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LEGISLATIVE ACTION

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| Senate | . | House |
| Comm: RCS | . | |
| 02/01/2012 | . | |
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The Committee on Children, Families, and Elder Affairs (Storms) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (d) is added to subsection (1) of section 394.4572, Florida Statutes, to read:

394.4572 Screening of mental health personnel.—

(1)

(d) Mental health personnel working in a facility licensed under chapter 395 who work on an intermittent basis for less than 15 hours per week of direct, face-to-face contact with patients, and who are not listed on the Department of Law



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13 Enforcement Career Offender Search or the Dru Sjodin National
14 Sex Offender Public Website, are exempt from the fingerprinting
15 and screening requirements, except that persons working in a
16 mental health facility where the primary purpose of the facility
17 is the mental health treatment of minors must be fingerprinted
18 and meet screening requirements.

19 Section 2. Section 408.809, Florida Statutes, is amended to
20 read:

21 408.809 Background screening; prohibited offenses.—

22 (1) Level 2 background screening pursuant to chapter 435
23 must be conducted through the agency on each of the following
24 persons, who are considered employees for the purposes of
25 conducting screening under chapter 435:

26 (a) The licensee, if an individual.

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

29 (c) The financial officer or similarly titled individual
30 who is responsible for the financial operation of the licensee
31 or provider.

32 (d) Any person who is a controlling interest if the agency
33 has reason to believe that such person has been convicted of any
34 offense prohibited by s. 435.04. For each controlling interest
35 who has been convicted of any such offense, the licensee shall
36 submit to the agency a description and explanation of the
37 conviction at the time of license application.

38 (e) Any person, as required by authorizing statutes,
39 seeking employment with a licensee or provider who is expected
40 to, or whose responsibilities may require him or her to, provide
41 personal care or services directly to clients or have access to



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42 client funds, personal property, or living areas; and any
43 person, as required by authorizing statutes, contracting with a
44 licensee or provider whose responsibilities require him or her
45 to provide personal care or personal services directly to
46 clients. Evidence of contractor screening may be retained by the
47 contractor's employer or the licensee.

48 (2) Every 5 years following his or her licensure,
49 employment, or entry into a contract in a capacity that under
50 subsection (1) would require level 2 background screening under
51 chapter 435, each such person must submit to level 2 background
52 rescreening as a condition of retaining such license or
53 continuing in such employment or contractual status. For any
54 such rescreening, the agency shall request the Department of Law
55 Enforcement to forward the person's fingerprints to the Federal
56 Bureau of Investigation for a national criminal history record
57 check. If the fingerprints of such a person are not retained by
58 the Department of Law Enforcement under s. 943.05(2)(g), the
59 person must file a complete set of fingerprints with the agency
60 and the agency shall forward the fingerprints to the Department
61 of Law Enforcement for state processing, and the Department of
62 Law Enforcement shall forward the fingerprints to the Federal
63 Bureau of Investigation for a national criminal history record
64 check. The fingerprints may be retained by the Department of Law
65 Enforcement under s. 943.05(2)(g). The cost of the state and
66 national criminal history records checks required by level 2
67 screening may be borne by the licensee or the person
68 fingerprinted. Until the person's background screening results
69 are retained in the clearinghouse created under s. 435.12, the
70 agency may accept as satisfying the requirements of this section



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71 proof of compliance with level 2 screening standards submitted
72 within the previous 5 years to meet any provider or professional
73 licensure requirements of the agency, the Department of Health,
74 the Department of Elderly Affairs, the Agency for Persons with
75 Disabilities, the Department of Children and Family Services, or
76 the Department of Financial Services for an applicant for a
77 certificate of authority or provisional certificate of authority
78 to operate a continuing care retirement community under chapter
79 651, provided that:

80 (a) The screening standards and disqualifying offenses for
81 the prior screening are equivalent to those specified in s.
82 435.04 and this section;

83 (b) satisfies the requirements of this section if The
84 person subject to screening has not had a break in service from
85 a position that requires level 2 screening ~~been unemployed~~ for
86 more than 90 days; and

87 (c) Such proof is accompanied, under penalty of perjury, by
88 an affidavit of compliance with the provisions of chapter 435
89 and this section using forms provided by the agency.

90 (3) All fingerprints must be provided in electronic format.
91 Screening results shall be reviewed by the agency with respect
92 to the offenses specified in s. 435.04 and this section, and the
93 qualifying or disqualifying status of the person named in the
94 request shall be maintained in a database. The qualifying or
95 disqualifying status of the person named in the request shall be
96 posted on a secure website for retrieval by the licensee or
97 designated agent on the licensee's behalf.

98 (4) In addition to the offenses listed in s. 435.04, all
99 persons required to undergo background screening pursuant to



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100 this part or authorizing statutes must not have an arrest
101 awaiting final disposition for, must not have been found guilty
102 of, regardless of adjudication, or entered a plea of nolo
103 contendere or guilty to, and must not have been adjudicated
104 delinquent and the record not have been sealed or expunged for
105 any of the following offenses or any similar offense of another
106 jurisdiction:

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

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

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

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

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

112 (f) Section 817.034, relating to fraudulent acts through
113 mail, wire, radio, electromagnetic, photoelectronic, or
114 photooptical systems.

115 (g) Section 817.234, relating to false and fraudulent
116 insurance claims.

117 (h) Section 817.505, relating to patient brokering.

118 (i) Section 817.568, relating to criminal use of personal
119 identification information.

120 (j) Section 817.60, relating to obtaining a credit card
121 through fraudulent means.

122 (k) Section 817.61, relating to fraudulent use of credit
123 cards, if the offense was a felony.

124 (l) Section 831.01, relating to forgery.

125 (m) Section 831.02, relating to uttering forged
126 instruments.

127 (n) Section 831.07, relating to forging bank bills, checks,
128 drafts, or promissory notes.



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129 (o) Section 831.09, relating to uttering forged bank bills,
130 checks, drafts, or promissory notes.

131 (p) Section 831.30, relating to fraud in obtaining
132 medicinal drugs.

133 (q) Section 831.31, relating to the sale, manufacture,
134 delivery, or possession with the intent to sell, manufacture, or
135 deliver any counterfeit controlled substance, if the offense was
136 a felony.

