies the requirements of this~~  
 1349 ~~subsection. Such proof must be accompanied, under penalty of~~  
 1350 ~~perjury, by a copy of the person's current professional license~~  
 1351 ~~and an affidavit of current compliance with the background~~  
 1352 ~~screening requirements.~~

1353 ~~(b) The person required to be screened must have been~~  
 1354 ~~continuously employed in the same type of occupation for which~~  
 1355 ~~the person is seeking employment without a breach in service~~  
 1356 ~~that exceeds 180 days, and proof of compliance with the level 1~~  
 1357 ~~screening requirement which is no more than 2 years old must be~~  
 1358 ~~provided. Proof of compliance shall be provided directly from~~  
 1359 ~~one employer or contractor to another, and not from the person~~  
 1360 ~~screened. Upon request, a copy of screening results shall be~~  
 1361 ~~provided to the person screened by the employer retaining~~  
 1362 ~~documentation of the screening.~~

1363 Section 30. Section 429.69, Florida Statutes, is amended  
 1364 to read:

1365 429.69 Denial, revocation, and suspension of a license.—In  
 1366 addition to the requirements of part II of chapter 408, the  
 1367 agency may deny, suspend, and revoke a license for any of the  
 1368 following reasons:

1369 (1) Failure to comply with the ~~of any of the persons~~  
 1370 ~~required to undergo~~ background screening standards of this part,  
 1371 s. 408.809(1), or chapter 435 under s. 429.67 to meet the level  
 1372 ~~1 screening standards of s. 435.03, unless an exemption from~~

1373 ~~disqualification has been provided by the agency.~~

1374 (2) Failure to correct cited fire code violations that  
1375 threaten the health, safety, or welfare of residents.

1376 Section 31. Paragraph (c) of subsection (2) of section  
1377 429.911, Florida Statutes, is amended to read:

1378 429.911 Denial, suspension, revocation of license;  
1379 emergency action; administrative fines; investigations and  
1380 inspections.-

1381 (2) Each of the following actions by the owner of an adult  
1382 day care center or by its operator or employee is a ground for  
1383 action by the agency against the owner of the center or its  
1384 operator or employee:

1385 (c) A Failure to comply with the of persons subject to  
1386 level 2 background screening standards of this part, s.  
1387 408.809(1), or chapter 435 under s. 408.809 to meet the  
1388 screening standards of s. 435.04, or the retention by the center  
1389 of an employee subject to level 1 background screening standards  
1390 under s. 429.174 who does not meet the screening standards of s.  
1391 435.03 and for whom exemptions from disqualification have not  
1392 been provided by the agency.

1393 Section 32. Section 429.919, Florida Statutes, is amended  
1394 to read:

1395 429.919 Background screening.-The agency shall require  
1396 level 2 background screening for personnel as required in s.  
1397 408.809(1) (e) pursuant to chapter 435 and s. 408.809 ~~The owner~~  
1398 ~~or administrator of an adult day care center must conduct level~~  
1399 ~~1 background screening as set forth in chapter 435 on all~~  
1400 ~~employees hired on or after October 1, 1998, who provide basic~~

1401 ~~services or supportive and optional services to the~~  
 1402 ~~participants. Such persons satisfy this requirement if:~~  
 1403 ~~(1) Proof of compliance with level 1 screening~~  
 1404 ~~requirements obtained to meet any professional license~~  
 1405 ~~requirements in this state is provided and accompanied, under~~  
 1406 ~~penalty of perjury, by a copy of the person's current~~  
 1407 ~~professional license and an affidavit of current compliance with~~  
 1408 ~~the background screening requirements.~~

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

1419 ~~(3) The person required to be screened is employed by a~~  
 1420 ~~corporation or business entity or related corporation or~~  
 1421 ~~business entity that owns, operates, or manages more than one~~  
 1422 ~~facility or agency licensed under chapter 400 or this chapter,~~  
 1423 ~~and for whom a level 1 screening was conducted by the~~  
 1424 ~~corporation or business entity as a condition of initial or~~  
 1425 ~~continued employment.~~

1426 Section 33. Section 430.60, Florida Statutes, is created  
 1427 to read:

1428 430.60 Screening of direct service providers.-

1429 (1) (a) Level 2 background screening pursuant to chapter  
1430 435 is required for direct service providers. Background  
1431 screening shall include employment history checks as provided in  
1432 s. 435.03(1) and local criminal history records checks through  
1433 local law enforcement agencies.

1434 (b) For purposes of this section, the term "direct service  
1435 provider" means a person 18 years of age or older who has  
1436 direct, face-to-face contact with a client while providing  
1437 services to the client and has access to the client's living  
1438 areas or to the client's funds or personal property. The term  
1439 includes coordinators, managers, and supervisors of residential  
1440 facilities and volunteers.

1441 (2) Licensed physicians, nurses, or other professionals  
1442 licensed by the Department of Health are not subject to  
1443 background screening pursuant to this section if they are  
1444 providing a service that is within the scope of their licensed  
1445 practice.

1446 (3) Refusal on the part of an employer to dismiss a  
1447 manager, supervisor, or direct service provider who has been  
1448 found to be in noncompliance with standards of this section  
1449 shall result in the automatic denial, termination, or revocation  
1450 of the license or certification, rate agreement, purchase order,  
1451 or contract, in addition to any other remedies authorized by  
1452 law.

1453 (4) The background screening conducted pursuant to this  
1454 section must ensure that, in addition to the disqualifying  
1455 offenses listed in s. 435.04, no person subject to the  
1456 provisions of this section has an arrest awaiting final

1457 disposition for, has been found guilty of, regardless of  
1458 adjudication, has entered a plea of nolo contendere or guilty  
1459 to, or has been adjudicated delinquent and the record has not  
1460 been sealed or expunged for, any offense prohibited under any of  
1461 the following provisions of the Florida Statutes or under any  
1462 similar statute of another jurisdiction:

1463 (a) Any authorizing statutes, if the offense was a felony.

1464 (b) Section 409.920, relating to Medicaid provider fraud.

1465 (c) Section 409.9201, relating to Medicaid fraud.

1466 (d) Section 817.034, relating to fraudulent acts through  
1467 mail, wire, radio, electromagnetic, photoelectronic, or  
1468 photooptical systems.

1469 (e) Section 817.234, relating to false and fraudulent  
1470 insurance claims.

1471 (f) Section 817.505, relating to patient brokering.

1472 (g) Section 817.568, relating to criminal use of personal  
1473 identification information.

1474 (h) Section 817.60, relating to obtaining a credit card  
1475 through fraudulent means.

1476 (i) Section 817.61, relating to fraudulent use of credit  
1477 cards, if the offense was a felony.

1478 (j) Section 831.01, relating to forgery.

1479 (k) Section 831.02, relating to uttering forged  
1480 instruments.

1481 (l) Section 831.07, relating to forging bank bills,  
1482 checks, drafts, or promissory notes.

1483 (m) Section 831.09, relating to uttering forged bank  
1484 bills, checks, drafts, or promissory notes.

1485 Section 34. Section 435.01, Florida Statutes, is amended  
 1486 to read:

1487 435.01 Applicability of this chapter; statutory  
 1488 references; rulemaking.—

1489 (1) (a) Unless otherwise provided by law, whenever a  
 1490 background screening for employment or a background security  
 1491 check is required by law to be conducted pursuant to this  
 1492 chapter for employment, unless otherwise provided by law, the  
 1493 provisions of this chapter shall apply.

1494 (b) Unless expressly provided otherwise, a reference in  
 1495 any section of the Florida Statutes to chapter 435 or to any  
 1496 section or sections or portion of a section of chapter 435  
 1497 includes, and shall be understood as including, all subsequent  
 1498 amendments to chapter 435 or to the referenced section or  
 1499 sections or portions of a section. The purpose of this chapter  
 1500 is to facilitate uniform background screening and, to this end,  
 1501 a reference to this chapter, or to any section or subdivision  
 1502 within this chapter, constitutes a general reference under the  
 1503 doctrine of incorporation by reference.

1504 (2) Agencies may adopt rules pursuant to ss. 120.536(1)  
 1505 and 120.54 necessary to implement the provisions of this  
 1506 chapter.

1507 Section 35. Section 435.02, Florida Statutes, is amended  
 1508 to read:

1509 435.02 Definitions.—For the purposes of this chapter, the  
 1510 term:

1511 (1) ~~(3)~~ "Licensing Agency" means any state, or county, or  
 1512 municipal agency that ~~which~~ grants licenses or registration

1513 | permitting the operation of an employer or is itself an employer  
 1514 | or that otherwise facilitates the screening of employees  
 1515 | pursuant to this chapter. When there is no state ~~licensing~~  
 1516 | agency or the municipal or county ~~licensing~~ agency chooses not  
 1517 | to conduct employment screening, "~~licensing~~ agency" means the  
 1518 | Department of Children and Family Services.

