

1 A bill to be entitled
2 An act relating to background screening; amending s.
3 394.4572, F.S.; providing that mental health personnel
4 working in a facility licensed under ch. 395, F.S.,
5 who work on an intermittent basis for less than 15
6 hours per week of direct, face-to-face contact with
7 patients are exempt from the fingerprinting and
8 screening requirements under certain conditions;
9 providing an exception; amending s. 408.809, F.S.;
10 providing additional conditions for a person to
11 satisfy screening requirements; eliminating a rule
12 that requires the Agency for Health Care
13 Administration to stagger rescreening schedules;
14 providing a rescreening schedule; amending s.
15 409.1757, F.S.; adding law enforcement officers who
16 have a good moral character to the list of
17 professionals who are not required to be
18 refingerprinted or rescreened; amending s. 409.221,
19 F.S.; revising provisions relating to background
20 screening for persons rendering care in the consumer-
21 directed care program; amending s. 413.20, F.S.,
22 relating to general vocational rehabilitation
23 programs; defining the term "service provider";
24 amending s. 413.208, F.S.; requiring registration of
25 service providers; requiring background screening and
26 rescreening of certain persons having contact with
27 vulnerable persons; providing exemptions from
28 background screening; providing disqualifying

29 | offenses; providing that the cost of screening shall
30 | be borne by the provider or the person being screened;
31 | providing conditions for the denial, suspension,
32 | termination, or revocation of registration or other
33 | agreements; providing for notice of denial,
34 | suspension, termination, or revocation; providing
35 | applicability; amending s. 430.0402, F.S.; including a
36 | person who has access to a client's personal
37 | identification information within the definition of
38 | the term "direct service provider"; exempting certain
39 | professionals licensed by the Department of Health,
40 | attorneys in good standing, relatives of clients, and
41 | volunteers who assist on an intermittent basis for
42 | less than 20 hours per month from level 2 background
43 | screening; exempting certain licensed professionals
44 | and persons screened as a licensure requirement from
45 | further screening under certain circumstances;
46 | requiring direct service providers working as of a
47 | certain date to be screened within a specified period;
48 | providing a phase-in for screening direct service
49 | providers; requiring that employers of direct service
50 | providers and certain other individuals be rescreened
51 | every 5 years unless fingerprints are retained
52 | electronically by the Department of Law Enforcement;
53 | removing an offense from the list of disqualifying
54 | offenses for purposes of background screening;
55 | amending s. 435.02, F.S.; revising and providing
56 | definitions relating to employment screening; amending

57 s. 435.04, F.S.; requiring vendors who submit
58 fingerprints on behalf of employers to meet specified
59 criteria; amending s. 435.06, F.S.; authorizing an
60 employer to hire an employee to a position that
61 otherwise requires background screening before the
62 completion of the screening process for the purpose of
63 training the employee; prohibiting the employee from
64 having direct contact with vulnerable persons until
65 the screening process is complete; creating s. 435.12,
66 F.S.; creating the Care Provider Background Screening
67 Clearinghouse under the Agency for Health Care
68 Administration, in consultation with the Department of
69 Law Enforcement; providing rulemaking authority;
70 providing for the implementation and operation of the
71 clearinghouse; providing for the results of certain
72 criminal history checks to be shared among specified
73 agencies; providing for retention of fingerprints;
74 providing for the registration of employers; providing
75 an exemption for certain employees who have undergone
76 a criminal history check before the clearinghouse is
77 operational; creating s. 456.0135, F.S.; requiring an
78 application for initial licensure in a profession
79 regulated by the Department of Health to include
80 fingerprints submitted by an approved vendor after a
81 specified date; providing procedures and conditions
82 for retention of fingerprints; requiring the applicant
83 to pay the costs of fingerprint processing; amending
84 s. 464.203, F.S.; requiring the Board of Nursing to

85 waive background screening requirements for certain
86 certified nursing assistants; amending s. 943.05,
87 F.S.; providing procedures for qualified entities
88 participating in the Criminal Justice Information
89 Program that elect to participate in the fingerprint
90 retention and search process; providing for the
91 imposition of fees for processing fingerprints;
92 authorizing the Department of Law Enforcement to
93 exclude certain entities from participation for
94 failure to timely remit fingerprint processing fees;
95 amending s. 943.053, F.S.; providing procedures for
96 the submission of fingerprints by private vendors,
97 private entities, and public agencies for certain
98 criminal history checks; requiring the vendor, entity,
99 or agency to enter into an agreement with the
100 Department of Law Enforcement specifying standards for
101 electronic submission of fingerprints; exempting
102 specified criminal justice agencies from the
103 requirement for an agreement; providing procedures for
104 the vendor, entity, or agency to collect certain fees
105 and to remit those fees to the Department of Law
106 Enforcement; authorizing the Department of Law
107 Enforcement to exclude certain entities from
108 participation for failure to timely remit fingerprint
109 processing fees; amending s. 943.0585, F.S.; revising
110 provisions relating to the court-ordered expunction of
111 criminal history records; amending s. 943.059, F.S.;
112 revising provisions relating to the court-ordered

113 sealing of criminal history records; providing an
 114 effective date.