137 (5) A person who serves as a controlling interest of, is
138 employed by, or contracts with a licensee on July 31, 2010, who
139 has been screened and qualified according to standards specified
140 in s. 435.03 or s. 435.04 must be rescreened by July 31, 2015 in
141 compliance with the following schedule. ~~The agency may adopt~~
142 ~~rules to establish a schedule to stagger the implementation of~~
143 ~~the required rescreening over the 5-year period, beginning July~~
144 ~~31, 2010, through July 31, 2015.~~ If, upon rescreening, such
145 person has a disqualifying offense that was not a disqualifying
146 offense at the time of the last screening, but is a current
147 disqualifying offense and was committed before the last
148 screening, he or she may apply for an exemption from the
149 appropriate licensing agency and, if agreed to by the employer,
150 may continue to perform his or her duties until the licensing
151 agency renders a decision on the application for exemption if
152 the person is eligible to apply for an exemption and the
153 exemption request is received by the agency within 30 days after
154 receipt of the rescreening results by the person. The
155 rescreening schedule shall be:

156 (a) Individuals for whom the last screening was conducted
157 on or before December 31, 2004, must be rescreened by July 31,



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158 2013.

159 (b) Individuals for whom the last screening conducted was
160 between January 1, 2005, and December 31, 2008, must be
161 rescreened by July 31, 2014.

162 (c) Individuals for whom the last screening conducted was
163 between January 1, 2009, through July 31, 2011, must be
164 rescreened by July 31, 2015.

165 (6)~~(5)~~ The costs associated with obtaining the required
166 screening must be borne by the licensee or the person subject to
167 screening. Licensees may reimburse persons for these costs. The
168 Department of Law Enforcement shall charge the agency for
169 screening pursuant to s. 943.053(3). The agency shall establish
170 a schedule of fees to cover the costs of screening.

171 (7)~~(6)~~(a) As provided in chapter 435, the agency may grant
172 an exemption from disqualification to a person who is subject to
173 this section and who:

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

176 2. Has an active professional license or certification from
177 the Department of Health but is not providing a service within
178 the scope of that license or certification.

179 (b) As provided in chapter 435, the appropriate regulatory
180 board within the Department of Health, or the department itself
181 if there is no board, may grant an exemption from
182 disqualification to a person who is subject to this section and
183 who has received a professional license or certification from
184 the Department of Health or a regulatory board within that
185 department and that person is providing a service within the
186 scope of his or her licensed or certified practice.



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187 (8)~~(7)~~ The agency and the Department of Health may adopt
188 rules pursuant to ss. 120.536(1) and 120.54 to implement this
189 section, chapter 435, and authorizing statutes requiring
190 background screening and to implement and adopt criteria
191 relating to retaining fingerprints pursuant to s. 943.05(2).

192 (9)~~(8)~~ There is no unemployment compensation or other
193 monetary liability on the part of, and no cause of action for
194 damages arising against, an employer that, upon notice of a
195 disqualifying offense listed under chapter 435 or this section,
196 terminates the person against whom the report was issued,
197 whether or not that person has filed for an exemption with the
198 Department of Health or the agency.

199 Section 3. Section 409.1757, Florida Statutes, is amended
200 to read:

201 409.1757 Persons not required to be refingerprinted or
202 rescreened.—Any ~~provision of~~ law to the contrary
203 notwithstanding, human resource personnel who have been
204 fingerprinted or screened pursuant to chapters 393, 394, 397,
205 402, and this chapter, ~~and~~ teachers who have been fingerprinted
206 pursuant to chapter 1012, and law enforcement officers who meet
207 the requirements of s. 943.13, who have not been unemployed for
208 more than 90 days thereafter, and who under the penalty of
209 perjury attest to the completion of such fingerprinting or
210 screening and to compliance with ~~the provisions of~~ this section
211 and the standards for good moral character as contained in such
212 provisions as ss. 110.1127(3), 393.0655(1), 394.457(6), 397.451,
213 402.305(2), ~~and~~ 409.175(6), and 943.13(7), are ~~shall~~ not be
214 required to be refingerprinted or rescreened in order to comply
215 with any caretaker screening or fingerprinting requirements.



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216 Section 4. Paragraph (i) of subsection (4) of section
217 409.221, Florida Statutes, is amended to read:

218 409.221 Consumer-directed care program.—

219 (4) CONSUMER-DIRECTED CARE.—

220 (i) *Background screening requirements.*—All persons who
221 render care under this section must undergo level 2 background
222 screening pursuant to chapter 435 and s. 408.809. The agency
223 shall, as allowable, reimburse consumer-employed caregivers for
224 the cost of conducting background screening as required by this
225 section. For purposes of this section, a person who has
226 undergone screening, who is qualified for employment under this
227 section and applicable rule, and who has not been unemployed for
228 more than 90 days following such screening is not required to be
229 rescreened. Such person must attest under penalty of perjury to
230 not having been convicted of a disqualifying offense since
231 completing such screening.

232 Section 5. Present subsections (7) through (26) of section
233 413.20, Florida Statutes, are renumbered as subsections (8)
234 through (27), respectively, and a new subsection (7) is added to
235 that section, to read:

236 413.20 Definitions.—As used in this part, the term:

237 (7) "Service provider" means a person or entity who
238 provides pursuant to this part employment services, supported
239 employment services, independent living services, self-
240 employment services, personal assistance services, vocational
241 evaluation or tutorial services, or rehabilitation technology
242 services, on a contractual or fee-for-service basis to
243 vulnerable persons as defined in s. 435.02.

244 Section 6. Section 413.208, Florida Statutes, is amended to



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245 read:

246 413.208 Service providers; quality assurance; ~~and~~ fitness
247 for responsibilities; background screening.-

248 (1) Service providers must register with the division. To
249 qualify for registration, the division must ~~of Vocational~~
250 Rehabilitation shall certify providers of direct service and
251 ensure that the service provider maintains they maintain an
252 internal system of quality assurance, has have proven functional
253 systems, and is are subject to a due-diligence inquiry as to its
254 their fitness to undertake service responsibilities, regardless
255 of whether a contract for services is procured competitively or
256 noncompetitively.

257 (2) (a) As a condition of registration under this section,
258 level 2 background screening pursuant to chapter 435 must be
259 conducted by the division on each of the following persons:

260 1. The administrator or a similarly titled person who is
261 responsible for the day-to-day operation of the service
262 provider.

263 2. The financial officer or similarly titled individual who
264 is responsible for the financial operation of the service
265 provider.

266 3. Any person employed by, or otherwise engaged on the
267 behalf of, a service provider who is expected to have direct,
268 face-to-face contact with a vulnerable person as defined in s.
269 435.02 while providing services to the person and have access to
270 the person's living areas, funds, personal property, or personal
271 identification information as defined in s. 817.568.

272 4. A director of the service provider.

273 (b) Level 2 background screening pursuant to chapter 435 is



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274 not required for the following persons:

275 1. A licensed physician, nurse, or other professional who
276 is licensed by the Department of Health and who has undergone
277 fingerprinting and background screening as part of such
278 licensure if providing a service that is within the scope of her
279 or his licensed practice.