1519 |       (2)~~(1)~~ "Employee" means any person required by law to be  
 1520 | screened pursuant to the provisions of this chapter.

1521 |       (3)~~(2)~~ "Employer" means any person or entity required by  
 1522 | law to conduct screening of employees pursuant to this chapter.

1523 |       (4) "Employment" means any activity or service sought to  
 1524 | be performed by an employee that requires the employee to be  
 1525 | subject to screening pursuant to this chapter.

1526 |       (5) "Vulnerable person" means a minor or a vulnerable  
 1527 | adult as defined in s. 415.102.

1528 |       Section 36. Section 435.03, Florida Statutes, is amended  
 1529 | to read:

1530 |       435.03 Level 1 screening standards.—

1531 |       (1) All employees required by law to be screened pursuant  
 1532 | to this section must ~~shall be required to~~ undergo background  
 1533 | screening as a condition of employment and continued employment  
 1534 | ~~that includes.~~ ~~For the purposes of this subsection, level 1~~  
 1535 | ~~screenings shall include,~~ but need not be limited to, employment  
 1536 | history checks, ~~and~~ statewide criminal correspondence checks  
 1537 | through the ~~Florida~~ Department of Law Enforcement, a check of  
 1538 | the Dru Sjodin National Sex Offender Registry, and ~~may include~~  
 1539 | local criminal history records checks through local law  
 1540 | enforcement agencies.

1541           (2) Any person required by law to be screened pursuant to  
1542 this section must not have an arrest awaiting final disposition  
1543 for, for whom employment screening is required by statute must  
1544 ~~not~~ have been found guilty of, regardless of adjudication, ~~or~~  
1545 entered a plea of nolo contendere or guilty to, or have been  
1546 adjudicated delinquent and the record has not been sealed or  
1547 expunged for, any offense prohibited under any provision of s.  
1548 435.04(2) of the following provisions of the Florida Statutes or  
1549 under any similar statute of another jurisdiction.†

1550           ~~(a) Section 393.135, relating to sexual misconduct with~~  
1551 ~~certain developmentally disabled clients and reporting of such~~  
1552 ~~sexual misconduct.~~

1553           ~~(b) Section 394.4593, relating to sexual misconduct with~~  
1554 ~~certain mental health patients and reporting of such sexual~~  
1555 ~~misconduct.~~

1556           ~~(c) Section 415.111, relating to abuse, neglect, or~~  
1557 ~~exploitation of a vulnerable adult.~~

1558           ~~(d) Section 782.04, relating to murder.~~

1559           ~~(e) Section 782.07, relating to manslaughter, aggravated~~  
1560 ~~manslaughter of an elderly person or disabled adult, or~~  
1561 ~~aggravated manslaughter of a child.~~

1562           ~~(f) Section 782.071, relating to vehicular homicide.~~

1563           ~~(g) Section 782.09, relating to killing of an unborn quick~~  
1564 ~~child by injury to the mother.~~

1565           ~~(h) Section 784.011, relating to assault, if the victim of~~  
1566 ~~the offense was a minor.~~

1567           ~~(i) Section 784.021, relating to aggravated assault.~~

1568           ~~(j) Section 784.03, relating to battery, if the victim of~~



1569 ~~the offense was a minor.~~

1570 ~~(k) Section 784.045, relating to aggravated battery.~~

1571 ~~(l) Section 787.01, relating to kidnapping.~~

1572 ~~(m) Section 787.02, relating to false imprisonment.~~

1573 ~~(n) Section 794.011, relating to sexual battery.~~

1574 ~~(o) Former s. 794.041, relating to prohibited acts of~~

1575 ~~persons in familial or custodial authority.~~

1576 ~~(p) Chapter 796, relating to prostitution.~~

1577 ~~(q) Section 798.02, relating to lewd and lascivious~~

1578 ~~behavior.~~

1579 ~~(r) Chapter 800, relating to lewdness and indecent~~

1580 ~~exposure.~~

1581 ~~(s) Section 806.01, relating to arson.~~

1582 ~~(t) Chapter 812, relating to theft, robbery, and related~~

1583 ~~crimes, if the offense was a felony.~~

1584 ~~(u) Section 817.563, relating to fraudulent sale of~~

1585 ~~controlled substances, only if the offense was a felony.~~

1586 ~~(v) Section 825.102, relating to abuse, aggravated abuse,~~

1587 ~~or neglect of an elderly person or disabled adult.~~

1588 ~~(w) Section 825.1025, relating to lewd or lascivious~~

1589 ~~offenses committed upon or in the presence of an elderly person~~

1590 ~~or disabled adult.~~

1591 ~~(x) Section 825.103, relating to exploitation of an~~

1592 ~~elderly person or disabled adult, if the offense was a felony.~~

1593 ~~(y) Section 826.04, relating to incest.~~

1594 ~~(z) Section 827.03, relating to child abuse, aggravated~~

1595 ~~child abuse, or neglect of a child.~~

1596 ~~(aa) Section 827.04, relating to contributing to the~~

1597 ~~delinquency or dependency of a child.~~  
 1598 ~~(bb) Former s. 827.05, relating to negligent treatment of~~  
 1599 ~~children.~~  
 1600 ~~(cc) Section 827.071, relating to sexual performance by a~~  
 1601 ~~child.~~  
 1602 ~~(dd) Chapter 847, relating to obscene literature.~~  
 1603 ~~(ee) Chapter 893, relating to drug abuse prevention and~~  
 1604 ~~control, only if the offense was a felony or if any other person~~  
 1605 ~~involved in the offense was a minor.~~  
 1606 ~~(ff) Section 916.1075, relating to sexual misconduct with~~  
 1607 ~~certain forensic clients and reporting of such sexual~~  
 1608 ~~misconduct.~~  
 1609 (3) The security background investigations under this  
 1610 section must ensure that no person subject to the provisions of  
 1611 this section has been found guilty of, regardless of  
 1612 adjudication, or entered a plea of nolo contendere or guilty to,  
 1613 any offense that constitutes domestic violence as defined in s.  
 1614 741.28, whether such act was committed in this state or in  
 1615 another jurisdiction. Standards must also ensure that the  
 1616 person:  
 1617 ~~(a) For employees and employers licensed or registered~~  
 1618 ~~pursuant to chapter 400 or chapter 429, and for employees and~~  
 1619 ~~employers of developmental disabilities centers as defined in s.~~  
 1620 ~~393.063, intermediate care facilities for the developmentally~~  
 1621 ~~disabled as defined in s. 400.960, and mental health treatment~~  
 1622 ~~facilities as defined in s. 394.455, meets the requirements of~~  
 1623 ~~this chapter.~~  
 1624 ~~(b) Has not committed an act that constitutes domestic~~

1625 ~~violence as defined in s. 741.28.~~

1626 Section 37. Section 435.04, Florida Statutes, is amended  
1627 to read:

1628 435.04 Level 2 screening standards.—

1629 (1) (a) All employees required by law to be screened  
1630 pursuant to this section must in positions designated by law as  
1631 positions of trust or responsibility shall be required to  
1632 undergo security background investigations as a condition of  
1633 employment and continued employment that includes. ~~For the~~  
1634 ~~purposes of this subsection, security background investigations~~  
1635 ~~shall include, but need not be limited to, fingerprinting for~~  
1636 ~~statewide criminal history records all purposes and checks in~~  
1637 ~~this subsection, statewide criminal and juvenile records checks~~  
1638 ~~through the Florida Department of Law Enforcement, and national~~  
1639 ~~federal criminal history records checks through the Federal~~  
1640 ~~Bureau of Investigation, and may include local criminal history~~  
1641 ~~records checks through local law enforcement agencies.~~

1642 (b) Fingerprints submitted pursuant to this section on or  
1643 after July 1, 2012, must be submitted electronically to the  
1644 Department of Law Enforcement.

1645 (c) An agency may contract with one or more vendors to  
1646 perform all or part of the electronic fingerprinting pursuant to  
1647 this section. Such contracts must ensure that the owners and  
1648 personnel of the vendor performing the electronic fingerprinting  
1649 are qualified and will ensure the integrity and security of all  
1650 personal information.

1651 (d) An agency may require by rule adopted pursuant to  
1652 chapter 120 that fingerprints submitted pursuant to this section

1653 must be submitted electronically to the Department of Law  
1654 Enforcement on a date earlier than July 1, 2012.

