

1                   A bill to be entitled  
2       An act relating to state employment; amending s.  
3       110.105, F.S.; revising the employment policy of the  
4       state system of personnel management; amending s.  
5       110.1127, F.S.; revising provisions relating to  
6       employee background screening; amending s. 110.119,  
7       F.S.; revising provisions relating to administrative  
8       leave for a service-connected disability; amending s.  
9       110.1225, F.S.; revising provisions relating to agency  
10      furloughs; amending s. 110.126, F.S.; revising  
11      provisions relating to the authority of the Department  
12      of Management Services to administer oaths; amending  
13      s. 110.131, F.S.; revising the duties of state  
14      agencies with respect to the employment of other-  
15      personal-services employees; providing reporting  
16      requirements; amending s. 110.171, F.S.; revising  
17      provisions relating to state employee telecommuting;  
18      providing for a telework program; providing program  
19      requirements for agencies and employees; amending s.  
20      110.181, F.S.; revising provisions relating to the  
21      Florida State Employees' Charitable Campaign;  
22      requiring state officers and employees to designate a  
23      charitable organization to receive certain charitable  
24      contributions; deleting provisions relating to the  
25      establishment of local steering committees and the  
26      distribution of funds; amending s. 110.217, F.S.;  
27      revising provisions relating to a change in an  
28      employee's position status; amending s. 110.227, F.S.;

29 deleting requirements for an agency that removes from  
 30 a promotional position a career service employee who  
 31 is serving a probationary period in such position to  
 32 return such employee to the employee's former position  
 33 or a comparable position, if such a position is  
 34 vacant; amending ss. 255.249, 402.3057, 409.1757,  
 35 413.20, 943.0585, and 943.059, F.S.; conforming  
 36 provisions and cross-references; providing an  
 37 effective date.

38

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

40

41 Section 1. Section 110.105, Florida Statutes, is amended  
 42 to read:

43 110.105 Employment policy of the state.—

44 (1) It is the purpose of this chapter to establish a  
 45 System of personnel management. This system shall provide means  
 46 to recruit, select, train, develop, and maintain an effective  
 47 and responsible workforce and shall include policies and  
 48 procedures for employee hiring and advancement, training and  
 49 career development, position classification, salary  
 50 administration, benefits, discipline, discharge, employee  
 51 performance evaluations, affirmative action, and other related  
 52 activities.

53 (2) It is the policy of the state:

54 (a) That all appointments, terminations, assignments, and  
 55 maintenance of status, compensation, privileges, and other terms  
 56 and conditions of employment in state government shall be made

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57 without regard to age, sex, race, color, religion, national  
58 origin, political affiliation, marital status, or disability,  
59 unless handicap, ~~except when a specific sex, age, or physical~~  
60 requirement constitutes a bona fide occupational qualification  
61 necessary to proper and efficient administration.

62 (b) To support employees in balancing their personal needs  
63 and work responsibilities. This policy is designed to enhance  
64 the employee's ability to blend the competing demands of work  
65 and personal life and produce a more skilled, accountable, and  
66 committed workforce for the system. Provisions may include, but  
67 need not be limited to, flexible work schedules, telework, part-  
68 time employment, and leaves of absence with or without pay.

69 (3) Except as expressly provided by law, Florida residency  
70 is not required ~~there shall be no Florida residence requirement~~  
71 for any person as a condition precedent to employment ~~by the~~  
72 ~~state~~; however, preference in hiring may be given to state  
73 ~~Florida~~ residents ~~in hiring~~.

74 (4) This chapter contains the requirements ~~and guides~~ for  
75 establishing and maintaining a system of personnel management  
76 ~~administration~~ on a merit basis. The system of personnel  
77 management administration shall be implemented so as to ensure  
78 that the permit state agencies participating in the system are  
79 ~~to be eligible for to receive~~ federal funds.

80 (5) ~~Nothing in~~ This chapter may not ~~shall~~ be construed  
81 either to infringe upon or to supersede the rights guaranteed  
82 public employees under chapter 447.

83 Section 2. Section 110.1127, Florida Statutes, is amended  
84 to read:

85           110.1127 Employee background screening and investigations  
 86 security checks.—

87           (1) Except as provided in subsection (2), each agency  
 88 shall designate those positions that, based on the position  
 89 duties, require security background screening. All persons and  
 90 employees in such positions must undergo employment screening in  
 91 accordance with chapter 435, using level 1 screening standards,  
 92 as a condition of employment and continued employment.

93           (2) (a) (1) Each ~~employing~~ agency shall designate those  
 94 ~~employee~~ positions that, because of the special trust or  
 95 responsibility or sensitive location, require security  
 96 background investigations. All persons and employees in such  
 97 positions must undergo employment screening in accordance with  
 98 chapter 435, using level 2 screening standards ~~of those~~  
 99 ~~positions, require that persons occupying those positions be~~  
 100 ~~subject to a security background check, including~~  
 101 ~~fingerprinting, as a condition of employment and continued~~  
 102 employment.

103           (b) (2) (a) All positions within the Division of Treasury of  
 104 the Department of Financial Services are deemed to be positions  
 105 of special trust or responsibility. Individuals seeking or  
 106 holding such positions, ~~and a person~~ may be disqualified for  
 107 employment ~~in any such position~~ by reason of:

108           1. The conviction or prior conviction of a crime that  
 109 ~~which~~ is reasonably related to the nature of the position sought  
 110 or held by the individual; or

111           2. The entering of a plea of nolo contendere, or ~~when~~ a  
 112 jury verdict of guilty is rendered but adjudication of guilt is

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113 withheld, with respect to a crime that ~~which~~ is reasonably  
114 related to the nature of the position sought or held by the  
115 individual.