280 2. A relative of the vulnerable person receiving services.
281 For purposes of this section, the term "relative" means an
282 individual who is the father, mother, stepfather, stepmother,
283 son, daughter, brother, sister, grandmother, grandfather, great-
284 grandmother, great-grandfather, grandson, granddaughter, uncle,
285 aunt, first cousin, nephew, niece, husband, wife, father-in-law,
286 mother-in-law, son-in-law, daughter-in-law, brother-in-law,
287 sister-in-law, stepson, stepdaughter, stepbrother, stepsister,
288 half-brother, or half-sister of the vulnerable person.

289 (c) Service providers are responsible for initiating and
290 completing the background screening as a condition of
291 registration.

292 (d)1. Every 5 years following initial screening, each
293 person subject to background screening under this section must
294 submit to level 2 background rescreening as a condition of the
295 service provider retaining such registration.

296 2. Until the person's background screening results are
297 retained in the clearinghouse created under s. 435.12, the
298 division may accept as satisfying the requirements of this
299 section proof of compliance with level 2 screening standards
300 submitted within the previous 5 years to meet any provider or
301 professional licensure requirements of the Agency for Health
302 Care Administration, the Department of Health, the Department of



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303 Elderly Affairs, the Agency for Persons with Disabilities, or
304 the Department of Children and Family Services, provided:
305 a. The screening standards and disqualifying offenses for
306 the prior screening are equivalent to those specified in s.
307 435.04 and this section;
308 b. The person subject to screening has not had a break in
309 service from a position that requires level 2 screening for more
310 than 90 days; and
311 c. Such proof is accompanied, under penalty of perjury, by
312 an affidavit of compliance with the provisions of chapter 435
313 and this section.
314 (e) In addition to the disqualifying offenses listed in s.
315 435.04, all persons subject to undergo background screening
316 pursuant to this section must not have an arrest awaiting final
317 disposition for, must not have been found guilty of, regardless
318 of adjudication, or entered a plea of nolo contendere or guilty
319 to, and must not have been adjudicated delinquent, and the
320 record has not been expunged for, any offense prohibited under
321 any of the following provisions or similar law of another
322 jurisdiction:
323 1. Section 409.920, relating to Medicaid provider fraud.
324 2. Section 409.9201, relating to Medicaid fraud.
325 3. Section 741.28, relating to domestic violence.
326 4. Section 817.034, relating to fraudulent acts through
327 mail, wire, radio, electromagnetic, photoelectronic, or
328 photooptical systems.
329 5. Section 817.234, relating to false and fraudulent
330 insurance claims.
331 6. Section 817.505, relating to patient brokering.



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- 332 7. Section 817.568, relating to criminal use of personal
333 identification information.
- 334 8. Section 817.60, relating to obtaining a credit card
335 through fraudulent means.
- 336 9. Section 817.61, relating to fraudulent use of credit
337 cards, if the offense was a felony.
- 338 10. Section 831.01, relating to forgery.
- 339 11. Section 831.02, relating to uttering forged
340 instruments.
- 341 12. Section 831.07, relating to forging bank bills, checks,
342 drafts, or promissory notes.
- 343 13. Section 831.09, relating to uttering forged bank bills,
344 checks, drafts, or promissory notes.
- 345 14. Section 831.31, relating to the sale, manufacture,
346 delivery, or possession with the intent to sell, manufacture, or
347 deliver any counterfeit controlled substance, if the offense was
348 a felony.
- 349 (f) The division may grant an exemption from
350 disqualification from this section only as provided in s.
351 435.07.
- 352 (3) The cost of the state and national criminal history
353 records checks required by level 2 screening and their retention
354 shall be borne by the service provider or the person being
355 screened.
- 356 (4) (a) The division shall deny, suspend, terminate, or
357 revoke a registration, rate agreement, purchase order, referral,
358 contract, or other agreement, or pursue other remedies in
359 addition to or in lieu of denial, suspension, termination, or
360 revocation, for failure to comply with this section.



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361 (b) If the division has reasonable cause to believe that
362 grounds for denial or termination of registration exist, it
363 shall provide written notification to the person affected,
364 identifying the specific record that indicates noncompliance
365 with the standards in this section.

366 (c) Refusal on the part of a provider to remove from
367 contact with any vulnerable person a person who is employed by,
368 or otherwise engaged on behalf of, the provider and who is found
369 to be not in compliance with the standards of this section shall
370 result in revocation of the service provider's registration and
371 contract.

372 Section 7. The background screening requirements of section
373 6 of this act do not apply to existing registrants with the
374 Division of Vocational Rehabilitation in effect before October
375 1, 2012. Such requirements apply to all registrants with the
376 division which are renewed or entered into on or after October
377 1, 2012.

378 Section 8. Section 430.0402, Florida Statutes, is amended
379 to read:

380 430.0402 Screening of direct service providers.-

381 (1) (a) Except as provided in subsection (2), level 2
382 background screening pursuant to chapter 435 is required for
383 direct service providers. Background screening includes
384 employment history checks as provided in s. 435.03(1) and local
385 criminal records checks through local law enforcement agencies.

386 (b) For purposes of this section, the term "direct service
387 provider" means a person 18 years of age or older who, pursuant
388 to a program to provide services to the elderly, has direct,
389 face-to-face contact with a client while providing services to



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390 the client and ~~or~~ has access to the client's living areas, or to
391 ~~the client's funds, or personal property, or personal~~
392 identification information as defined in s. 817.568. The term
393 includes coordinators, managers, and supervisors of residential
394 facilities and volunteers.

395 (2) Level 2 background screening pursuant to chapter 435
396 and this section is not required for the following direct
397 service providers:

398 (a)1. Licensed physicians, nurses, or other professionals
399 licensed by the Department of Health who have been fingerprinted
400 and undergone background screening as part of their licensure;
401 and

402 2. Attorneys in good standing with The Florida Bar; are not
403 subject to background screening if they are providing a service
404 that is within the scope of their licensed practice.

405 (b) Relatives. For purposes of this section, the term
406 "relative" means an individual who is the father, mother,
407 stepfather, stepmother, son, daughter, brother, sister,
408 grandmother, grandfather, great-grandmother, great-grandfather,
409 grandson, granddaughter, uncle, aunt, first cousin, nephew,
410 niece, husband, wife, father-in-law, mother-in-law, son-in-law,
411 daughter-in-law, brother-in-law, sister-in-law, stepson,
412 stepdaughter, stepbrother, stepsister, half-brother, or half-
413 sister of the client.

414 (c) Volunteers who assist on an intermittent basis for less
415 than 20 hours per month and who are not listed on the Department
416 of Law Enforcement Career Offender Search or the Dru Sjodin
417 National Sex Offender Public Website.