1655 (2) The security background investigations under this  
1656 section must ensure that no persons subject to the provisions of  
1657 this section have been arrested for and are awaiting final  
1658 disposition of, have been found guilty of, regardless of  
1659 adjudication, ~~or~~ entered a plea of nolo contendere or guilty to,  
1660 or have been adjudicated delinquent and the record has not been  
1661 sealed or expunged for, any offense prohibited under any of the  
1662 following provisions of the Florida Statutes or under any  
1663 similar statute of another jurisdiction:

1664 (a) Section 393.135, relating to sexual misconduct with  
1665 certain developmentally disabled clients and reporting of such  
1666 sexual misconduct.

1667 (b) Section 394.4593, relating to sexual misconduct with  
1668 certain mental health patients and reporting of such sexual  
1669 misconduct.

1670 (c) Section 415.111, relating to adult abuse, neglect, or  
1671 exploitation of aged persons or disabled adults.

1672 (d) Section 782.04, relating to murder.

1673 (e) Section 782.07, relating to manslaughter, aggravated  
1674 manslaughter of an elderly person or disabled adult, or  
1675 aggravated manslaughter of a child.

1676 (f) Section 782.071, relating to vehicular homicide.

1677 (g) Section 782.09, relating to killing of an unborn quick  
1678 child by injury to the mother.

1679 (h) Chapter 784, relating to assault, battery, and  
1680 culpable negligence, if the offense was a felony.

1681        (i)~~(h)~~ Section 784.011, relating to assault, if the victim  
 1682 of the offense was a minor.

1683        ~~(i) Section 784.021, relating to aggravated assault.~~

1684        (j) Section 784.03, relating to battery, if the victim of  
 1685 the offense was a minor.

1686        ~~(k) Section 784.045, relating to aggravated battery.~~

1687        ~~(l) Section 784.075, relating to battery on a detention or  
 1688 commitment facility staff.~~

1689        (k)~~(m)~~ Section 787.01, relating to kidnapping.

1690        (l)~~(n)~~ Section 787.02, relating to false imprisonment.

1691        (m) Section 787.025, relating to luring or enticing a  
 1692 child.

1693        (n)~~(o)~~ Section 787.04(2), relating to taking, enticing, or  
 1694 removing a child beyond the state limits with criminal intent  
 1695 pending custody proceedings.

1696        (o)~~(p)~~ Section 787.04(3), relating to carrying a child  
 1697 beyond the state lines with criminal intent to avoid producing a  
 1698 child at a custody hearing or delivering the child to the  
 1699 designated person.

1700        (p)~~(q)~~ Section 790.115(1), relating to exhibiting firearms  
 1701 or weapons within 1,000 feet of a school.

1702        (q)~~(r)~~ Section 790.115(2)(b), relating to possessing an  
 1703 electric weapon or device, destructive device, or other weapon  
 1704 on school property.

1705        (r)~~(s)~~ Section 794.011, relating to sexual battery.

1706        (s)~~(t)~~ Former s. 794.041, relating to prohibited acts of  
 1707 persons in familial or custodial authority.

1708        (t) Section 794.05, relating to unlawful sexual activity

1709 with certain minors.  
 1710 (u) Chapter 796, relating to prostitution.  
 1711 (v) Section 798.02, relating to lewd and lascivious  
 1712 behavior.  
 1713 (w) Chapter 800, relating to lewdness and indecent  
 1714 exposure.  
 1715 (x) Section 806.01, relating to arson.  
 1716 (y) Section 810.02, relating to burglary.  
 1717 (z) Section 810.14, relating to voyeurism, if the offense  
 1718 is a felony.  
 1719 (aa) Section 810.145, relating to video voyeurism, if the  
 1720 offense is a felony.  
 1721 (bb)~~(y)~~ Chapter 812, relating to theft, robbery, and  
 1722 related crimes, if the offense is a felony.  
 1723 (cc)~~(z)~~ Section 817.563, relating to fraudulent sale of  
 1724 controlled substances, only if the offense was a felony.  
 1725 (dd)~~(aa)~~ Section 825.102, relating to abuse, aggravated  
 1726 abuse, or neglect of an elderly person or disabled adult.  
 1727 (ee)~~(bb)~~ Section 825.1025, relating to lewd or lascivious  
 1728 offenses committed upon or in the presence of an elderly person  
 1729 or disabled adult.  
 1730 (ff)~~(ee)~~ Section 825.103, relating to exploitation of an  
 1731 elderly person or disabled adult, if the offense was a felony.  
 1732 (gg)~~(dd)~~ Section 826.04, relating to incest.  
 1733 (hh)~~(ee)~~ Section 827.03, relating to child abuse,  
 1734 aggravated child abuse, or neglect of a child.  
 1735 (ii)~~(ff)~~ Section 827.04, relating to contributing to the  
 1736 delinquency or dependency of a child.

1737 (jj)~~(gg)~~ Former s. 827.05, relating to negligent treatment  
 1738 of children.

1739 (kk)~~(hh)~~ Section 827.071, relating to sexual performance  
 1740 by a child.

1741 (ll)~~(ii)~~ Section 843.01, relating to resisting arrest with  
 1742 violence.

1743 (mm)~~(jj)~~ Section 843.025, relating to depriving a law  
 1744 enforcement, correctional, or correctional probation officer  
 1745 means of protection or communication.

1746 (nn)~~(kk)~~ Section 843.12, relating to aiding in an escape.

1747 (oo)~~(ll)~~ Section 843.13, relating to aiding in the escape  
 1748 of juvenile inmates in correctional institutions.

1749 (pp)~~(mm)~~ Chapter 847, relating to obscene literature.

1750 (qq)~~(nn)~~ Section 874.05(1), relating to encouraging or  
 1751 recruiting another to join a criminal gang.

1752 (rr)~~(oo)~~ Chapter 893, relating to drug abuse prevention  
 1753 and control, only if the offense was a felony or if any other  
 1754 person involved in the offense was a minor.

1755 (ss)~~(pp)~~ Section 916.1075, relating to sexual misconduct  
 1756 with certain forensic clients and reporting of such sexual  
 1757 misconduct.

1758 (tt)~~(qq)~~ Section 944.35(3), relating to inflicting cruel  
 1759 or inhuman treatment on an inmate resulting in great bodily  
 1760 harm.

1761 (uu) Section 944.40, relating to escape.

1762 (vv)~~(rr)~~ Section 944.46, relating to harboring,  
 1763 concealing, or aiding an escaped prisoner.

1764 (ww)~~(ss)~~ Section 944.47, relating to introduction of

1765 contraband into a correctional facility.

1766 ~~(xx)(tt)~~ Section 985.701, relating to sexual misconduct in  
 1767 juvenile justice programs.

1768 ~~(yy)(uu)~~ Section 985.711, relating to contraband  
 1769 introduced into detention facilities.

1770 (3) The security background investigations under this  
 1771 section must ensure that no person subject to this section has  
 1772 been found guilty of, regardless of adjudication, or entered a  
 1773 plea of nolo contendere or guilty to, any offense that  
 1774 constitutes domestic violence as defined in s. 741.28, whether  
 1775 such act was committed in this state or in another jurisdiction.  
 1776 ~~The security background investigations conducted under this~~  
 1777 ~~section for employees of the Department of Juvenile Justice must~~  
 1778 ~~ensure that no persons subject to the provisions of this section~~  
 1779 ~~have been found guilty of, regardless of adjudication, or~~  
 1780 ~~entered a plea of nolo contendere or guilty to, any offense~~  
 1781 ~~prohibited under any of the following provisions of the Florida~~  
 1782 ~~Statutes or under any similar statute of another jurisdiction:~~

1783 ~~(a) Section 784.07, relating to assault or battery of law~~  
 1784 ~~enforcement officers, firefighters, emergency medical care~~  
 1785 ~~providers, public transit employees or agents, or other~~  
 1786 ~~specified officers.~~

1787 ~~(b) Section 810.02, relating to burglary, if the offense~~  
 1788 ~~is a felony.~~

1789 ~~(c) Section 944.40, relating to escape.~~

1790

1791 ~~The Department of Juvenile Justice may not remove a~~  
 1792 ~~disqualification from employment or grant an exemption to any~~



1793 ~~person who is disqualified under this section for any offense~~  
 1794 ~~disposed of during the most recent 7-year period.~~

1795 ~~(4) Standards must also ensure that the person:~~

1796 ~~(a) For employees or employers licensed or registered~~  
 1797 ~~pursuant to chapter 400 or chapter 429, does not have a~~  
 1798 ~~confirmed report of abuse, neglect, or exploitation as defined~~  
 1799 ~~in s. 415.102(6), which has been uncontested or upheld under s.~~  
 1800 ~~415.103.~~

1801 ~~(b) Has not committed an act that constitutes domestic~~  
 1802 ~~violence as defined in s. 741.30.~~

1803 ~~(5) Under penalty of perjury, all employees in such~~  
 1804 ~~positions of trust or responsibility shall attest to meeting the~~  
 1805 ~~requirements for qualifying for employment and agreeing to~~  
 1806 ~~inform the employer immediately if convicted of any of the~~  
 1807 ~~disqualifying offenses while employed by the employer. Each~~  
 1808 ~~employer of employees in such positions of trust or~~  
 1809 ~~responsibilities which is licensed or registered by a state~~  
 1810 ~~agency shall submit to the licensing agency annually or at the~~  
 1811 ~~time of license renewal, under penalty of perjury, an affidavit~~  
 1812 ~~of compliance with the provisions of this section.~~

1813 Section 38. Section 435.05, Florida Statutes, is amended  
 1814 to read:

1815 435.05 Requirements for covered employees and employers.—  
 1816 Except as otherwise provided by law, the following requirements  
 1817 shall apply to covered employees and employers:

1818 (1) (a) Every person required by law to be screened  
 1819 pursuant to the provisions of this chapter must ~~employed in a~~  
 1820 ~~position for which employment screening is required must, within~~

1821 ~~5 working days after starting to work,~~ submit to the employer a  
 1822 complete set of information necessary to conduct a screening  
 1823 under this chapter ~~section~~.