116 ~~(b) All employees of the division shall be required to~~  
117 ~~undergo security background investigations, including~~  
118 ~~fingerprinting, as a condition of employment and continued~~  
119 ~~employment.~~

120 (c) 1. ~~(3) (a)~~ All positions in programs providing care to  
121 children, the developmentally disabled, or vulnerable adults for  
122 15 hours or more per week; all permanent and temporary employee  
123 positions of the central abuse hotline; and all persons working  
124 under contract who have access to abuse records are deemed to be  
125 persons and positions of special trust or responsibility, ~~and~~  
126 ~~require employment screening pursuant to chapter 435, using the~~  
127 ~~level 2 standards set forth in that chapter.~~

128 2. ~~(b)~~ The ~~employing~~ agency may grant exemptions from  
129 disqualification from working with children, the developmentally  
130 disabled, or vulnerable adults as provided in s. 435.07.

131 ~~(c) All persons and employees in such positions of trust~~  
132 ~~or responsibility shall be required to undergo security~~  
133 ~~background investigations as a condition of employment and~~  
134 ~~continued employment. For the purposes of this subsection,~~  
135 ~~security background investigations shall be conducted as~~  
136 ~~provided in chapter 435, using the level 2 standards for~~  
137 ~~screening set forth in that chapter.~~

138 (d) It is a misdemeanor of the first degree, punishable as  
139 provided in s. 775.082 or s. 775.083, for any person willfully,  
140 knowingly, or intentionally to:

141 1. Fail, by false statement, misrepresentation,  
142 impersonation, or other fraudulent means, to disclose in any  
143 application for voluntary or paid employment a material fact  
144 used in making a determination as to such person's  
145 qualifications for a position of special trust;

146 2. Use ~~records~~ information contained in records for  
147 purposes other than background screening or investigation for  
148 employment, or release such records information to other persons  
149 for purposes other than preemployment screening or investigation  
150 ~~for employment.~~

151 (e) It is a felony of the third degree, punishable as  
152 provided in s. 775.082, s. 775.083, or s. 775.084, for any  
153 person willfully, knowingly, or intentionally to use juvenile  
154 records information for any purposes other than those specified  
155 in this section or to release such information to other persons  
156 for purposes other than those specified in this section.

157 ~~(3)(4)~~ Any person who is required to undergo such a  
158 security background screening or investigation and who refuses  
159 to cooperate in such screening or investigation or refuses to  
160 submit fingerprints shall be disqualified for employment in such  
161 position or, if employed, shall be dismissed.

162 ~~(4)(5)~~ ~~Such~~ Background screening and investigations shall  
163 be conducted at the expense of the employing agency. If ~~When~~  
164 fingerprinting is required, the fingerprints ~~of the employee or~~  
165 ~~applicant for employment~~ shall be taken by the ~~employing~~ agency  
166 or by an authorized law enforcement officer, ~~and~~ and submitted to  
167 the Department of Law Enforcement for processing, and, if  
168 ~~forwarding, when~~ requested by the ~~employing~~ agency, forwarded to

169 the United States Department of Justice for processing. The  
 170 ~~employing~~ agency shall reimburse the Department of Law  
 171 Enforcement for any costs incurred for ~~by it in the~~ processing  
 172 ~~of~~ the fingerprints.

173 Section 3. Subsection (1) of section 110.119, Florida  
 174 Statutes, is amended to read:

175 110.119 Administrative leave for military-service-  
 176 connected ~~reexamination or treatment with respect to service-~~  
 177 ~~connected~~ disability.-

178 (1) An ~~Any~~ employee ~~of the state~~ who has been rated by the  
 179 United States Department of Veterans Affairs or its predecessor  
 180 to have incurred a military-service-connected ~~service-connected~~  
 181 disability and has been scheduled by the United States  
 182 Department of Veterans Affairs to be reexamined or treated for  
 183 the disability shall be granted administrative leave for such  
 184 reexamination or treatment without loss of pay or benefits.  
 185 However, such ~~In no event shall the~~ paid leave may not ~~under~~  
 186 ~~this section~~ exceed 48 hours per ~~6~~ calendar ~~days~~ a year.

187 Section 4. Section 110.1225, Florida Statutes, is amended  
 188 to read:

189 110.1225 Furloughs.-When a deficit is certified or  
 190 projected by the Revenue Estimating Conference pursuant to s.  
 191 216.136(3), in any fund that supports salary and benefit  
 192 appropriations, the Governor or the Chief Justice of the Supreme  
 193 Court, as appropriate, ~~Administration Commission~~ may propose a  
 194 furlough plan for consideration by the Legislative Budget  
 195 Commission ~~to the Legislature, which must approve or disapprove~~  
 196 ~~such plan~~. The plan must identify all affected positions and

197 ensure that all affected employees are subject to the same  
 198 reduction of hours for the same number of pay periods with a  
 199 commensurate reduction in pay.

200 Section 5. Section 110.126, Florida Statutes, is amended  
 201 to read:

202 110.126 Oaths, testimony, records; penalties.—The  
 203 department may ~~shall have power to~~ administer oaths, subpoena  
 204 witnesses, and compel the production of books, ~~and~~ papers, or  
 205 other records, in written or electronic form, relevant ~~pertinent~~  
 206 to any investigation of personnel practices or hearing  
 207 authorized by this chapter. Any person who fails ~~shall fail~~ to  
 208 appear in response to a subpoena or to answer any question or  
 209 produce any books, ~~or~~ papers, or other records relevant  
 210 ~~pertinent~~ to any such investigation or hearing or who ~~shall~~  
 211 knowingly gives ~~give~~ false testimony commits ~~therein shall be~~  
 212 ~~guilty of~~ a misdemeanor of the first degree, punishable as  
 213 provided in s. 775.082 or s. 775.083.

214 Section 6. Section 110.131, Florida Statutes, is amended  
 215 to read:

216 110.131 Other-personal-services ~~temporary~~ employment.—

217 (1) As used in this section, the term "agency" means any  
 218 official, officer, commission, board, authority, council,  
 219 committee, or department of the executive branch of state  
 220 government and means any officer, court, commission, or other  
 221 unit of the judicial branch of state government supported in  
 222 whole or in part by appropriations made by the Legislature.