418 1. The program that provides services to the elderly is



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419 responsible for verifying that the volunteer is not listed on
420 either database.

421 2. Once the department is participating as a specified
422 agency in the clearinghouse created under s. 435.12, the
423 provider shall forward the volunteer information to the
424 Department of Elderly Affairs if the volunteer is not listed in
425 either database specified in subparagraph 1. The department must
426 then perform a check of the clearinghouse. If a disqualification
427 is identified in the clearinghouse, the volunteer must undergo
428 level 2 background screening pursuant to chapter 435 and this
429 section.

430 (3) Until the department is participating as a specified
431 agency in the clearinghouse created under s. 435.12, the
432 department may not require additional level 2 screening if the
433 individual is qualified for licensure or employment by the
434 Agency for Health Care Administration pursuant to the agency's
435 background screening standards under s. 408.809 and the
436 individual is providing a service that is within the scope of
437 his or her licensed practice or employment.

438 (4)~~(3)~~ Refusal on the part of an employer to dismiss a
439 manager, supervisor, or direct service provider who has been
440 found to be in noncompliance with standards of this section
441 shall result in the automatic denial, termination, or revocation
442 of the license or certification, rate agreement, purchase order,
443 or contract, in addition to any other remedies authorized by
444 law.

445 (5) Individuals serving as direct service providers on July
446 31, 2011, must be screened by July 1, 2013. The department may
447 adopt rules to establish a schedule to stagger the



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448 implementation of the required screening over a 1-year period,
449 beginning July 1, 2012, through July 1, 2013.

450 (6) An employer of a direct service provider who previously
451 qualified for employment or volunteer work under Level 1
452 screening standards or an individual who is required to be
453 screened according to the level 2 screening standards contained
454 in chapter 435, pursuant to this section, shall be rescreened
455 every 5 years following the date of his or her last background
456 screening or exemption, unless such individual's fingerprints
457 are continuously retained and monitored by the Department of Law
458 Enforcement in the federal fingerprint retention program
459 according to the procedures specified in s. 943.05.

460 (7) ~~(4)~~ The background screening conducted pursuant to this
461 section must ensure that, in addition to the disqualifying
462 offenses listed in s. 435.04, no person subject to the
463 provisions of this section has an arrest awaiting final
464 disposition for, has been found guilty of, regardless of
465 adjudication, or entered a plea of nolo contendere or guilty to,
466 or has been adjudicated delinquent and the record has not been
467 sealed or expunged for, any offense prohibited under any of the
468 following provisions of state law or similar law of another
469 jurisdiction:

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

471 (a) ~~(b)~~ Section 409.920, relating to Medicaid provider
472 fraud.

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

474 (c) ~~(d)~~ Section 817.034, relating to fraudulent acts through
475 mail, wire, radio, electromagnetic, photoelectronic, or
476 photooptical systems.



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477 ~~(e)~~ Section 817.234, relating to false and fraudulent
478 insurance claims.

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

480 ~~(g)~~ Section 817.568, relating to criminal use of
481 personal identification information.

482 ~~(h)~~ Section 817.60, relating to obtaining a credit card
483 through fraudulent means.

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

486 ~~(j)~~ Section 831.01, relating to forgery.

487 ~~(k)~~ Section 831.02, relating to uttering forged
488 instruments.

489 ~~(l)~~ Section 831.07, relating to forging bank bills,
490 checks, drafts, or promissory notes.

491 ~~(m)~~ Section 831.09, relating to uttering forged bank
492 bills, checks, drafts, or promissory notes.

493 Section 9. Section 435.02, Florida Statutes, is amended to
494 read:

495 435.02 Definitions.—For the purposes of this chapter, the
496 term:

497 (1) "Agency" means any state, county, or municipal agency
498 that grants licenses or registration permitting the operation of
499 an employer or is itself an employer or that otherwise
500 facilitates the screening of employees pursuant to this chapter.
501 If there is no state agency or the municipal or county agency
502 chooses not to conduct employment screening, "agency" means the
503 Department of Children and Family Services.

504 (2) "Employee" means any person required by law to be
505 screened pursuant to this chapter, including, but not limited



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506 to, persons who are contractors, licensees, or volunteers.

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

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

512 (5) "Specified agency" means the Department of Health, the
513 Department of Children and Family Services, the Division of
514 Vocational Rehabilitation within the Department of Education,
515 the Agency for Health Care Administration, the Department of
516 Elderly Affairs, the Department of Juvenile Justice, and the
517 Agency for Persons with Disabilities when these agencies are
518 conducting state and national criminal history background
519 screening on persons who work with children or persons who are
520 elderly or disabled.

521 (6)~~(5)~~ "Vulnerable person" means a minor as defined in s.
522 1.01 or a vulnerable adult as defined in s. 415.102.

523 Section 10. Paragraph (e) is added to subsection (1) of
524 section 435.04, Florida Statutes, to read:

525 435.04 Level 2 screening standards.—

526 (1)

527 (e) Vendors who submit fingerprints on behalf of employers
528 must:

529 1. Meet the requirements of s. 943.053; and

530 2. Have the ability to communicate electronically with the
531 state agency accepting screening results from the Department of
532 Law Enforcement and provide a photograph of the applicant taken
533 at the time the fingerprints are submitted.

534 Section 11. Paragraph (d) is added to subsection (2) of



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535 section 435.06, Florida Statutes, to read:

536 435.06 Exclusion from employment.—

537 (2)

538 (d) An employer may hire an employee to a position that
539 requires background screening before the employee completes the
540 screening process for training and orientation purposes.

541 However, the employee may not have direct contact with
542 vulnerable persons until the screening process is completed and
543 the employee demonstrates that he or she exhibits no behaviors
544 that warrant the denial or termination of employment.

545 Section 12. Section 435.12, Florida Statutes, is created to
546 read:

547 435.12 Care Provider Background Screening Clearinghouse.—

548 (1) The Agency for Health Care Administration in
549 consultation with the Department of Law Enforcement shall create
550 a secure web-based system, which shall be known as the "Care
551 Provider Background Screening Clearinghouse" or "clearinghouse,"
552 and which shall be implemented to the full extent practicable no
553 later than September 30, 2013, subject to the specified agencies
554 being funded and equipped to participate in such program. The
555 clearinghouse shall allow the results of criminal history checks
556 provided to the specified agencies for screening of persons
557 qualified as care providers under s. 943.0542 to be shared among
558 the specified agencies when a person has applied to volunteer,
559 be employed, be licensed, or enter into a contract that requires
560 a state and national fingerprint-based criminal history check.
561 The Agency for Health Care Administration and the Department of
562 Law Enforcement may adopt rules to create forms or implement
563 procedures needed to carry out this section.