1824 (b) For level 1 screening, the employer must submit the  
 1825 information necessary for screening to the ~~Florida~~ Department of  
 1826 Law Enforcement within 5 working days after receiving it. The  
 1827 ~~Florida~~ Department of Law Enforcement will conduct a search of  
 1828 its records and will respond to the employer or agency. The  
 1829 employer will inform the employee whether screening has revealed  
 1830 any disqualifying information.

1831 (c) For level 2 screening, the employer or ~~licensing~~  
 1832 agency must submit the information necessary for screening to  
 1833 the ~~Florida~~ Department of Law Enforcement within 5 working days  
 1834 after receiving it. The ~~Florida~~ Department of Law Enforcement  
 1835 will perform a criminal history records check of its ~~conduct a~~  
 1836 ~~search of its criminal and juvenile~~ records and will request  
 1837 that the Federal Bureau of Investigation perform a national  
 1838 criminal history records check ~~conduct a search~~ of its records  
 1839 for each employee for whom the request is made. The ~~Florida~~  
 1840 Department of Law Enforcement will respond to the employer or  
 1841 ~~licensing~~ agency, and the employer or ~~licensing~~ agency will  
 1842 inform the employee whether screening has revealed disqualifying  
 1843 information.

1844 (d) The person whose background is being checked must  
 1845 supply any missing criminal or other necessary information upon  
 1846 request to the requesting employer or agency within 30 days  
 1847 after receiving the ~~employer makes a~~ request for the information  
 1848 ~~or be subject to automatic disqualification~~.

1849           (2) Every employee must attest, subject to penalty of  
 1850 perjury, to meeting the requirements for qualifying for  
 1851 employment pursuant to this chapter and agreeing to inform the  
 1852 employer immediately if arrested for any of the disqualifying  
 1853 offenses while employed by the employer ~~Unless otherwise~~  
 1854 ~~prohibited by state or federal law, new employees may be placed~~  
 1855 ~~on probationary status pending a determination of compliance~~  
 1856 ~~with minimum standards set forth in this chapter.~~

1857           (3) Each employer that is licensed or registered with an  
 1858 agency and is required by law to conduct level 2 background  
 1859 screening must submit to the agency ~~sign an affidavit~~ annually  
 1860 or at the time of license renewal, under penalty of perjury, a  
 1861 signed affidavit attesting to compliance with the provisions of  
 1862 this chapter ~~stating that all covered employees have been~~  
 1863 ~~screened or are newly hired and are awaiting the results of the~~  
 1864 ~~required screening checks.~~

1865           Section 39. Section 435.06, Florida Statutes, is amended  
 1866 to read:

1867           435.06 Exclusion from employment.—

1868           (1) When an employer or ~~licensing~~ agency has reasonable  
 1869 cause to believe that grounds exist for the denial or  
 1870 termination of employment of any employee as a result of  
 1871 background screening, it shall notify the employee in writing,  
 1872 stating the specific record that ~~which~~ indicates noncompliance  
 1873 with the standards in this chapter ~~section~~. It shall be the  
 1874 responsibility of the affected employee to contest his or her  
 1875 disqualification or to request exemption from disqualification.  
 1876 The only basis for contesting the disqualification shall be

1877 proof of mistaken identity.

1878       (2) (a) An employer may not hire, select, or otherwise  
1879 allow an employee to have contact with any vulnerable person  
1880 that would place the employee in a role that would require  
1881 background screening until such time as the screening process is  
1882 completed and demonstrates the absence of any grounds for the  
1883 denial or termination of employment. If the screening process  
1884 shows any grounds for the denial or termination of employment,  
1885 the employer may not hire, select, or otherwise allow the  
1886 employee to have contact with any vulnerable person that would  
1887 place the employee in a role that would require background  
1888 screening unless the employee is granted an exemption for the  
1889 disqualification by the agency as provided under s. 435.07.

1890       (b) If at any time an employer becomes aware that an  
1891 employee has been arrested for a disqualifying offense, the  
1892 employer must remove the employee from contact with any  
1893 vulnerable person that would place the employee in a role that  
1894 would require background screening until such time as the arrest  
1895 is resolved in such a way that the employer determines that the  
1896 employee is still eligible for employment under this chapter.

1897       (c) The employer must either terminate the employment of  
1898 any of its personnel found to be in noncompliance with the  
1899 minimum standards of this chapter ~~for good moral character~~  
1900 ~~contained in this section~~ or place the employee in a position  
1901 for which background screening is not required unless the  
1902 employee is granted an exemption from disqualification pursuant  
1903 to s. 435.07.

1904       (3) Any employee ~~person who is required to undergo~~

1905 ~~employment screening~~ and who refuses to cooperate in such  
 1906 screening or refuses to timely submit the information necessary  
 1907 to complete the screening, including fingerprints when required,  
 1908 must ~~shall~~ be disqualified for employment in such position or,  
 1909 if employed, must ~~shall~~ be dismissed.

1910 (4) There is no unemployment compensation or other  
 1911 monetary liability on the part of, and no cause of action for  
 1912 damages arising against, an employer that, upon notice of a  
 1913 conviction or arrest for a disqualifying offense listed under  
 1914 this chapter, terminates the person against whom the report was  
 1915 issued or who was arrested, regardless of whether that person  
 1916 has filed for an exemption pursuant to this chapter.

1917 Section 40. Section 435.07, Florida Statutes, is amended  
 1918 to read:

1919 435.07 Exemptions from disqualification.—Unless otherwise  
 1920 provided by law, the provisions of this section shall apply to  
 1921 exemptions from disqualification for disqualifying offenses  
 1922 revealed pursuant to background screenings required by law to be  
 1923 conducted pursuant to this chapter, regardless of whether those  
 1924 disqualifying offenses are listed in this chapter or are in  
 1925 other statutes.

1926 (1) The head of the appropriate ~~licensing~~ agency may grant  
 1927 to any employee otherwise disqualified from employment an  
 1928 exemption from disqualification for:

1929 (a) Felonies for which at least 3 years have elapsed since  
 1930 the applicant for the exemption has completed or been lawfully  
 1931 released from any confinement, supervision, or sanction for the  
 1932 disqualifying felony ~~committed more than 3 years prior to the~~

1933 ~~date of disqualification;~~

1934 (b) Misdemeanors prohibited under any of the Florida  
 1935 Statutes cited in this chapter or under similar statutes of  
 1936 other jurisdictions for which the applicant for the exemption  
 1937 has completed or been lawfully released from any confinement,  
 1938 supervision, or sanction for the disqualifying misdemeanor;

1939 (c) Offenses that were felonies when committed but are now  
 1940 misdemeanors and for which the applicant for the exemption has  
 1941 completed or been lawfully released from any confinement,  
 1942 supervision, or sanction for the disqualifying offense; or

1943 (d) Findings of delinquency. For offenses that would be  
 1944 felonies if committed by an adult and the record has not been  
 1945 sealed or expunged, then the exemption may not be granted until  
 1946 at least 3 years have elapsed since the applicant for the  
 1947 exemption has completed or been lawfully released from any  
 1948 confinement, supervision, or sanction for the disqualifying  
 1949 offense; or

1950 ~~(e) Commissions of acts of domestic violence as defined in~~  
 1951 ~~s. 741.30.~~

1952  
 1953 For the purposes of this subsection, the term "felonies" means  
 1954 both felonies prohibited under any of the Florida Statutes cited  
 1955 in this chapter or under similar statutes of other  
 1956 jurisdictions.