223 (2) An agency may employ any qualified individual in  
 224 other-personal-services ~~temporary~~ employment ~~for 1,040 hours~~



225 ~~within any 12-month period.~~ For each other-personal-services  
 226 employee, the agency shall:

227 (a) Maintain employee records identifying, at a minimum,  
 228 the person employed, the hire date, the type of other-personal-  
 229 services employment, and the number of hours worked.

230 (b) Determine the appropriate rate of pay and ensure that  
 231 all payments are in compliance with the federal Fair Labor  
 232 Standards Act and state law.

233 (c) Review, determine, and document by June 30 of each  
 234 year whether the continuation of each other-personal-services  
 235 employment position is necessary to the mission of the agency.  
 236 ~~This review process An extension beyond a total of 1,040 hours~~  
 237 ~~within an agency for any individual requires a recommendation by~~  
 238 ~~the agency head and approval by the Executive Office of the~~  
 239 ~~Governor. Approval of extensions shall be made in accordance~~  
 240 ~~with criteria established by the department. Each agency shall~~  
 241 ~~maintain employee information as specified by the department~~  
 242 ~~regarding each extension of other-personal-services temporary~~  
 243 ~~employment. The time limitation established by this subsection~~  
 244 ~~does not apply to board members; consultants; seasonal~~  
 245 ~~employees; institutional clients employed as part of their~~  
 246 ~~rehabilitation; bona fide, degree-seeking students in accredited~~  
 247 ~~secondary or postsecondary educational programs; employees hired~~  
 248 ~~to deal with an emergency situation that affects the public~~  
 249 ~~health, safety, or welfare; or employees hired for a project~~  
 250 ~~that is identified by a specific appropriation or time-limited~~  
 251 ~~grant.~~

252 (3) Unless specifically provided by law, other-personal-

253 services employees are not eligible for any form of paid leave,  
254 paid holidays, a paid personal day, participation in state group  
255 insurance or retirement benefits, or any other state employee  
256 benefit. Other-personal-services employees may be included in  
257 that part of an agency's recognition and reward program that  
258 recognizes and rewards employees who submit innovative ideas  
259 that increase productivity, eliminate or reduce state  
260 expenditures, improve operations, or generate additional revenue  
261 or who meet or exceed the agency's established criteria for a  
262 project or goal.

263 (4) Beginning August 15, 2012, and each August 15  
264 thereafter, each agency employing an individual in other-  
265 personal-services employment shall submit a report to the  
266 Executive Office of the Governor and to the chairs of the  
267 legislative appropriations committees containing the following  
268 information for the previous fiscal year ending June 30, 2012,  
269 and each June 30 thereafter:

270 (a) The total number of individuals serving in other-  
271 personal-services employment.

272 (b) The type of employment, average pay, and total number  
273 of hours worked for each individual serving in other-personal-  
274 services employment.

275 ~~(3) The department shall adopt rules providing that other-~~  
276 ~~personal-services temporary employment in an employer-employee~~  
277 ~~relationship shall be used for short-term tasks. Such rules~~  
278 ~~shall specify the employment categories, terms, conditions, rate~~  
279 ~~of pay, and frequency of other personal services temporary~~  
280 ~~employment and the duration for which such employment may last;~~

281 ~~specify criteria for approving extensions beyond the time~~  
 282 ~~limitation provided in subsection (2); and prescribe~~  
 283 ~~recordkeeping and reporting requirements for other personal-~~  
 284 ~~services employment.~~

285 ~~(4) The department shall prepare written material~~  
 286 ~~explaining the terms and conditions of other personal services~~  
 287 ~~employment and shall provide master copies to each agency. Each~~  
 288 ~~agency shall provide each of its applicants for such employment~~  
 289 ~~with a copy thereof at the time of application and shall discuss~~  
 290 ~~the information contained thereon with each applicant at the~~  
 291 ~~time of interview or employment commencement, whichever occurs~~  
 292 ~~sooner.~~

293 ~~(5) The department shall maintain information relating to~~  
 294 ~~other personal services employment for each agency. Such~~  
 295 ~~information shall include:~~

296 ~~(a) The total amount of compensation for other personal-~~  
 297 ~~services personnel, by employment category, for the preceding~~  
 298 ~~fiscal year.~~

299 ~~(b) The name, social security number, employment category,~~  
 300 ~~employment commencement date, and number of hours worked for~~  
 301 ~~each individual whose initial other personal services temporary~~  
 302 ~~employment began before the start of the preceding fiscal year~~  
 303 ~~and who was still employed as an other personal services~~  
 304 ~~temporary employee at the end of the preceding fiscal year.~~

305 ~~(6) (a) The provisions of subsections (2), (3), and (4) do~~  
 306 ~~not apply to any employee for whom the Board of Governors of the~~  
 307 ~~State University System, or the board's designee, or the Board~~  
 308 ~~of Trustees of the Florida School for the Deaf and the Blind is~~

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309 ~~the employer as defined in s. 447.203(2); except that, for~~  
310 ~~purposes of subsection (5), the Board of Trustees of the Florida~~  
311 ~~School for the Deaf and the Blind shall comply with the~~  
312 ~~recordkeeping and reporting requirements adopted by the~~  
313 ~~department pursuant to subsection (3) with respect to those~~  
314 ~~other personal services employees exempted by this subsection.~~

315 ~~(b) The provisions of subsections (2), (3), and (4) do not~~  
316 ~~apply to any employee of the Division of Blind Services Library~~  
317 ~~for the Blind and Physically Handicapped for whom the Division~~  
318 ~~of Blind Services is the employer as defined in s. 447.203(2);~~  
319 ~~except that, for purposes of subsection (5), the Division of~~  
320 ~~Blind Services shall comply with the recordkeeping and reporting~~  
321 ~~requirements adopted by the department pursuant to subsection~~  
322 ~~(3) with respect to those other personal services employees~~  
323 ~~exempted by this subsection.~~