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564 (2) (a) To ensure that the information in the clearinghouse
565 is current, the fingerprints of an employee required to be
566 screened by a specified agency and included in the clearinghouse
567 must be:

568 1. Retained by the Department of Law Enforcement pursuant
569 to s. 943.05(2)(g) and (h) and (3), and the Department of Law
570 Enforcement must report the results of searching those
571 fingerprints against state incoming arrest fingerprint
572 submissions to the Agency for Health Care Administration for
573 inclusion in the clearinghouse.

574 2. Resubmitted for a Federal Bureau of Investigation
575 national criminal history check every 5 years until such time as
576 the fingerprints are retained by the Federal Bureau of
577 Investigation.

578 3. Subject to retention on a 5-year renewal basis with fees
579 collected at the time of initial submission or resubmission of
580 fingerprints.

581 (b) Until such time as the fingerprints are retained at the
582 Federal Bureau of Investigation, an employee with a break in
583 service of more than 90 days from a position that requires
584 screening by a specified agency must submit to a national
585 screening if the person returns to a position that requires
586 screening by a specified agency.

587 (c) An employer of persons subject to screening by a
588 specified agency must register with the clearinghouse and
589 maintain the employment status of all employees within the
590 clearinghouse. Initial employment status and any changes in
591 status must be reported within 10 business days.

592 (3) An employee who has undergone a fingerprint-based



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593 criminal history check by a specified agency before the
594 clearinghouse is operational is not required to be checked again
595 solely for the purpose of entry in the clearinghouse. Every
596 employee who is or will become subject to fingerprint-based
597 criminal history checks to be eligible to be licensed, have
598 their license renewed, or meet screening or rescreening
599 requirements by a specified agency once the specified agency
600 participates in the clearinghouse shall be subject to the
601 requirements of this section with respect to entry of records in
602 the clearinghouse and retention of fingerprints for reporting
603 the results of searching against state incoming arrest
604 fingerprint submissions.

605 Section 13. Section 456.0135, Florida Statutes, is created
606 to read:

607 456.0135 General background screening provisions.—

608 (1) An application for initial licensure or license renewal
609 received on or after January 1, 2013, under chapter 458, chapter
610 459, chapter 460, chapter 461, or chapter 464, or s. 465.022
611 shall include fingerprints pursuant to procedures established by
612 the department through a vendor approved by the Department of
613 Law Enforcement and fees imposed for the initial screening and
614 retention of fingerprints. Fingerprints must be submitted
615 electronically to the Department of Law Enforcement for state
616 processing and the Department of Law Enforcement shall forward
617 the fingerprints to the Federal Bureau of Investigation for
618 national processing. Each board, or the department if there is
619 no board, shall screen the results to determine if an applicant
620 meets licensure requirements. For any subsequent renewal of the
621 applicant's license, the department shall request the Department



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622 of Law Enforcement to forward the retained fingerprints of the
623 applicant to the Federal Bureau of Investigation for a national
624 criminal history check.

625 (2) All fingerprints submitted to the Department of Law
626 Enforcement as required under subsection (1) shall be retained
627 by the Department of Law Enforcement as provided under s.
628 943.05(2)(g) and (h) and (3). The department shall notify the
629 Department of Law Enforcement regarding any person whose
630 fingerprints have been retained but who is no longer licensed.

631 (3) The costs of fingerprint processing, including the cost
632 for retaining fingerprints, shall be borne by the applicant
633 subject to the background screening.

634 Section 14. Subsection (1) of section 464.203, Florida
635 Statutes, is amended to read:

636 464.203 Certified nursing assistants; certification
637 requirement.—

638 (1) The board shall issue a certificate to practice as a
639 certified nursing assistant to any person who demonstrates a
640 minimum competency to read and write and successfully passes the
641 required background screening pursuant to s. 400.215. If the
642 person has successfully passed the required background screening
643 pursuant to s. 400.215 or s. 408.809 within 90 days before
644 applying for a certificate to practice and the person's
645 background screening results are not retained in the
646 clearinghouse created under s. 435.12, the board shall waive the
647 requirement that the applicant successfully pass an additional
648 background screening pursuant to s. 400.215. The person must
649 also meet and ~~meets~~ one of the following requirements:

650 (a) Has successfully completed an approved training program



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651 and achieved a minimum score, established by rule of the board,
652 on the nursing assistant competency examination, which consists
653 of a written portion and skills-demonstration portion approved
654 by the board and administered at a site and by personnel
655 approved by the department.

656 (b) Has achieved a minimum score, established by rule of
657 the board, on the nursing assistant competency examination,
658 which consists of a written portion and skills-demonstration
659 portion, approved by the board and administered at a site and by
660 personnel approved by the department and:

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

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

667 (d) Has completed the curriculum developed by the
668 Department of Education and achieved a minimum score,
669 established by rule of the board, on the nursing assistant
670 competency examination, which consists of a written portion and
671 skills-demonstration portion, approved by the board and
672 administered at a site and by personnel approved by the
673 department.

674 Section 15. Paragraph (h) of subsection (2) of section
675 943.05, Florida Statutes, is amended to read:

676 943.05 Criminal Justice Information Program; duties; crime
677 reports.—

678 (2) The program shall:

679 (h) For each agency or qualified entity that officially



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680 requests retention of fingerprints or for which retention is
681 otherwise required by law, search all arrest fingerprint
682 submissions received under s. 943.051 against the fingerprints
683 retained in the statewide automated fingerprint identification
684 system under paragraph (g).

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

689 2. To participate in this search process, agencies or
690 qualified entities must notify each person fingerprinted that
691 his or her fingerprints will be retained, pay an annual fee to
692 the department, and inform the department of any change in the
693 affiliation, employment, or contractual status of each person
694 whose fingerprints are retained under paragraph (g) if such
695 change removes or eliminates the agency or qualified entity's
696 basis or need for receiving reports of any arrest of that
697 person, so that the agency or qualified entity is not obligated
698 to pay the upcoming annual fee for the retention and searching
699 of that person's fingerprints to the department. The department
700 shall adopt a rule setting the amount of the annual fee to be
701 imposed upon each participating agency or qualified entity for
702 performing these searches and establishing the procedures for
703 the retention of fingerprints and the dissemination of search
704 results. The fee may be borne by the agency, qualified entity,
705 or person subject to fingerprint retention or as otherwise
706 provided by law. Consistent with the recognition of criminal
707 justice agencies expressed in s. 943.053(3), these services
708 shall be provided to criminal justice agencies for criminal



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709 justice purposes free of charge. Qualified entities that elect
710 to participate in the fingerprint retention and search process
711 shall timely remit the fee to the department by a payment
712 mechanism approved by the department. If requested by the
713 qualified entity, and with the approval of the department, such
714 fees may be timely remitted to the department by a qualified
715 entity upon receipt of an invoice for such fees from the
716 department. Failure of a qualified entity to pay the amount due
717 on a timely basis or as invoiced by the department may result in
718 the refusal by the department to permit the qualified entity to
719 continue to participate in the fingerprint retention and search
720 process until all fees due and owing are paid.

