

FOR CONSIDERATION By the Committee on Children, Families, and Elder Affairs

586-02017-11

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1 A bill to be entitled
2 An act relating to background screening; amending s.
3 430.0402, F.S.; including volunteers within the
4 definition of the term "direct service provider" for
5 purposes of required background screening; exempting a
6 volunteer who meets certain criteria and a client's
7 relative or spouse from the screening requirement;
8 excepting certain licensed professionals and persons
9 screened as a licensure requirement from further
10 screening under certain circumstances; requiring
11 direct service providers working as of a certain date
12 to be screened within a specified period; providing a
13 phase-in for screening direct service providers;
14 requiring that employers of direct service providers
15 and certain other individuals be rescreened every 5
16 years unless fingerprints are retained electronically
17 by the Department of Law Enforcement; removing an
18 offense from the list of disqualifying offenses for
19 purposes of background screening; providing an
20 effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Section 430.0402, Florida Statutes, is amended
25 to read:

26 430.0402 Screening of direct service providers.—

27 (1) (a) Level 2 background screening pursuant to chapter 435
28 is required for direct service providers. Background screening
29 includes employment history checks as provided in s. 435.03(1)

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30 and local criminal records checks through local law enforcement
31 agencies.

32 (b) For purposes of this section, the term "direct service
33 provider" means a person 18 years of age or older, including a
34 volunteer, who, pursuant to a program to provide services to the
35 elderly, has direct, face-to-face contact with a client while
36 providing services to the client and ~~or~~ has access to the
37 client's living areas or to the client's funds or personal
38 property. The term does not include ~~includes coordinators,~~
39 ~~managers, and supervisors of residential facilities and~~
40 volunteers who assist on an intermittent basis for less than 20
41 hours of direct, face-to-face contact with a client per month,
42 individuals who are related by blood to the client, or the
43 client's spouse.

44 (2) Licensed physicians or ~~r~~ nurses, ~~or~~ other professionals
45 licensed by the Department of Health, or attorneys in good
46 standing with The Florida Bar are not subject to background
47 screening if they are providing a service that is within the
48 scope of their licensed practice.

49 (3) Individuals qualified for employment by the Agency for
50 Health Care Administration pursuant to the agency's background
51 screening standards for licensure or employment contained in s.
52 408.809 are not subject to subsequent or additional Level 2
53 screening pursuant to chapter 435, or to the unique screening
54 requirements of this section, by virtue of their employment as a
55 direct service provider if they are providing a service that is
56 within the scope of their licensed practice.

57 (4) ~~(3)~~ Refusal on the part of an employer to dismiss a
58 manager, supervisor, or direct service provider who has been

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59 found to be in noncompliance with standards of this section
60 shall result in the automatic denial, termination, or revocation
61 of the license or certification, rate agreement, purchase order,
62 or contract, in addition to any other remedies authorized by
63 law.

64 (5) Individuals serving as direct service providers on July
65 31, 2010, must be screened by July 1, 2012. The department may
66 adopt rules to establish a schedule to stagger the
67 implementation of the required screening over a 1-year period,
68 beginning July 1, 2011, through July 1, 2012.

69 (6) An employer of a direct service provider who previously
70 qualified for employment or volunteer work under Level 1
71 screening standards or an individual who is required to be
72 screened according to the Level 2 screening standards contained
73 in chapter 435, pursuant to this section, shall be rescreened
74 every 5 years following the date of his or her last background
75 screening or exemption, unless such individual's fingerprints
76 are continuously retained and monitored by the Department of Law
77 Enforcement in the federal fingerprint retention program
78 according to the procedures specified in s. 943.05.

79 (7)~~(4)~~ The background screening conducted pursuant to this
80 section must ensure that, in addition to the disqualifying
81 offenses listed in s. 435.04, no person subject to the
82 provisions of this section has an arrest awaiting final
83 disposition for, has been found guilty of, regardless of
84 adjudication, or entered a plea of nolo contendere or guilty to,
85 or has been adjudicated delinquent and the record has not been
86 sealed or expunged for, any offense prohibited under any of the
87 following provisions of state law or similar law of another

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88 jurisdiction:

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

90 (a)~~(b)~~ Section 409.920, relating to Medicaid provider
91 fraud.

92 (b)~~(e)~~ Section 409.9201, relating to Medicaid fraud.

93 (c)~~(d)~~ Section 817.034, relating to fraudulent acts through
94 mail, wire, radio, electromagnetic, photoelectronic, or
95 photooptical systems.

96 (d)~~(e)~~ Section 817.234, relating to false and fraudulent
97 insurance claims.

98 (e)~~(f)~~ Section 817.505, relating to patient brokering.

99 (f)~~(g)~~ Section 817.568, relating to criminal use of
100 personal identification information.

101 (g)~~(h)~~ Section 817.60, relating to obtaining a credit card
102 through fraudulent means.

103 (h)~~(i)~~ Section 817.61, relating to fraudulent use of credit
104 cards, if the offense was a felony.

105 (i)~~(j)~~ Section 831.01, relating to forgery.

106 (j)~~(k)~~ Section 831.02, relating to uttering forged
107 instruments.

108 (k)~~(l)~~ Section 831.07, relating to forging bank bills,
109 checks, drafts, or promissory notes.

110 (l)~~(m)~~ Section 831.09, relating to uttering forged bank
111 bills, checks, drafts, or promissory notes.

112 Section 2. This act shall take effect July 1, 2011.