1957 (2) Persons employed, or applicants for employment, by  
 1958 treatment providers who treat adolescents 13 years of age and  
 1959 older who are disqualified from employment solely because of  
 1960 crimes under s. 817.563, s. 893.13, or s. 893.147 may be

1961 | exempted from disqualification from employment pursuant to this  
 1962 | chapter section without application of the ~~3-year~~ waiting period  
 1963 | in paragraph (1) (a).

1964 |       (3) (a) In order for the head of an agency ~~a licensing~~  
 1965 | ~~department~~ to grant an exemption to any employee, the employee  
 1966 | must demonstrate by clear and convincing evidence that the  
 1967 | employee should not be disqualified from employment. Employees  
 1968 | seeking an exemption have the burden of setting forth clear and  
 1969 | convincing ~~sufficient~~ evidence of rehabilitation, including, but  
 1970 | not limited to, the circumstances surrounding the criminal  
 1971 | incident for which an exemption is sought, the time period that  
 1972 | has elapsed since the incident, the nature of the harm caused to  
 1973 | the victim, and the history of the employee since the incident,  
 1974 | or any other evidence or circumstances indicating that the  
 1975 | employee will not present a danger if employment or continued  
 1976 | employment is allowed.

1977 |       (b) The agency may consider as part of its deliberations  
 1978 | of the employee's rehabilitation the fact that the employee has,  
 1979 | subsequent to the conviction for the disqualifying offense for  
 1980 | which the exemption is being sought, been arrested for or  
 1981 | convicted of another crime, even if that crime is not a  
 1982 | disqualifying offense.

1983 |       (c) The decision of the head of an agency ~~licensing~~  
 1984 | ~~department~~ regarding an exemption may be contested through the  
 1985 | hearing procedures set forth in chapter 120. The standard of  
 1986 | review by the administrative law judge is whether the agency's  
 1987 | intended action is an abuse of discretion.

1988 |       (4) (a) Disqualification from employment under this chapter

1989 ~~subsection (1)~~ may not be removed from, nor may an exemption be  
 1990 granted to, any personnel who is found guilty of, regardless of  
 1991 adjudication, or who has entered a plea of nolo contendere or  
 1992 guilty to, any felony covered by s. 435.03 or s. 435.04 solely  
 1993 by reason of any pardon, executive clemency, or restoration of  
 1994 civil rights.

1995 (b) Disqualification from employment under this chapter  
 1996 may not be removed from, nor may an exemption be granted to, any  
 1997 person who has been designated as a:

- 1998 1. Sexual predator pursuant to s. 775.21;
- 1999 2. Career offender pursuant to s. 775.261; or
- 2000 3. Sexual offender pursuant to s. 943.0435, unless the  
 2001 person has had the sexual offender designation removed pursuant  
 2002 to s. 943.04354.

2003 (5) Exemptions granted by one ~~licensing~~ agency shall be  
 2004 considered by subsequent ~~licensing~~ agencies, but are not binding  
 2005 on the subsequent ~~licensing~~ agency.

2006 Section 41. Section 435.08, Florida Statutes, is amended  
 2007 to read:

2008 435.08 Payment for processing of fingerprints and state  
 2009 criminal history records checks.—Either the employer or the  
 2010 employee is responsible for paying the costs of screening.  
 2011 Payment shall be submitted to the ~~Florida~~ Department of Law  
 2012 Enforcement with the request for screening. The appropriate  
 2013 agency is responsible for collecting and paying any fee related  
 2014 to fingerprints retained on its behalf to the Department of Law  
 2015 Enforcement for costs resulting from the fingerprint information  
 2016 retention services. The amount of the annual fee and procedures



2017 for the submission and retention of fingerprint information and  
 2018 for the dissemination of search results shall be established by  
 2019 rule of the Department of Law Enforcement.

2020 Section 42. Paragraph (d) of subsection (4) of section  
 2021 456.039, Florida Statutes, is amended to read:

2022 456.039 Designated health care professionals; information  
 2023 required for licensure.—

2024 (4)

2025 ~~(d) Any applicant for initial licensure or renewal of~~  
 2026 ~~licensure as a health care practitioner who submits to the~~  
 2027 ~~Department of Health a set of fingerprints or information~~  
 2028 ~~required for the criminal history check required under this~~  
 2029 ~~section shall not be required to provide a subsequent set of~~  
 2030 ~~fingerprints or other duplicate information required for a~~  
 2031 ~~criminal history check to the Agency for Health Care~~  
 2032 ~~Administration, the Department of Juvenile Justice, or the~~  
 2033 ~~Department of Children and Family Services for employment or~~  
 2034 ~~licensure with such agency or department if the applicant has~~  
 2035 ~~undergone a criminal history check as a condition of initial~~  
 2036 ~~licensure or licensure renewal as a health care practitioner~~  
 2037 ~~with the Department of Health or any of its regulatory boards,~~  
 2038 ~~notwithstanding any other provision of law to the contrary. In~~  
 2039 ~~lieu of such duplicate submission, the Agency for Health Care~~  
 2040 ~~Administration, the Department of Juvenile Justice, and the~~  
 2041 ~~Department of Children and Family Services shall obtain criminal~~  
 2042 ~~history information for employment or licensure of health care~~  
 2043 ~~practitioners by such agency and departments from the Department~~  
 2044 ~~of Health's health care practitioner credentialing system.~~

2045 Section 43. Subsection (1) of section 464.203, Florida  
 2046 Statutes, is amended to read:

2047 464.203 Certified nursing assistants; certification  
 2048 requirement.—

2049 (1) The board shall issue a certificate to practice as a  
 2050 certified nursing assistant to any person who demonstrates a  
 2051 minimum competency to read and write and successfully passes the  
 2052 required background ~~Level I or Level II~~ screening pursuant to s.  
 2053 400.215 and meets one of the following requirements:

2054 (a) Has successfully completed an approved training  
 2055 program and achieved a minimum score, established by rule of the  
 2056 board, on the nursing assistant competency examination, which  
 2057 consists of a written portion and skills-demonstration portion  
 2058 approved by the board and administered at a site and by  
 2059 personnel approved by the department.

2060 (b) Has achieved a minimum score, established by rule of  
 2061 the board, on the nursing assistant competency examination,  
 2062 which consists of a written portion and skills-demonstration  
 2063 portion, approved by the board and administered at a site and by  
 2064 personnel approved by the department and:

- 2065 1. Has a high school diploma, or its equivalent; or
- 2066 2. Is at least 18 years of age.

2067 (c) Is currently certified in another state; is listed on  
 2068 that state's certified nursing assistant registry; and has not  
 2069 been found to have committed abuse, neglect, or exploitation in  
 2070 that state.

2071 (d) Has completed the curriculum developed under the  
 2072 Enterprise Florida Jobs and Education Partnership Grant and

2073 achieved a minimum score, established by rule of the board, on  
 2074 the nursing assistant competency examination, which consists of  
 2075 a written portion and skills-demonstration portion, approved by  
 2076 the board and administered at a site and by personnel approved  
 2077 by the department.

2078 Section 44. Subsection (9) of section 489.115, Florida  
 2079 Statutes, is amended to read:

2080 489.115 Certification and registration; endorsement;  
 2081 reciprocity; renewals; continuing education.—

2082 (9) An initial applicant shall submit, along with the  
 2083 application, a complete set of fingerprints to ~~in a form and~~  
 2084 ~~manner required by~~ the department. The fingerprints shall be  
 2085 submitted to the Department of Law Enforcement for state  
 2086 processing, and the Department of Law Enforcement shall forward  
 2087 them to the Federal Bureau of Investigation for national  
 2088 processing, to determine whether the applicant has a criminal  
 2089 history record ~~for the purpose of conducting a level 2~~  
 2090 ~~background check pursuant to s. 435.04.~~ The department shall and  
 2091 the board may review the background results to determine if an  
 2092 applicant meets licensure requirements. The cost for the  
 2093 fingerprint processing shall be borne by the person subject to  
 2094 the background screening. These fees are to be collected by the  
 2095 authorized agencies or vendors. The authorized agencies or  
 2096 vendors are responsible for paying the processing costs to the  
 2097 Department of Law Enforcement.