721 3. Agencies that participate in the fingerprint retention
722 and search process may adopt rules pursuant to ss. 120.536(1)
723 and 120.54 to require employers to keep the agency informed of
724 any change in the affiliation, employment, or contractual status
725 of each person whose fingerprints are retained under paragraph
726 (g) if such change removes or eliminates the agency's basis or
727 need for receiving reports of any arrest of that person, so that
728 the agency is not obligated to pay the upcoming annual fee for
729 the retention and searching of that person's fingerprints to the
730 department.

731 Section 16. Subsection (12) of section 943.053, Florida
732 Statutes, is amended, and subsection (13) is added to that
733 section, to read:

734 943.053 Dissemination of criminal justice information;
735 fees.—

736 (12) Notwithstanding any other provision of law, when a
737 criminal history check or a duty to disclose the absence of a



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738 criminal history check is mandated by state law, or when a
739 privilege or benefit is conferred by state law in return for
740 exercising an option of conducting a criminal history check, the
741 referenced criminal history check, whether it is an initial or
742 renewal check, shall include a Florida criminal history provided
743 by the department as set forth in this section. Such Florida
744 criminal history information may be provided by a private vendor
745 only if that information is directly obtained from the
746 department for each request. When a national criminal history
747 check is required or authorized by state law, the national
748 criminal history check shall be submitted by and through the
749 department in the manner established by the department for such
750 checks, unless otherwise required by federal law. The fee for
751 criminal history information as established by state law or, in
752 the case of national checks, by the Federal Government, shall be
753 borne by the person or entity submitting the request, or as
754 provided by law. Criminal history information provided by any
755 other governmental entity of this state or any private entity
756 shall not be substituted for criminal history information
757 provided by the department when the criminal history check or a
758 duty to disclose the absence of a criminal history check is
759 required by statute or is made a condition of a privilege or
760 benefit by law. When fingerprints are required or permitted to
761 be used as a basis for identification in conducting such a
762 criminal history check, the fingerprints must be taken by a law
763 enforcement agency employee, a government agency employee, a
764 qualified electronic fingerprint service provider, or a private
765 employer. Fingerprints taken by the subject of the criminal
766 history check may not be accepted or used for the purpose of



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767 identification in conducting the criminal history check.
768 (13) (a) For the department to accept an electronic
769 fingerprint submission from:
770 1. A private vendor engaged in the business of providing
771 electronic fingerprint submission; or
772 2. A private entity or public agency that submits the
773 fingerprints of its own employees, volunteers, contractors,
774 associates, or applicants for the purpose of conducting a
775 required or permitted criminal history background check,
776
777 the vendor, entity, or agency submitting the fingerprints must
778 enter into an agreement with the department which, at a minimum,
779 obligates the vendor, entity, or agency to comply with certain
780 specified standards to ensure that all persons having direct or
781 indirect responsibility for taking, identifying, and
782 electronically submitting fingerprints are qualified to do so
783 and ensures the integrity and security of all personal
784 information gathered from the persons whose fingerprints are
785 submitted.
786 (b) Such standards shall include, but need not be limited
787 to, requiring that:
788 1. All persons responsible for taking fingerprints and
789 collecting personal identifying information from the persons
790 being fingerprinted to meet current written state and federal
791 guidelines for identity verification and for recording legible
792 fingerprints;
793 2. The department and the Federal Bureau of Investigation's
794 technical standards for the electronic submission of
795 fingerprints are satisfied;



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796 3. The fingerprint images electronically submitted satisfy
797 the department's and the Federal Bureau of Investigation's
798 quality standards; and

799 4. A person may not take his or her own fingerprints for
800 submission to the department.

801 (c) The requirement for entering into an agreement with the
802 department for this purpose does not apply to criminal justice
803 agencies as defined at s. 943.045(10).

804 (d) The agreement with the department must require the
805 vendor, entity, or agency to collect from the person or entity
806 on whose behalf the fingerprints are submitted the fees
807 prescribed by state and federal law for processing the
808 fingerprints for a criminal history check. The agreement must
809 provide that such fees be timely remitted to the department by a
810 payment mechanism approved by the department. If requested by
811 the vendor, entity, or agency, and with the approval of the
812 department, such fees may be timely remitted to the department
813 by a vendor, entity, or agency upon receipt of an invoice for
814 such fees from the department. Failure of a vendor, entity, or
815 agency to pay the amount due on a timely basis or as invoiced by
816 the department may result in the refusal by the department to
817 accept future fingerprint submissions until all fees due and
818 owing are paid.

819 Section 17. Paragraph (a) of subsection (4) of section
820 943.0585, Florida Statutes, is amended to read:

821 943.0585 Court-ordered expunction of criminal history
822 records.—The courts of this state have jurisdiction over their
823 own procedures, including the maintenance, expunction, and
824 correction of judicial records containing criminal history



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825 information to the extent such procedures are not inconsistent
826 with the conditions, responsibilities, and duties established by
827 this section. Any court of competent jurisdiction may order a
828 criminal justice agency to expunge the criminal history record
829 of a minor or an adult who complies with the requirements of
830 this section. The court shall not order a criminal justice
831 agency to expunge a criminal history record until the person
832 seeking to expunge a criminal history record has applied for and
833 received a certificate of eligibility for expunction pursuant to
834 subsection (2). A criminal history record that relates to a
835 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
836 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
837 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
838 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
839 any violation specified as a predicate offense for registration
840 as a sexual predator pursuant to s. 775.21, without regard to
841 whether that offense alone is sufficient to require such
842 registration, or for registration as a sexual offender pursuant
843 to s. 943.0435, may not be expunged, without regard to whether
844 adjudication was withheld, if the defendant was found guilty of
845 or pled guilty or nolo contendere to the offense, or if the
846 defendant, as a minor, was found to have committed, or pled
847 guilty or nolo contendere to committing, the offense as a
848 delinquent act. The court may only order expunction of a
849 criminal history record pertaining to one arrest or one incident
850 of alleged criminal activity, except as provided in this
851 section. The court may, at its sole discretion, order the
852 expunction of a criminal history record pertaining to more than
853 one arrest if the additional arrests directly relate to the



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854 original arrest. If the court intends to order the expunction of
855 records pertaining to such additional arrests, such intent must
856 be specified in the order. A criminal justice agency may not
857 expunge any record pertaining to such additional arrests if the
858 order to expunge does not articulate the intention of the court
859 to expunge a record pertaining to more than one arrest. This
860 section does not prevent the court from ordering the expunction
861 of only a portion of a criminal history record pertaining to one
862 arrest or one incident of alleged criminal activity.