324 ~~(c) Notwithstanding the provisions of this section, the~~  
325 ~~agency head or his or her designee may extend the other-~~  
326 ~~personal services employment of a health care practitioner~~  
327 ~~licensed pursuant to chapter 458, chapter 459, chapter 460,~~  
328 ~~chapter 461, chapter 463, part I of chapter 464, chapter 466,~~  
329 ~~chapter 468, chapter 483, chapter 486, or chapter 490 beyond~~  
330 ~~2,080 hours and may employ such practitioner on an hourly or~~  
331 ~~other basis.~~

332 ~~(7) The Department of Management Services shall annually~~  
333 ~~assess agencies for the regulation of other personal services on~~  
334 ~~a pro rata share basis not to exceed an amount as provided in~~  
335 ~~the General Appropriations Act.~~

336 Section 7. Section 110.171, Florida Statutes, is amended

337 to read:

338 110.171 State employee telework ~~telecommuting~~ program.—

339 (1) As used in this section, the term:

340 (a) "Agency" means any official, officer, commission,  
341 board, authority, council, committee, or department of state  
342 government.

343 (b) "Department" means the Department of Management  
344 Services.

345 (c) "Telework" ~~"Telecommuting"~~ means a work arrangement  
346 that allows a whereby selected state employee employees are  
347 allowed to conduct all or some of his or her work away from the  
348 official worksite during all or a portion of the state  
349 employee's established work hours on a regular basis. The term  
350 does not include, and a telework agreement is not required for:

351 1. Performance of required work duties away from the  
352 official worksite and outside of established work hours on an  
353 occasional basis and sporadically working away from the official  
354 worksite during all or some portion of the established work  
355 hours. These arrangements may be used by an agency to  
356 accommodate extenuating circumstances by allowing an employee to  
357 maintain productivity away from the official worksite.

358 2. Duties and responsibilities that, by their nature, are  
359 performed routinely in the field away from the official worksite  
360 ~~perform the normal duties and responsibilities of their~~  
361 ~~positions, through the use of computers or telecommunications,~~  
362 ~~at home or another place apart from the employees' usual place~~  
363 ~~of work.~~

364 (2) An agency may establish telework as an integral part

365 of the normal business operations of the agency and require that  
366 specific work be performed through telework arrangements.  
367 Telework may also be used as part of an agency's continuity of  
368 operations plan where appropriate. An agency shall provide  
369 telework as an optional alternative work arrangement to support  
370 employee needs and implement telework arrangements where deemed  
371 appropriate.

372 (3) Each agency shall review all established positions and  
373 designate those positions that the agency deems appropriate for  
374 telework. The agency shall ensure that this information is  
375 current and available to its employees and managers. In  
376 addition, each agency shall identify all currently participating  
377 employees and their respective positions in the human resource  
378 information system used by that agency.

379 (4) Agencies that have a telework program shall develop an  
380 agency plan that addresses the agency's telework policies and  
381 procedures. At a minimum, an agency telework plan must:

382 (a) Establish criteria for evaluating the ability of  
383 employees to satisfactorily perform in a telework arrangement.

384 (b) Establish performance standards that ensure that  
385 teleworkers maintain satisfactory performance levels.

386 (c) Ensure that teleworkers are subject to the same rules  
387 and disciplinary actions as other employees.

388 (d) Establish the reasonable conditions that the agency  
389 plans to impose in order to ensure appropriate use and  
390 maintenance of any equipment issued by the agency.

391 (e) Establish a system for monitoring the productivity of  
392 teleworkers that ensures that the work output remains at a

393 satisfactory level and that the duties and responsibilities of  
394 the position remain suitable for a telework arrangement.

395 (f) Establish the appropriate physical and electronic  
396 information security controls to be maintained by a teleworker  
397 at the telework site.

398 (g) Prohibit a teleworker from conducting face-to-face  
399 state business at his or her residence.

400 (5) At the discretion of the agency, if an employee is  
401 approved by the agency to use telework as an optional  
402 alternative work arrangement, the agency shall require a written  
403 agreement between the teleworker and the agency that specifies  
404 the terms and conditions of the telework arrangement and  
405 provides for the termination of an employee's participation in  
406 the program if the employee's continued participation is not in  
407 the best interest of the agency.

408 (6) Agencies that require certain employees to telework as  
409 a part of normal business operations shall:

410 (a) Include the requirement to telework and the associated  
411 terms and conditions as part of the position description,  
412 specifying the minimum amount of telework required.

413 (b) Provide at least 30 calendar days' written notice to  
414 affected employees of intent to impose or remove a requirement  
415 to telework.

416 (c) Provide at least 15 calendar days' written notice to  
417 affected employees of intent to revise the terms and conditions  
418 of the current telework arrangement.

419 (d) Provide equipment and supplies to an employee  
420 necessary to carry out job functions from the telework site.

421 (e) Specify the telework requirement in any recruitment  
422 activities.

423 (7) Agencies that have a telework program shall establish  
424 and track performance measures that support telework program  
425 analysis and report data annually to the department in  
426 accordance with s. 255.249(3) (d). Such measures must include,  
427 but need not be limited to, those that quantify financial  
428 impacts associated with changes in office space requirements  
429 resulting from the telework program. Agencies operating in  
430 office space owned or managed by the department shall consult  
431 the department to ensure consistency with the strategic leasing  
432 plan required under s. 255.249(3) (b).