2098 Section 45. Paragraphs (g) and (h) of subsection (2) of  
 2099 section 943.05, Florida Statutes, are amended, and subsection  
 2100 (4) is added to that section, to read:

2101 943.05 Criminal Justice Information Program; duties; crime  
 2102 reports.—

2103 (2) The program shall:

2104 (g) Upon official written request, and subject to the  
 2105 department having sufficient funds and equipment to participate  
 2106 in such a request, from the agency executive director or  
 2107 secretary, or from his or her designee, or from qualified  
 2108 entities participating in the volunteer and employee criminal  
 2109 history screening system under s. 943.0542, or as otherwise  
 2110 required ~~As authorized~~ by law, retain fingerprints submitted by  
 2111 criminal and noncriminal justice agencies to the department for  
 2112 a criminal history background screening in a manner provided by  
 2113 rule and enter the fingerprints in the statewide automated  
 2114 fingerprint identification system authorized by paragraph (b).  
 2115 Such fingerprints shall thereafter be available for all purposes  
 2116 and uses authorized for arrest fingerprint submissions ~~cards~~  
 2117 entered into the statewide automated fingerprint identification  
 2118 system pursuant to s. 943.051.

2119 (h)~~1.~~ For each agency or qualified entity that officially  
 2120 requests retention of fingerprints or for which retention is  
 2121 otherwise required ~~As authorized~~ by law, search all arrest  
 2122 fingerprint submissions ~~cards~~ received under s. 943.051 against  
 2123 the fingerprints retained in the statewide automated fingerprint  
 2124 identification system under paragraph (g).

2125 1. Any arrest record that is identified with the retained  
 2126 fingerprints of a person subject to background screening as  
 2127 provided in paragraph (g) shall be reported to the appropriate  
 2128 agency or qualified entity.

2129           2. To Agencies may participate in this search process,  
2130 agencies or qualified entities must notify each person  
2131 fingerprinted that his or her fingerprints will be retained, pay  
2132 by payment of an annual fee to the department, and inform by  
2133 informing the department of any change in the affiliation,  
2134 employment, or contractual status or place of affiliation,  
2135 employment, or contracting of each person the persons whose  
2136 fingerprints are retained under paragraph (g) when such change  
2137 removes or eliminates the agency or qualified entity's basis or  
2138 need for receiving reports of any arrest of that person, so that  
2139 the agency or qualified entity will not be obligated to pay the  
2140 upcoming annual fee for the retention and searching of that  
2141 person's fingerprints to the department. The department shall  
2142 adopt a rule setting the amount of the annual fee to be imposed  
2143 upon each participating agency or qualified entity for  
2144 performing these searches and establishing the procedures for  
2145 the retention of fingerprints and the dissemination of search  
2146 results. The fee may be borne by the agency, qualified entity,  
2147 or person subject to fingerprint retention or as otherwise  
2148 provided by law. Fees may be waived or reduced by the executive  
2149 director for good cause shown. Consistent with the recognition  
2150 of criminal justice agencies expressed in s. 943.053(3), these  
2151 services will be provided to criminal justice agencies for  
2152 criminal justice purposes free of charge.

2153           3. Agencies that participate in the fingerprint retention  
2154 and search process may adopt rules pursuant to ss. 120.536(1)  
2155 and 120.54 to require employers to keep the agency informed of  
2156 any change in the affiliation, employment, or contractual status

2157 of each person whose fingerprints are retained under paragraph  
 2158 (g) when such change removes or eliminates the agency's basis or  
 2159 need for receiving reports of any arrest of that person, so that  
 2160 the agency will not be obligated to pay the upcoming annual fee  
 2161 for the retention and searching of that person's fingerprints to  
 2162 the department.

2163 (4) Upon notification that a federal fingerprint retention  
 2164 program is in effect, and subject to the department being funded  
 2165 and equipped to participate in such a program, the department  
 2166 shall, when state and national criminal history records checks  
 2167 and retention of submitted prints are authorized or required by  
 2168 law, retain the fingerprints as provided in paragraphs (2)(g)  
 2169 and (h) and advise the Federal Bureau of Investigation to retain  
 2170 the fingerprints at the national level for searching against  
 2171 arrest fingerprint submissions received at the national level.

2172 Section 46. Subsections (6) and (11) of section 943.053,  
 2173 Florida Statutes, are amended to read:

2174 943.053 Dissemination of criminal justice information;  
 2175 fees.—

2176 (6) Notwithstanding any other provision of law, the  
 2177 department shall provide to the ~~Florida~~ Department of Revenue  
 2178 ~~Child Support Enforcement~~ access to Florida criminal history  
 2179 records which are not exempt from disclosure under chapter 119,  
 2180 and to such information as may be lawfully available from other  
 2181 states via the National Law Enforcement Telecommunications  
 2182 System, for the purpose of locating subjects who owe or  
 2183 potentially owe support, as defined in s. 409.2554, or to whom  
 2184 such obligation is owed pursuant to Title IV-D of the Social

2185 Security Act. Such information may be provided to child support  
 2186 enforcement authorities in other states for these specific  
 2187 purposes.

2188 (11) A criminal justice agency that is authorized under  
 2189 federal rules or law to conduct a criminal history background  
 2190 check on an agency employee who is not certified by the Criminal  
 2191 Justice Standards and Training Commission under s. 943.12 may  
 2192 submit to the department the fingerprints of the noncertified  
 2193 employee to obtain state and national criminal history  
 2194 information. ~~Effective January 15, 2007,~~ The fingerprints  
 2195 submitted shall be retained and entered in the statewide  
 2196 automated fingerprint identification system authorized by s.  
 2197 943.05 and shall be available for all purposes and uses  
 2198 authorized for arrest fingerprint submissions ~~cards~~ entered in  
 2199 the statewide automated fingerprint identification system  
 2200 pursuant to s. 943.051. The department shall search all arrest  
 2201 fingerprint submissions ~~cards~~ received pursuant to s. 943.051  
 2202 against the fingerprints retained in the statewide automated  
 2203 fingerprint identification system pursuant to this section. In  
 2204 addition to all purposes and uses authorized for arrest  
 2205 fingerprint submissions ~~cards~~ for which submitted fingerprints  
 2206 may be used, any arrest record that is identified with the  
 2207 retained employee fingerprints must be reported to the  
 2208 submitting employing agency.

2209 Section 47. Paragraph (a) of subsection (2) of section  
 2210 984.01, Florida Statutes, is amended to read:

2211 984.01 Purposes and intent; personnel standards and  
 2212 screening.—

2213 (2) The Department of Juvenile Justice or the Department  
 2214 of Children and Family Services, as appropriate, may contract  
 2215 with the Federal Government, other state departments and  
 2216 agencies, county and municipal governments and agencies, public  
 2217 and private agencies, and private individuals and corporations  
 2218 in carrying out the purposes of, and the responsibilities  
 2219 established in, this chapter.

2220 (a) When the Department of Juvenile Justice or the  
 2221 Department of Children and Family Services contracts with a  
 2222 provider for any program for children, all personnel, including  
 2223 owners, operators, employees, and volunteers, in the facility  
 2224 must be of good moral character. Each contract entered into by  
 2225 either department for services delivered on an appointment or  
 2226 intermittent basis by a provider that does not have regular  
 2227 custodial responsibility for children and each contract with a  
 2228 school for before or aftercare services must ensure that the  
 2229 owners, operators, and all personnel who have direct contact  
 2230 with children are of good moral character. A volunteer who  
 2231 assists on an intermittent basis for less than 10 ~~40~~ hours per  
 2232 month need not be screened, provided a person who meets the  
 2233 screening requirement of this section is always present and has  
 2234 the volunteer in his or her line of sight ~~if the volunteer is~~  
 2235 ~~under direct and constant supervision by persons who meet the~~  
 2236 ~~screening requirements.~~

2237 Section 48. Section 985.644, Florida Statutes, is amended  
 2238 to read:

2239 985.644 Departmental contracting powers; personnel  
 2240 standards and screening.—



2241           (1) ~~The department of Juvenile Justice or the Department~~  
 2242 ~~of Children and Family Services, as appropriate,~~ may contract  
 2243 with the Federal Government, other state departments and  
 2244 agencies, county and municipal governments and agencies, public  
 2245 and private agencies, and private individuals and corporations  
 2246 in carrying out the purposes of, and the responsibilities  
 2247 established in, this chapter.