863 Notwithstanding any law to the contrary, a criminal justice
864 agency may comply with laws, court orders, and official requests
865 of other jurisdictions relating to expunction, correction, or
866 confidential handling of criminal history records or information
867 derived therefrom. This section does not confer any right to the
868 expunction of any criminal history record, and any request for
869 expunction of a criminal history record may be denied at the
870 sole discretion of the court.

871 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any
872 criminal history record of a minor or an adult which is ordered
873 expunged by a court of competent jurisdiction pursuant to this
874 section must be physically destroyed or obliterated by any
875 criminal justice agency having custody of such record; except
876 that any criminal history record in the custody of the
877 department must be retained in all cases. A criminal history
878 record ordered expunged that is retained by the department is
879 confidential and exempt from the provisions of s. 119.07(1) and
880 s. 24(a), Art. I of the State Constitution and not available to
881 any person or entity except upon order of a court of competent
882 jurisdiction. A criminal justice agency may retain a notation



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883 indicating compliance with an order to expunge.

884 (a) The person who is the subject of a criminal history
885 record that is expunged under this section or under other
886 provisions of law, including former s. 893.14, former s. 901.33,
887 and former s. 943.058, may lawfully deny or fail to acknowledge
888 the arrests covered by the expunged record, except when the
889 subject of the record:

890 1. Is a candidate for employment with a criminal justice
891 agency;

892 2. Is a defendant in a criminal prosecution;

893 3. Concurrently or subsequently petitions for relief under
894 this section or s. 943.059;

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

896 5. Is seeking to be employed or licensed by or to contract
897 with the Department of Children and Family Services, the
898 Division of Vocational Rehabilitation within the Department of
899 Education, the Agency for Health Care Administration, the Agency
900 for Persons with Disabilities, the Department of Health, the
901 Department of Elderly Affairs, or the Department of Juvenile
902 Justice or to be employed or used by such contractor or licensee
903 in a sensitive position having direct contact with children, the
904 ~~developmentally disabled, the aged, or the elderly as provided~~
905 ~~in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.~~
906 ~~402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(5),~~
907 ~~chapter 916, s. 985.644, chapter 400, or chapter 429;~~

908 6. Is seeking to be employed or licensed by the Department
909 of Education, any district school board, any university
910 laboratory school, any charter school, any private or parochial
911 school, or any local governmental entity that licenses child



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912 care facilities; or

913 7. Is seeking authorization from a seaport listed in s.
914 311.09 for employment within or access to one or more of such
915 seaports pursuant to s. 311.12.

916 Section 18. Paragraph (a) of subsection (4) of section
917 943.059, Florida Statutes, is amended to read:

918 943.059 Court-ordered sealing of criminal history records.-
919 The courts of this state shall continue to have jurisdiction
920 over their own procedures, including the maintenance, sealing,
921 and correction of judicial records containing criminal history
922 information to the extent such procedures are not inconsistent
923 with the conditions, responsibilities, and duties established by
924 this section. Any court of competent jurisdiction may order a
925 criminal justice agency to seal the criminal history record of a
926 minor or an adult who complies with the requirements of this
927 section. The court shall not order a criminal justice agency to
928 seal a criminal history record until the person seeking to seal
929 a criminal history record has applied for and received a
930 certificate of eligibility for sealing pursuant to subsection
931 (2). A criminal history record that relates to a violation of s.
932 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
933 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter
934 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
935 916.1075, a violation enumerated in s. 907.041, or any violation
936 specified as a predicate offense for registration as a sexual
937 predator pursuant to s. 775.21, without regard to whether that
938 offense alone is sufficient to require such registration, or for
939 registration as a sexual offender pursuant to s. 943.0435, may
940 not be sealed, without regard to whether adjudication was



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941 withheld, if the defendant was found guilty of or pled guilty or
942 nolo contendere to the offense, or if the defendant, as a minor,
943 was found to have committed or pled guilty or nolo contendere to
944 committing the offense as a delinquent act. The court may only
945 order sealing of a criminal history record pertaining to one
946 arrest or one incident of alleged criminal activity, except as
947 provided in this section. The court may, at its sole discretion,
948 order the sealing of a criminal history record pertaining to
949 more than one arrest if the additional arrests directly relate
950 to the original arrest. If the court intends to order the
951 sealing of records pertaining to such additional arrests, such
952 intent must be specified in the order. A criminal justice agency
953 may not seal any record pertaining to such additional arrests if
954 the order to seal does not articulate the intention of the court
955 to seal records pertaining to more than one arrest. This section
956 does not prevent the court from ordering the sealing of only a
957 portion of a criminal history record pertaining to one arrest or
958 one incident of alleged criminal activity. Notwithstanding any
959 law to the contrary, a criminal justice agency may comply with
960 laws, court orders, and official requests of other jurisdictions
961 relating to sealing, correction, or confidential handling of
962 criminal history records or information derived therefrom. This
963 section does not confer any right to the sealing of any criminal
964 history record, and any request for sealing a criminal history
965 record may be denied at the sole discretion of the court.

966 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal
967 history record of a minor or an adult which is ordered sealed by
968 a court of competent jurisdiction pursuant to this section is
969 confidential and exempt from the provisions of s. 119.07(1) and



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970 s. 24(a), Art. I of the State Constitution and is available only
971 to the person who is the subject of the record, to the subject's
972 attorney, to criminal justice agencies for their respective
973 criminal justice purposes, which include conducting a criminal
974 history background check for approval of firearms purchases or
975 transfers as authorized by state or federal law, to judges in
976 the state courts system for the purpose of assisting them in
977 their case-related decisionmaking responsibilities, as set forth
978 in s. 943.053(5), or to those entities set forth in
979 subparagraphs (a)1., 4., 5., 6., and 8. for their respective
980 licensing, access authorization, and employment purposes.