433 ~~(2) The department shall:~~

434 ~~(a) Establish and coordinate the state employee~~  
435 ~~telecommuting program and administer this section.~~

436 ~~(b) Appoint a statewide telecommuting coordinator to~~  
437 ~~provide technical assistance to state agencies and to promote~~  
438 ~~telecommuting in state government.~~

439 ~~(c) Identify state employees who are participating in a~~  
440 ~~telecommuting program and their job classifications through the~~  
441 ~~state personnel payroll information subsystem created under s.~~  
442 ~~110.116.~~

443 ~~(3) By September 30, 2009, each state agency shall~~  
444 ~~identify and maintain a current listing of the job~~  
445 ~~classifications and positions that the agency considers~~  
446 ~~appropriate for telecommuting. Agencies that adopt a state~~  
447 ~~employee telecommuting program must:~~

448 ~~(a) Give equal consideration to career service and exempt~~



449 ~~positions in their selection of employees to participate in the~~  
450 ~~telecommuting program.~~

451 ~~(b) Provide that an employee's participation in a~~  
452 ~~telecommuting program will not adversely affect eligibility for~~  
453 ~~advancement or any other employment rights or benefits.~~

454 ~~(c) Provide that participation by an employee in a~~  
455 ~~telecommuting program is voluntary, and that the employee may~~  
456 ~~elect to cease to participate in a telecommuting program at any~~  
457 ~~time.~~

458 ~~(d) Adopt provisions to allow for the termination of an~~  
459 ~~employee's participation in the program if the employee's~~  
460 ~~continued participation would not be in the best interests of~~  
461 ~~the agency.~~

462 ~~(e) Provide that an employee is not currently under a~~  
463 ~~performance improvement plan in order to participate in the~~  
464 ~~program.~~

465 ~~(f) Ensure that employees participating in the program are~~  
466 ~~subject to the same rules regarding attendance, leave,~~  
467 ~~performance reviews, and separation action as are other~~  
468 ~~employees.~~

469 ~~(g) Establish the reasonable conditions that the agency~~  
470 ~~plans to impose in order to ensure the appropriate use and~~  
471 ~~maintenance of any equipment or items provided for use at a~~  
472 ~~participating employee's home or other place apart from the~~  
473 ~~employee's usual place of work, including the installation and~~  
474 ~~maintenance of any telephone equipment and ongoing~~  
475 ~~communications costs at the telecommuting site which is to be~~  
476 ~~used for official use only.~~

477 ~~(h) Prohibit state maintenance of an employee's personal~~  
478 ~~equipment used in telecommuting, including any liability for~~  
479 ~~personal equipment and costs for personal utility expenses~~  
480 ~~associated with telecommuting.~~

481 ~~(i) Describe the security controls that the agency~~  
482 ~~considers appropriate.~~

483 ~~(j) Provide that employees are covered by workers'~~  
484 ~~compensation under chapter 440, when performing official duties~~  
485 ~~at an alternate worksite, such as the home.~~

486 ~~(k) Prohibit employees engaged in a telecommuting program~~  
487 ~~from conducting face-to-face state business at the homesite.~~

488 ~~(l) Require a written agreement that specifies the terms~~  
489 ~~and conditions of telecommuting, which includes verification by~~  
490 ~~the employee that the home office provides work space that is~~  
491 ~~free of safety and fire hazards, together with an agreement~~  
492 ~~which holds the state harmless against any and all claims,~~  
493 ~~excluding workers' compensation claims, resulting from an~~  
494 ~~employee working in the home office, and which must be signed~~  
495 ~~and agreed to by the telecommuter and the supervisor.~~

496 ~~(m) Provide measurable financial benefits associated with~~  
497 ~~reduced office space requirements, reductions in energy~~  
498 ~~consumption, and reductions in associated emissions of~~  
499 ~~greenhouse gases resulting from telecommuting. State agencies~~  
500 ~~operating in office space owned or managed by the department~~  
501 ~~shall consult the facilities program to ensure its consistency~~  
502 ~~with the strategic leasing plan required under s. 255.249(3)(b).~~

503 ~~(8)(4) Agencies that have a telework The telecommuting~~  
504 ~~program for each state agency and pertinent supporting documents~~

505 shall post the agency telework plan and any pertinent supporting  
 506 documents ~~be posted~~ on the agency's Internet website to allow  
 507 access by employees and the public.

508 (9) Agencies may approve other-personal-services employees  
 509 to participate in telework programs.

510 Section 8. Paragraph (b) of subsection (1) and paragraphs  
 511 (d) and (e) of subsection (2) of section 110.181, Florida  
 512 Statutes, are amended to read:

513 110.181 Florida State Employees' Charitable Campaign.—

514 (1) CREATION AND ORGANIZATION OF CAMPAIGN.—

515 (b) State officers' and employees' contributions toward  
 516 the Florida State Employees' Charitable Campaign must be  
 517 entirely voluntary. State officers and employees must designate  
 518 a charitable organization to receive such contributions.

519 (2) SELECTION OF FISCAL AGENTS; COST.—

520 ~~(d) A local steering committee shall be established in~~  
 521 ~~each fiscal agent area to assist in conducting the campaign and~~  
 522 ~~to direct the distribution of undesignated funds remaining after~~  
 523 ~~partial distribution pursuant to paragraph (c). The committee~~  
 524 ~~shall be composed of state employees selected by the fiscal~~  
 525 ~~agent from among recommendations provided by interested~~  
 526 ~~participating organizations, if any, and approved by the~~  
 527 ~~Statewide Steering Committee.~~

528 ~~(e) Participating charitable organizations that provide~~  
 529 ~~direct services in a local fiscal agent's area shall receive the~~  
 530 ~~same percentage of undesignated funds as the percentage of~~  
 531 ~~designated funds they receive. The undesignated funds remaining~~  
 532 ~~following allocation to these charitable organizations shall be~~

533 ~~distributed by the local steering committee.~~

534 Section 9. Section 110.217, Florida Statutes, is amended  
535 to read:

536 110.217 Appointment actions and status ~~Appointments and~~  
537 ~~promotion.~~—

538 (1) ~~(a)~~ The department, ~~in consultation with agencies that~~  
539 ~~must comply with these rules,~~ shall develop uniform rules  
540 regarding original appointment, promotion, demotion,  
541 reassignment, lateral action, separation, and status that which  
542 must be used by state ~~employing~~ agencies. ~~Such rules must be~~  
543 ~~approved by the Administration Commission before their adoption~~  
544 ~~by the department.~~

545 (2) An employee appointed on probationary status shall  
546 attain permanent status in his or her current position upon  
547 successful completion of at least a 1-year probationary period.  
548 The length of the probationary period may not exceed 18 months.  
549 An employee who has not attained permanent status in his or her  
550 current position serves at the pleasure of the agency head and  
551 may be dismissed at the discretion of the agency head.