2248           (a) ~~When the Department of Juvenile Justice or the~~  
 2249 ~~Department of Children and Family Services contracts with a~~  
 2250 ~~provider for any program for children, all personnel, including~~  
 2251 ~~owners, operators, employees, and volunteers, in the facility~~  
 2252 ~~must be of good moral character.~~ Each contract entered into by  
 2253 the either department for services delivered on an appointment  
 2254 or intermittent basis by a provider that does not have regular  
 2255 custodial responsibility for children and each contract with a  
 2256 school for before or aftercare services must ensure that the all  
 2257 owners, operators, and ~~all~~ personnel who have direct contact  
 2258 with children are subject to level 2 background screening  
 2259 pursuant to chapter 435 ~~of good moral character.~~

2260           (b) A volunteer who assists the department or any program  
 2261 for children on an intermittent basis for less than 10 ~~40~~ hours  
 2262 per month need not be screened, provided a person who meets the  
 2263 screening requirement of this section is always present and has  
 2264 the volunteer in his or her line of sight ~~if the volunteer is~~  
 2265 ~~under direct and constant supervision by persons who meet the~~  
 2266 ~~screening requirements.~~

2267  
 2268           ~~(b) The Department of Juvenile Justice and the Department~~

2269 ~~of Children and Family Services shall require employment~~  
 2270 ~~screening pursuant to chapter 435, using the level 2 standards~~  
 2271 ~~set forth in that chapter for personnel in programs for children~~  
 2272 ~~or youths.~~

2273 ~~(c) The Department of Juvenile Justice or the Department~~  
 2274 ~~of Children and Family Services may grant exemptions from~~  
 2275 ~~disqualification from working with children as provided in s.~~  
 2276 ~~435.07.~~

2277 (2) ~~The department may contract with the Federal~~  
 2278 ~~Government, other state departments and agencies, county and~~  
 2279 ~~municipal governments and agencies, public and private agencies,~~  
 2280 ~~and private individuals and corporations in carrying out the~~  
 2281 ~~purposes and the responsibilities of the delinquency services~~  
 2282 ~~and programs of the department.~~

2283 ~~(3)~~ The department shall adopt a rule pursuant to chapter  
 2284 120 establishing a procedure to provide notice of policy changes  
 2285 that affect contracted delinquency services and programs. A  
 2286 policy is defined as an operational requirement that applies to  
 2287 only the specified contracted delinquency service or program.  
 2288 The procedure shall include:

2289 (a) Public notice of policy development.  
 2290 (b) Opportunity for public comment on the proposed policy.  
 2291 (c) Assessment for fiscal impact upon the department and  
 2292 providers.

2293 (d) The department's response to comments received.

2294 ~~(4) When the department contracts with a provider for any~~  
 2295 ~~delinquency service or program, all personnel, including all~~  
 2296 ~~owners, operators, employees, and volunteers in the facility or~~

2297 ~~providing the service or program shall be of good moral~~  
2298 ~~character. A volunteer who assists on an intermittent basis for~~  
2299 ~~less than 40 hours per month is not required to be screened if~~  
2300 ~~the volunteer is under direct and constant supervision by~~  
2301 ~~persons who meet the screening requirements.~~

2302 (3)-(5)(a) All employees of the department and all  
2303 personnel of contract providers for any program for children,  
2304 including all owners, operators, employees, persons who have  
2305 access to confidential juvenile records, and volunteers, must  
2306 complete ~~For any person employed by the department, or by a~~  
2307 ~~provider under contract with the department, in delinquency~~  
2308 ~~facilities, services, or programs, the department shall require:~~

2309 1. A level 2 employment screening pursuant to chapter 435  
2310 prior to employment. The security background investigations  
2311 conducted under this section must ensure that, in addition to  
2312 the disqualifying offenses listed in s. 435.04, no person  
2313 subject to the background screening provisions of this section  
2314 has an arrest awaiting final disposition for, been found guilty  
2315 of, regardless of adjudication, or entered a plea of nolo  
2316 contendere or guilty to, or has been adjudicated delinquent and  
2317 the record has not been sealed or expunged for, any offense  
2318 prohibited under any of the following provisions of the Florida  
2319 Statutes or under any similar statute of another jurisdiction:

2320 a. Section 784.07, relating to assault or battery of law  
2321 enforcement officers, firefighters, emergency medical care  
2322 providers, public transit employees or agents, or other  
2323 specified officers.

2324 b. Section 817.568, relating to criminal use of personal

2325 identification information.

2326 2. A national ~~federal~~ criminal history records check by  
 2327 the Federal Bureau of Investigation every 5 years following the  
 2328 date of the person's employment.

2329 (b) Except for law enforcement, correctional, and  
 2330 correctional probation officers, to whom s. 943.13(5) applies,  
 2331 the department shall electronically submit to the Department of  
 2332 Law Enforcement:

2333 1. Fingerprint information obtained during the employment  
 2334 screening required by subparagraph (a)1.

2335 2. ~~Beginning on December 15, 2005,~~ Fingerprint information  
 2336 for all persons employed by the department, or by a provider  
 2337 under contract with the department, in delinquency facilities,  
 2338 services, or programs if such fingerprint information has not  
 2339 previously been electronically submitted to the Department of  
 2340 Law Enforcement under this paragraph.

2341 (c) All fingerprint information electronically submitted  
 2342 to the Department of Law Enforcement under paragraph (b) shall  
 2343 be retained by the Department of Law Enforcement and entered  
 2344 into the statewide automated fingerprint identification system  
 2345 authorized by s. 943.05(2)(b). Thereafter, such fingerprint  
 2346 information shall be available for all purposes and uses  
 2347 authorized for arrest fingerprint information entered into the  
 2348 statewide automated fingerprint identification system pursuant  
 2349 to s. 943.051 until the fingerprint information is removed  
 2350 pursuant to paragraph (e). The Department of Law Enforcement  
 2351 shall search all arrest fingerprint information received  
 2352 pursuant to s. 943.051 against the fingerprint information

2353 entered into the statewide automated fingerprint system pursuant  
2354 to this subsection. Any arrest records identified as a result of  
2355 the search shall be reported to the department in the manner and  
2356 timeframe established by the Department of Law Enforcement by  
2357 rule.

2358 (d) The department shall pay an annual fee to the  
2359 Department of Law Enforcement for its costs resulting from the  
2360 fingerprint information retention services required by this  
2361 subsection. The amount of the annual fee and procedures for the  
2362 submission and retention of fingerprint information and for the  
2363 dissemination of search results shall be established by the  
2364 Department of Law Enforcement by a rule that is applicable to  
2365 the department individually pursuant to this subsection or that  
2366 is applicable to the department and other employing agencies  
2367 pursuant to rulemaking authority otherwise provided by law.

2368 (e) The department shall notify the Department of Law  
2369 Enforcement when a person whose fingerprint information is  
2370 retained by the Department of Law Enforcement under this  
2371 subsection is no longer employed by the department, or by a  
2372 provider under contract with the department, in a delinquency  
2373 facility, service, or program. This notice shall be provided by  
2374 the department to the Department of Law Enforcement no later  
2375 than 6 months after the date of the change in the person's  
2376 employment status. Fingerprint information for persons  
2377 identified by the department in the notice shall be removed from  
2378 the statewide automated fingerprint system.

2379 (6) The department may grant exemptions from  
2380 disqualification from working with children as provided in s.

2381 435.07.  
 2382 (7) The department may adopt rules pursuant to ss.  
 2383 120.536(1) and 120.54 to describe the procedure and requirements  
 2384 necessary to implement the employment screening and fingerprint  
 2385 retention services for all employees of the department and all  
 2386 personnel of contract providers for any program for children,  
 2387 including all owners, operators, employees, and volunteers,  
 2388 including the collection of associated fees.

2389 Section 49. Paragraph (a) of subsection (1) of section  
 2390 381.60225, Florida Statutes, is amended to read:

2391 381.60225 Background screening.—

2392 (1) Each applicant for certification must comply with the  
 2393 following requirements:

2394 (a) Upon receipt of a completed, signed, and dated  
 2395 application, the Agency for Health Care Administration shall  
 2396 require background screening, in accordance with the level 2  
 2397 standards for screening set forth in chapter 435, of the  
 2398 managing employee, or other similarly titled individual  
 2399 responsible for the daily operation of the organization, agency,  
 2400 or entity, and financial officer, or other similarly titled  
 2401 individual who is responsible for the financial operation of the  
 2402 organization, agency, or entity, including billings for  
 2403 services. The applicant must comply with the procedures for  
 2404 level 2 background screening as set forth in chapter 435, ~~as~~  
 2405 ~~well as the requirements of s. 435.03(3).~~