981 (a) The subject of a criminal history record sealed under
982 this section or under other provisions of law, including former
983 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
984 deny or fail to acknowledge the arrests covered by the sealed
985 record, except when the subject of the record:

- 986 1. Is a candidate for employment with a criminal justice
987 agency;
- 988 2. Is a defendant in a criminal prosecution;
- 989 3. Concurrently or subsequently petitions for relief under
990 this section or s. 943.0585;
- 991 4. Is a candidate for admission to The Florida Bar;
- 992 5. Is seeking to be employed or licensed by or to contract
993 with the Department of Children and Family Services, the
994 Division of Vocational Rehabilitation within the Department of
995 Education, the Agency for Health Care Administration, the Agency
996 for Persons with Disabilities, the Department of Health, the
997 Department of Elderly Affairs, or the Department of Juvenile
998 Justice or to be employed or used by such contractor or licensee



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999 in a sensitive position having direct contact with children, the
1000 ~~developmentally disabled, the aged, or the elderly as provided~~
1001 ~~in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.~~
1002 ~~402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(5), s.~~
1003 ~~415.103, chapter 916, s. 985.644, chapter 400, or chapter 429;~~

1004 6. Is seeking to be employed or licensed by the Department
1005 of Education, any district school board, any university
1006 laboratory school, any charter school, any private or parochial
1007 school, or any local governmental entity that licenses child
1008 care facilities;

1009 7. Is attempting to purchase a firearm from a licensed
1010 importer, licensed manufacturer, or licensed dealer and is
1011 subject to a criminal history check under state or federal law;
1012 or

1013 8. Is seeking authorization from a Florida seaport
1014 identified in s. 311.09 for employment within or access to one
1015 or more of such seaports pursuant to s. 311.12.

1016 Section 19. This act shall take effect upon becoming a law.

1017
1018 ===== T I T L E A M E N D M E N T =====

1019 And the title is amended as follows:

1020
1021 Delete everything before the enacting clause
1022 and insert:

1023 A bill to be entitled
1024 An act relating to background screening; amending s.
1025 394.4572, F.S.; providing that mental health personnel
1026 working in a facility licensed under ch. 395, F.S.,
1027 who work on an intermittent basis for less than 15



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1028 hours per week of direct, face-to-face contact with
1029 patients are exempt from the fingerprinting and
1030 screening requirements under certain conditions;
1031 providing an exception; amending s. 408.809, F.S.;
1032 providing additional conditions for a person to
1033 satisfy screening requirements; eliminating a rule
1034 that requires the Agency for Health Care
1035 Administration to stagger rescreening schedules;
1036 providing a rescreening schedule; amending s.
1037 409.1757, F.S.; adding law enforcement officers who
1038 have a good moral character to the list of
1039 professionals who are not required to be
1040 refingerprinted or rescreened; amending s. 409.221,
1041 F.S.; revising provisions relating to background
1042 screening for persons rendering care in the consumer-
1043 directed care program; amending s. 413.20, F.S.,
1044 relating to general vocational rehabilitation
1045 programs; providing a definition; amending s. 413.208,
1046 F.S.; requiring registration of service providers;
1047 requiring background screening and rescreening of
1048 certain persons having contact with vulnerable
1049 persons; providing exemptions from background
1050 screening; providing disqualifying offenses; providing
1051 that the cost of screening shall be borne by the
1052 provider or the person being screened; providing
1053 conditions for the denial of registration; providing
1054 for notice of denial or termination; requiring
1055 providers to remove persons who have not successfully
1056 passed screening; providing for applicability;



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1057 amending s. 430.0402, F.S.; including a person who has
1058 access to a client's personal identification
1059 information within the definition of the term "direct
1060 service provider"; exempting certain professionals
1061 licensed by the Department of Health, attorneys in
1062 good standing, relatives of clients, and volunteers
1063 who assist on an intermittent basis for less than 20
1064 hours per month from level 2 background screening;
1065 excepting certain licensed professionals and persons
1066 screened as a licensure requirement from further
1067 screening under certain circumstances; requiring
1068 direct service providers working as of a certain date
1069 to be screened within a specified period; providing a
1070 phase-in for screening direct service providers;
1071 requiring that employers of direct service providers
1072 and certain other individuals be rescreened every 5
1073 years unless fingerprints are retained electronically
1074 by the Department of Law Enforcement; removing an
1075 offense from the list of disqualifying offenses for
1076 purposes of background screening; amending s. 435.02,
1077 F.S.; revising and providing definitions relating to
1078 employment screening; amending s. 435.04, F.S.;
1079 requiring vendors who submit fingerprints on behalf of
1080 employers to meet specified criteria; amending s.
1081 435.06, F.S.; authorizing an employer to hire an
1082 employee to a position that otherwise requires
1083 background screening before the completion of the
1084 screening process for the purpose of training the
1085 employee; prohibiting the employee from having direct



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1086 contact with vulnerable persons until the screening
1087 process is complete; creating s. 435.12, F.S.;
1088 creating the Care Provider Background Screening
1089 Clearinghouse under the Agency for Health Care
1090 Administration, in consultation with the Department of
1091 Law Enforcement; providing rulemaking authority;
1092 providing for the implementation and operation of the
1093 clearinghouse; providing for the results of certain
1094 criminal history checks to be shared among specified
1095 agencies; providing for retention of fingerprints;
1096 providing for the registration of employers; providing
1097 an exemption for certain employees who have undergone
1098 a criminal history check before the clearinghouse is
1099 operational; creating s. 456.0135, F.S.; requiring an
1100 application for initial licensure or license renewal
1101 in a profession regulated by the Department of Health
1102 to include fingerprints submitted by an approved
1103 vendor after a specified date; providing procedures
1104 and conditions for retention of fingerprints;
1105 requiring the applicant to pay the costs of
1106 fingerprint processing; amending s. 464.203, F.S.;
1107 requiring the Board of Nursing to waive background
1108 screening requirements for certain certified nursing
1109 assistants; amending s. 943.05, F.S.; providing
1110 procedures for qualified entities participating in the
1111 Criminal Justice Information Program that elect to
1112 participate in the fingerprint retention and search
1113 process; providing for the imposition of fees for
1114 processing fingerprints; authorizing the Department of



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1115 Law Enforcement to exclude certain entities from
1116 participation for failure to timely remit fingerprint
1117 processing fees; amending s. 943.053, F.S.; providing
1118 procedures for the submission of fingerprints by
1119 private vendors, private entities, and public agencies
1120 for certain criminal history checks; requiring the
1121 vendor, entity, or agency to enter into an agreement
1122 with the Department of Law Enforcement specifying
1123 standards for electronic submission of fingerprints;
1124 exempting specified criminal justice agencies from the
1125 requirement for an agreement; providing procedures for
1126 the vendor, entity, or agency to collect certain fees
1127 and to remit those fees to the Department of Law
1128 Enforcement; authorizing the Department of Law
1129 Enforcement to exclude certain entities from
1130 participation for failure to timely remit fingerprint
1131 processing fees; amending s. 943.0585, F.S.; revising
1132 provisions relating to the court-ordered expunction of
1133 criminal history records; amending s. 943.059, F.S.;
1134 revising provisions relating to the court-ordered
1135 sealing of criminal history records; providing an
1136 effective date.