552 (3) If an employee who has received an internal agency  
553 promotion from a position in which the employee held permanent  
554 status is to be dismissed from the promotional position for  
555 failure to meet the established performance standards of the  
556 promotional position while in probationary status, the agency,  
557 before dismissal, shall return the employee to his or her former  
558 position, or to a position with substantially similar duties and  
559 responsibilities as the former position, if such a position is  
560 vacant. Such determinations by an agency are not appealable, and

561 this subsection does not apply to dismissals for any other  
562 reason.

563 ~~(b) Employing agencies may seek exceptions to these~~  
564 ~~uniform rules by filing a petition with the Administration~~  
565 ~~Commission. The Administration Commission shall approve an~~  
566 ~~exception when the exception is necessary to conform to any~~  
567 ~~requirement imposed as a condition precedent to receipt of~~  
568 ~~federal funds or to permit persons in this state to receive tax~~  
569 ~~benefits under federal law, or as required for the most~~  
570 ~~efficient operation of the agency as determined by the~~  
571 ~~Administration Commission. The reasons for the exception must be~~  
572 ~~published in the Florida Administrative Weekly.~~

573 ~~(c) Agency rules that provide exceptions to the uniform~~  
574 ~~rules may not be filed with the Department of State unless the~~  
575 ~~Administration Commission has approved the exceptions. Each~~  
576 ~~agency that adopts rules that provide exceptions to the uniform~~  
577 ~~rules or that must comply with statutory requirements that~~  
578 ~~conflict with the uniform rules must have a separate chapter~~  
579 ~~published in the Florida Administrative Code that delineates~~  
580 ~~clearly the provisions of the agency's rules which provide~~  
581 ~~exceptions or are based upon a conflicting statutory~~  
582 ~~requirement. Each alternative chosen from those authorized by~~  
583 ~~the uniform rules must be specified. Each chapter must be~~  
584 ~~organized in the same manner as the uniform rules.~~

585 ~~(2) Each employing agency shall have the responsibility~~  
586 ~~for the establishment and maintenance of rules and guidelines~~  
587 ~~for determining eligibility of applicants for appointment to~~  
588 ~~positions in the career service.~~

589       ~~(3) Eligibility shall be based on possession of required~~  
590 ~~minimum qualifications for the job class and any required entry-~~  
591 ~~level knowledge, skills, and abilities, and any certification~~  
592 ~~and licensure required for a particular position.~~

593       ~~(4) The employing agency shall be responsible for~~  
594 ~~developing an employee career advancement program which shall~~  
595 ~~assure consideration of qualified permanent employees in the~~  
596 ~~agency or career service who apply. However, such program shall~~  
597 ~~also include provisions to bring persons into the career service~~  
598 ~~through open competition. Promotion appointments shall be~~  
599 ~~subject to postaudit by the department.~~

600       ~~(5) The department shall adopt any rules necessary to~~  
601 ~~implement the provisions of this section. The rules must be~~  
602 ~~approved by a majority vote of the Administration Commission~~  
603 ~~prior to their adoption by the department.~~

604       Section 10. Subsection (8) of section 110.227, Florida  
605 Statutes, is amended to read:

606       110.227 Suspensions, dismissals, reductions in pay,  
607 demotions, layoffs, transfers, and grievances.-

608       ~~(8) A career service employee who is serving a~~  
609 ~~probationary period in a position to which he or she has been~~  
610 ~~promoted may be removed from that promotional position at any~~  
611 ~~time during the probationary period but must be returned to his~~  
612 ~~or her former position, or a comparable position, if such a~~  
613 ~~position is vacant. If such a position is not available, before~~  
614 ~~dismissal, the agency shall make a reasonable effort to retain~~  
615 ~~the employee in another vacant position. This subsection does~~  
616 ~~not apply to terminations for cause as described in subsection~~

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617 ~~(1), nor does it create a right to "bump" an employee from an~~  
618 ~~occupied position as described in paragraph (2) (a).~~

619 Section 11. Paragraph (d) of subsection (3) of section  
620 255.249, Florida Statutes, is amended to read:

621 255.249 Department of Management Services; responsibility;  
622 department rules.—

623 (3)

624 (d) By June 30 of each year, each state agency shall  
625 annually provide to the department all information regarding  
626 agency programs affecting the need for or use of space by that  
627 agency, reviews of lease-expiration schedules for each  
628 geographic area, active and planned full-time equivalent data,  
629 business case analyses related to consolidation plans by an  
630 agency, a telework ~~telecommuting~~ program, and current occupancy  
631 and relocation costs, inclusive of furnishings, fixtures and  
632 equipment, data, and communications.

633 Section 12. Section 402.3057, Florida Statutes, is amended  
634 to read:

635 402.3057 Persons not required to be refingerprinted or  
636 rescreened.—Any provision of law to the contrary  
637 notwithstanding, human resource personnel who have been  
638 fingerprinted or screened pursuant to chapters 393, 394, 397,  
639 402, and 409, and teachers and noninstructional personnel who  
640 have been fingerprinted pursuant to chapter 1012, who have not  
641 been unemployed for more than 90 days thereafter, and who under  
642 the penalty of perjury attest to the completion of such  
643 fingerprinting or screening and to compliance with the  
644 provisions of this section and the standards for good moral

645 character as contained in such provisions as ss. 110.1127(2)(c)  
 646 ~~110.1127(3)~~, 393.0655(1), 394.457(6), 397.451, 402.305(2), and  
 647 409.175(6), shall not be required to be refingerprinted or  
 648 rescreened in order to comply with any caretaker screening or  
 649 fingerprinting requirements.