2406 Section 50. Subsection (32) of section 409.912, Florida  
 2407 Statutes, is amended to read:

2408 409.912 Cost-effective purchasing of health care.—The

2409 agency shall purchase goods and services for Medicaid recipients  
2410 in the most cost-effective manner consistent with the delivery  
2411 of quality medical care. To ensure that medical services are  
2412 effectively utilized, the agency may, in any case, require a  
2413 confirmation or second physician's opinion of the correct  
2414 diagnosis for purposes of authorizing future services under the  
2415 Medicaid program. This section does not restrict access to  
2416 emergency services or poststabilization care services as defined  
2417 in 42 C.F.R. part 438.114. Such confirmation or second opinion  
2418 shall be rendered in a manner approved by the agency. The agency  
2419 shall maximize the use of prepaid per capita and prepaid  
2420 aggregate fixed-sum basis services when appropriate and other  
2421 alternative service delivery and reimbursement methodologies,  
2422 including competitive bidding pursuant to s. 287.057, designed  
2423 to facilitate the cost-effective purchase of a case-managed  
2424 continuum of care. The agency shall also require providers to  
2425 minimize the exposure of recipients to the need for acute  
2426 inpatient, custodial, and other institutional care and the  
2427 inappropriate or unnecessary use of high-cost services. The  
2428 agency shall contract with a vendor to monitor and evaluate the  
2429 clinical practice patterns of providers in order to identify  
2430 trends that are outside the normal practice patterns of a  
2431 provider's professional peers or the national guidelines of a  
2432 provider's professional association. The vendor must be able to  
2433 provide information and counseling to a provider whose practice  
2434 patterns are outside the norms, in consultation with the agency,  
2435 to improve patient care and reduce inappropriate utilization.  
2436 The agency may mandate prior authorization, drug therapy

2437 management, or disease management participation for certain  
 2438 populations of Medicaid beneficiaries, certain drug classes, or  
 2439 particular drugs to prevent fraud, abuse, overuse, and possible  
 2440 dangerous drug interactions. The Pharmaceutical and Therapeutics  
 2441 Committee shall make recommendations to the agency on drugs for  
 2442 which prior authorization is required. The agency shall inform  
 2443 the Pharmaceutical and Therapeutics Committee of its decisions  
 2444 regarding drugs subject to prior authorization. The agency is  
 2445 authorized to limit the entities it contracts with or enrolls as  
 2446 Medicaid providers by developing a provider network through  
 2447 provider credentialing. The agency may competitively bid single-  
 2448 source-provider contracts if procurement of goods or services  
 2449 results in demonstrated cost savings to the state without  
 2450 limiting access to care. The agency may limit its network based  
 2451 on the assessment of beneficiary access to care, provider  
 2452 availability, provider quality standards, time and distance  
 2453 standards for access to care, the cultural competence of the  
 2454 provider network, demographic characteristics of Medicaid  
 2455 beneficiaries, practice and provider-to-beneficiary standards,  
 2456 appointment wait times, beneficiary use of services, provider  
 2457 turnover, provider profiling, provider licensure history,  
 2458 previous program integrity investigations and findings, peer  
 2459 review, provider Medicaid policy and billing compliance records,  
 2460 clinical and medical record audits, and other factors. Providers  
 2461 shall not be entitled to enrollment in the Medicaid provider  
 2462 network. The agency shall determine instances in which allowing  
 2463 Medicaid beneficiaries to purchase durable medical equipment and  
 2464 other goods is less expensive to the Medicaid program than long-



2465 term rental of the equipment or goods. The agency may establish  
 2466 rules to facilitate purchases in lieu of long-term rentals in  
 2467 order to protect against fraud and abuse in the Medicaid program  
 2468 as defined in s. 409.913. The agency may seek federal waivers  
 2469 necessary to administer these policies.

2470 (32) Each managed care plan that is under contract with  
 2471 the agency to provide health care services to Medicaid  
 2472 recipients shall annually conduct a background check with the  
 2473 Florida Department of Law Enforcement of all persons with  
 2474 ownership interest of 5 percent or more or executive management  
 2475 responsibility for the managed care plan and shall submit to the  
 2476 agency information concerning any such person who has been found  
 2477 guilty of, regardless of adjudication, or has entered a plea of  
 2478 nolo contendere or guilty to, any of the offenses listed in s.  
 2479 435.04 ~~435.03~~.

2480 Section 51. Paragraph (e) of subsection (1) of section  
 2481 464.018, Florida Statutes, is amended to read:

2482 464.018 Disciplinary actions.—

2483 (1) The following acts constitute grounds for denial of a  
 2484 license or disciplinary action, as specified in s. 456.072(2):

2485 (e) Having been found guilty of, regardless of  
 2486 adjudication, or entered a plea of nolo contendere or guilty to,  
 2487 any offense prohibited under s. 435.04 ~~435.03~~ or under any  
 2488 similar statute of another jurisdiction; or having committed an  
 2489 act which constitutes domestic violence as defined in s. 741.28.

2490 Section 52. Paragraph (m) of subsection (1) of section  
 2491 468.3101, Florida Statutes, is amended to read:

2492 468.3101 Disciplinary grounds and actions.—

2493 (1) The department may make or require to be made any  
 2494 investigations, inspections, evaluations, and tests, and require  
 2495 the submission of any documents and statements, which it  
 2496 considers necessary to determine whether a violation of this  
 2497 part has occurred. The following acts shall be grounds for  
 2498 disciplinary action as set forth in this section:

2499 (m) Having been found guilty of, regardless of  
 2500 adjudication, or pleading guilty or nolo contendere to, any  
 2501 offense prohibited under s. 435.04 ~~435.03~~ or under any similar  
 2502 statute of another jurisdiction.

2503 Section 53. Subsection (3) of section 744.309, Florida  
 2504 Statutes, is amended to read:

2505 744.309 Who may be appointed guardian of a resident ward.—

2506 (3) DISQUALIFIED PERSONS.—No person who has been convicted  
 2507 of a felony or who, from any incapacity or illness, is incapable  
 2508 of discharging the duties of a guardian, or who is otherwise  
 2509 unsuitable to perform the duties of a guardian, shall be  
 2510 appointed to act as guardian. Further, no person who has been  
 2511 judicially determined to have committed abuse, abandonment, or  
 2512 neglect against a child as defined in s. 39.01 or s. 984.03(1),  
 2513 (2), and (37), or who has been found guilty of, regardless of  
 2514 adjudication, or entered a plea of nolo contendere or guilty to,  
 2515 any offense prohibited under s. 435.04 ~~435.03~~ or under any  
 2516 similar statute of another jurisdiction, shall be appointed to  
 2517 act as a guardian. Except as provided in subsection (5) or  
 2518 subsection (6), a person who provides substantial services to  
 2519 the proposed ward in a professional or business capacity, or a  
 2520 creditor of the proposed ward, may not be appointed guardian and

2521 retain that previous professional or business relationship. A  
 2522 person may not be appointed a guardian if he or she is in the  
 2523 employ of any person, agency, government, or corporation that  
 2524 provides service to the proposed ward in a professional or  
 2525 business capacity, except that a person so employed may be  
 2526 appointed if he or she is the spouse, adult child, parent, or  
 2527 sibling of the proposed ward or the court determines that the  
 2528 potential conflict of interest is insubstantial and that the  
 2529 appointment would clearly be in the proposed ward's best  
 2530 interest. The court may not appoint a guardian in any other  
 2531 circumstance in which a conflict of interest may occur.

2532 Section 54. Subsection (12) of section 744.474, Florida  
 2533 Statutes, is amended to read:

2534 744.474 Reasons for removal of guardian.—A guardian may be  
 2535 removed for any of the following reasons, and the removal shall  
 2536 be in addition to any other penalties prescribed by law:

2537 (12) Having been found guilty of, regardless of  
 2538 adjudication, or entered a plea of nolo contendere or guilty to,  
 2539 any offense prohibited under s. 435.04 ~~435.03~~ or under any  
 2540 similar statute of another jurisdiction.

2541 Section 55. Paragraph (a) of subsection (6) of section  
 2542 985.04, Florida Statutes, is amended to read:

2543 985.04 Oaths; records; confidential information.—

2544 (6) (a) Records maintained by the department, including  
 2545 copies of records maintained by the court, which pertain to a  
 2546 child found to have committed a delinquent act which, if  
 2547 committed by an adult, would be a crime specified in s. 435.04  
 2548 ~~435.03~~ and 435.04 may not be destroyed under this section for a

2549 | period of 25 years after the youth's final referral to the  
2550 | department, except in cases of the death of the child. Such  
2551 | records, however, shall be sealed by the court for use only in  
2552 | meeting the screening requirements for personnel in s. 402.3055  
2553 | and the other sections cited above, or under departmental rule;  
2554 | however, current criminal history information must be obtained  
2555 | from the Department of Law Enforcement in accordance with s.  
2556 | 943.053. The information shall be released to those persons  
2557 | specified in the above cited sections for the purposes of  
2558 | complying with those sections. The court may punish by contempt  
2559 | any person who releases or uses the records for any unauthorized  
2560 | purpose.

2561 |       Section 56. The changes made by this act are intended to  
2562 | be prospective in nature. It is not intended that persons who  
2563 | are employed or licensed on the effective date of this act be  
2564 | rescreened until such time as they are otherwise required to be  
2565 | rescreened pursuant to law, at which time they must meet the  
2566 | requirements for screening as set forth in this act.

2567 |       Section 57. This act shall take effect August 1, 2010.