650 Section 13. Section 409.1757, Florida Statutes, is amended  
 651 to read:

652 409.1757 Persons not required to be refingerprinted or  
 653 rescreened.—Any provision of law to the contrary  
 654 notwithstanding, human resource personnel who have been  
 655 fingerprinted or screened pursuant to chapters 393, 394, 397,  
 656 402, and this chapter, and teachers who have been fingerprinted  
 657 pursuant to chapter 1012, who have not been unemployed for more  
 658 than 90 days thereafter, and who under the penalty of perjury  
 659 attest to the completion of such fingerprinting or screening and  
 660 to compliance with the provisions of this section and the  
 661 standards for good moral character as contained in such  
 662 provisions as ss. 110.1127(2)(c) ~~110.1127(3)~~, 393.0655(1),  
 663 394.457(6), 397.451, 402.305(2), and 409.175(6), shall not be  
 664 required to be refingerprinted or rescreened in order to comply  
 665 with any caretaker screening or fingerprinting requirements.

666 Section 14. Subsection (9) of section 413.20, Florida  
 667 Statutes, is amended to read:

668 413.20 Definitions.—As used in this part, the term:

669 (9) "Employment outcome" means, with respect to an  
 670 individual, entering or retaining full-time or, if appropriate,  
 671 part-time competitive employment in the integrated labor market  
 672 to the greatest extent practicable, supported employment, or any



673 other type of employment, including self-employment, telework  
 674 ~~telecommuting~~, or business ownership, that is consistent with an  
 675 individual's strengths, resources, priorities, concerns,  
 676 abilities, capabilities, interests, and informed choice.

677 Section 15. Paragraph (a) of subsection (4) of section  
 678 943.0585, Florida Statutes, is amended to read:

679 943.0585 Court-ordered expunction of criminal history  
 680 records.—The courts of this state have jurisdiction over their  
 681 own procedures, including the maintenance, expunction, and  
 682 correction of judicial records containing criminal history  
 683 information to the extent such procedures are not inconsistent  
 684 with the conditions, responsibilities, and duties established by  
 685 this section. Any court of competent jurisdiction may order a  
 686 criminal justice agency to expunge the criminal history record  
 687 of a minor or an adult who complies with the requirements of  
 688 this section. The court shall not order a criminal justice  
 689 agency to expunge a criminal history record until the person  
 690 seeking to expunge a criminal history record has applied for and  
 691 received a certificate of eligibility for expunction pursuant to  
 692 subsection (2). A criminal history record that relates to a  
 693 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,  
 694 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.  
 695 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.  
 696 893.135, s. 916.1075, a violation enumerated in s. 907.041, or  
 697 any violation specified as a predicate offense for registration  
 698 as a sexual predator pursuant to s. 775.21, without regard to  
 699 whether that offense alone is sufficient to require such  
 700 registration, or for registration as a sexual offender pursuant

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701 to s. 943.0435, may not be expunged, without regard to whether  
702 adjudication was withheld, if the defendant was found guilty of  
703 or pled guilty or nolo contendere to the offense, or if the  
704 defendant, as a minor, was found to have committed, or pled  
705 guilty or nolo contendere to committing, the offense as a  
706 delinquent act. The court may only order expunction of a  
707 criminal history record pertaining to one arrest or one incident  
708 of alleged criminal activity, except as provided in this  
709 section. The court may, at its sole discretion, order the  
710 expunction of a criminal history record pertaining to more than  
711 one arrest if the additional arrests directly relate to the  
712 original arrest. If the court intends to order the expunction of  
713 records pertaining to such additional arrests, such intent must  
714 be specified in the order. A criminal justice agency may not  
715 expunge any record pertaining to such additional arrests if the  
716 order to expunge does not articulate the intention of the court  
717 to expunge a record pertaining to more than one arrest. This  
718 section does not prevent the court from ordering the expunction  
719 of only a portion of a criminal history record pertaining to one  
720 arrest or one incident of alleged criminal activity.

721 Notwithstanding any law to the contrary, a criminal justice  
722 agency may comply with laws, court orders, and official requests  
723 of other jurisdictions relating to expunction, correction, or  
724 confidential handling of criminal history records or information  
725 derived therefrom. This section does not confer any right to the  
726 expunction of any criminal history record, and any request for  
727 expunction of a criminal history record may be denied at the  
728 sole discretion of the court.

729 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any  
 730 criminal history record of a minor or an adult which is ordered  
 731 expunged by a court of competent jurisdiction pursuant to this  
 732 section must be physically destroyed or obliterated by any  
 733 criminal justice agency having custody of such record; except  
 734 that any criminal history record in the custody of the  
 735 department must be retained in all cases. A criminal history  
 736 record ordered expunged that is retained by the department is  
 737 confidential and exempt from the provisions of s. 119.07(1) and  
 738 s. 24(a), Art. I of the State Constitution and not available to  
 739 any person or entity except upon order of a court of competent  
 740 jurisdiction. A criminal justice agency may retain a notation  
 741 indicating compliance with an order to expunge.

742 (a) The person who is the subject of a criminal history  
 743 record that is expunged under this section or under other  
 744 provisions of law, including former s. 893.14, former s. 901.33,  
 745 and former s. 943.058, may lawfully deny or fail to acknowledge  
 746 the arrests covered by the expunged record, except when the  
 747 subject of the record:

- 748 1. Is a candidate for employment with a criminal justice  
 749 agency;
- 750 2. Is a defendant in a criminal prosecution;
- 751 3. Concurrently or subsequently petitions for relief under  
 752 this section or s. 943.059;
- 753 4. Is a candidate for admission to The Florida Bar;
- 754 5. Is seeking to be employed or licensed by or to contract  
 755 with the Department of Children and Family Services, the Agency  
 756 for Health Care Administration, the Agency for Persons with

757 Disabilities, or the Department of Juvenile Justice or to be  
 758 employed or used by such contractor or licensee in a sensitive  
 759 position having direct contact with children, the  
 760 developmentally disabled, the aged, or the elderly as provided  
 761 in s. 110.1127(2)(c) ~~110.1127(3)~~, s. 393.063, s. 394.4572(1), s.  
 762 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s.  
 763 415.102(5), chapter 916, s. 985.644, chapter 400, or chapter  
 764 429;

765 6. Is seeking to be employed or licensed by the Department  
 766 of Education, any district school board, any university  
 767 laboratory school, any charter school, any private or parochial  
 768 school, or any local governmental entity that licenses child  
 769 care facilities; or

770 7. Is seeking authorization from a seaport listed in s.  
 771 311.09 for employment within or access to one or more of such  
 772 seaports pursuant to s. 311.12.

773 Section 16. Paragraph (a) of subsection (4) of section  
 774 943.059, Florida Statutes, is amended to read:

775 943.059 Court-ordered sealing of criminal history  
 776 records.—The courts of this state shall continue to have  
 777 jurisdiction over their own procedures, including the  
 778 maintenance, sealing, and correction of judicial records  
 779 containing criminal history information to the extent such  
 780 procedures are not inconsistent with the conditions,  
 781 responsibilities, and duties established by this section. Any  
 782 court of competent jurisdiction may order a criminal justice  
 783 agency to seal the criminal history record of a minor or an  
 784 adult who complies with the requirements of this section. The

785 court shall not order a criminal justice agency to seal a  
786 criminal history record until the person seeking to seal a  
787 criminal history record has applied for and received a  
788 certificate of eligibility for sealing pursuant to subsection  
789 (2). A criminal history record that relates to a violation of s.  
790 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.  
791 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter  
792 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.  
793 916.1075, a violation enumerated in s. 907.041, or any violation  
794 specified as a predicate offense for registration as a sexual  
795 predator pursuant to s. 775.21, without regard to whether that  
796 offense alone is sufficient to require such registration, or for  
797 registration as a sexual offender pursuant to s. 943.0435, may  
798 not be sealed, without regard to whether adjudication was  
799 withheld, if the defendant was found guilty of or pled guilty or  
800 nolo contendere to the offense, or if the defendant, as a minor,  
801 was found to have committed or pled guilty or nolo contendere to  
802 committing the offense as a delinquent act. The court may only  
803 order sealing of a criminal history record pertaining to one  
804 arrest or one incident of alleged criminal activity, except as  
805 provided in this section. The court may, at its sole discretion,  
806 order the sealing of a criminal history record pertaining to  
807 more than one arrest if the additional arrests directly relate  
808 to the original arrest. If the court intends to order the  
809 sealing of records pertaining to such additional arrests, such  
810 intent must be specified in the order. A criminal justice agency  
811 may not seal any record pertaining to such additional arrests if  
812 the order to seal does not articulate the intention of the court

813 to seal records pertaining to more than one arrest. This section  
814 does not prevent the court from ordering the sealing of only a  
815 portion of a criminal history record pertaining to one arrest or  
816 one incident of alleged criminal activity. Notwithstanding any  
817 law to the contrary, a criminal justice agency may comply with  
818 laws, court orders, and official requests of other jurisdictions  
819 relating to sealing, correction, or confidential handling of  
820 criminal history records or information derived therefrom. This  
821 section does not confer any right to the sealing of any criminal  
822 history record, and any request for sealing a criminal history  
823 record may be denied at the sole discretion of the court.

824 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal  
825 history record of a minor or an adult which is ordered sealed by  
826 a court of competent jurisdiction pursuant to this section is  
827 confidential and exempt from the provisions of s. 119.07(1) and  
828 s. 24(a), Art. I of the State Constitution and is available only  
829 to the person who is the subject of the record, to the subject's  
830 attorney, to criminal justice agencies for their respective  
831 criminal justice purposes, which include conducting a criminal  
832 history background check for approval of firearms purchases or  
833 transfers as authorized by state or federal law, to judges in  
834 the state courts system for the purpose of assisting them in  
835 their case-related decisionmaking responsibilities, as set forth  
836 in s. 943.053(5), or to those entities set forth in  
837 subparagraphs (a)1., 4., 5., 6., and 8. for their respective  
838 licensing, access authorization, and employment purposes.

839 (a) The subject of a criminal history record sealed under  
840 this section or under other provisions of law, including former

841 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully  
842 deny or fail to acknowledge the arrests covered by the sealed  
843 record, except when the subject of the record:

844 1. Is a candidate for employment with a criminal justice  
845 agency;

846 2. Is a defendant in a criminal prosecution;

847 3. Concurrently or subsequently petitions for relief under  
848 this section or s. 943.0585;

849 4. Is a candidate for admission to The Florida Bar;

850 5. Is seeking to be employed or licensed by or to contract  
851 with the Department of Children and Family Services, the Agency  
852 for Health Care Administration, the Agency for Persons with  
853 Disabilities, or the Department of Juvenile Justice or to be  
854 employed or used by such contractor or licensee in a sensitive  
855 position having direct contact with children, the  
856 developmentally disabled, the aged, or the elderly as provided  
857 in s. 110.1127(2)(c) ~~110.1127(3)~~, s. 393.063, s. 394.4572(1), s.  
858 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s.  
859 415.102(5), s. 415.103, chapter 916, s. 985.644, chapter 400, or  
860 chapter 429;

861 6. Is seeking to be employed or licensed by the Department  
862 of Education, any district school board, any university  
863 laboratory school, any charter school, any private or parochial  
864 school, or any local governmental entity that licenses child  
865 care facilities;

866 7. Is attempting to purchase a firearm from a licensed  
867 importer, licensed manufacturer, or licensed dealer and is  
868 subject to a criminal history check under state or federal law;

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869 | or

870 |       8. Is seeking authorization from a Florida seaport  
871 | identified in s. 311.09 for employment within or access to one  
872 | or more of such seaports pursuant to s. 311.12.

873 |       Section 17. This act shall take effect July 1, 2012.