115

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

117

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

120 394.4572 Screening of mental health personnel.—

121 (1)

122 (d) Mental health personnel working in a facility licensed
 123 under chapter 395 who work on an intermittent basis for less
 124 than 15 hours per week of direct, face-to-face contact with
 125 patients, and who are not listed on the Department of Law
 126 Enforcement Career Offender Search or the Dru Sjodin National
 127 Sex Offender Public Website, are exempt from the fingerprinting
 128 and screening requirements, except that persons working in a
 129 mental health facility where the primary purpose of the facility
 130 is the mental health treatment of minors must be fingerprinted
 131 and meet screening requirements.

132 Section 2. Section 408.809, Florida Statutes, is amended
 133 to read:

134 408.809 Background screening; prohibited offenses.—

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

139 (a) The licensee, if an individual.

140 (b) The administrator or a similarly titled person who is

141 responsible for the day-to-day operation of the provider.

142 (c) The financial officer or similarly titled individual
143 who is responsible for the financial operation of the licensee
144 or provider.

145 (d) Any person who is a controlling interest if the agency
146 has reason to believe that such person has been convicted of any
147 offense prohibited by s. 435.04. For each controlling interest
148 who has been convicted of any such offense, the licensee shall
149 submit to the agency a description and explanation of the
150 conviction at the time of license application.

151 (e) Any person, as required by authorizing statutes,
152 seeking employment with a licensee or provider who is expected
153 to, or whose responsibilities may require him or her to, provide
154 personal care or services directly to clients or have access to
155 client funds, personal property, or living areas; and any
156 person, as required by authorizing statutes, contracting with a
157 licensee or provider whose responsibilities require him or her
158 to provide personal care or personal services directly to
159 clients. Evidence of contractor screening may be retained by the
160 contractor's employer or the licensee.

161 (2) Every 5 years following his or her licensure,
162 employment, or entry into a contract in a capacity that under
163 subsection (1) would require level 2 background screening under
164 chapter 435, each such person must submit to level 2 background
165 rescreening as a condition of retaining such license or
166 continuing in such employment or contractual status. For any
167 such rescreening, the agency shall request the Department of Law
168 Enforcement to forward the person's fingerprints to the Federal

169 Bureau of Investigation for a national criminal history record
 170 check. If the fingerprints of such a person are not retained by
 171 the Department of Law Enforcement under s. 943.05(2)(g), the
 172 person must file a complete set of fingerprints with the agency
 173 and the agency shall forward the fingerprints to the Department
 174 of Law Enforcement for state processing, and the Department of
 175 Law Enforcement shall forward the fingerprints to the Federal
 176 Bureau of Investigation for a national criminal history record
 177 check. The fingerprints may be retained by the Department of Law
 178 Enforcement under s. 943.05(2)(g). The cost of the state and
 179 national criminal history records checks required by level 2
 180 screening may be borne by the licensee or the person
 181 fingerprinted. Until the person's background screening results
 182 are retained in the clearinghouse created under s. 435.12, the
 183 agency may accept as satisfying the requirements of this section
 184 proof of compliance with level 2 screening standards submitted
 185 within the previous 5 years to meet any provider or professional
 186 licensure requirements of the agency, the Department of Health,
 187 the Department of Elderly Affairs, the Agency for Persons with
 188 Disabilities, the Department of Children and Family Services, or
 189 the Department of Financial Services for an applicant for a
 190 certificate of authority or provisional certificate of authority
 191 to operate a continuing care retirement community under chapter
 192 651, provided that:

193 (a) The screening standards and disqualifying offenses for
 194 the prior screening are equivalent to those specified in s.
 195 435.04 and this section;

196 (b) satisfies the requirements of this section if The

197 person subject to screening has not had a break in service from
 198 a position that requires level 2 screening ~~been unemployed~~ for
 199 more than 90 days; and

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

203 (3) All fingerprints must be provided in electronic
 204 format. Screening results shall be reviewed by the agency with
 205 respect to the offenses specified in s. 435.04 and this section,
 206 and the qualifying or disqualifying status of the person named
 207 in the request shall be maintained in a database. The qualifying
 208 or disqualifying status of the person named in the request shall
 209 be posted on a secure website for retrieval by the licensee or
 210 designated agent on the licensee's behalf.

211 (4) In addition to the offenses listed in s. 435.04, all
 212 persons required to undergo background screening pursuant to
 213 this part or authorizing statutes must not have an arrest
 214 awaiting final disposition for, must not have been found guilty
 215 of, regardless of adjudication, or entered a plea of nolo
 216 contendere or guilty to, and must not have been adjudicated
 217 delinquent and the record not have been sealed or expunged for
 218 any of the following offenses or any similar offense of another
 219 jurisdiction:

- 220 (a) Any authorizing statutes, if the offense was a felony.
- 221 (b) This chapter, if the offense was a felony.
- 222 (c) Section 409.920, relating to Medicaid provider fraud.
- 223 (d) Section 409.9201, relating to Medicaid fraud.
- 224 (e) Section 741.28, relating to domestic violence.

225 (f) Section 817.034, relating to fraudulent acts through
 226 mail, wire, radio, electromagnetic, photoelectronic, or
 227 photooptical systems.

228 (g) Section 817.234, relating to false and fraudulent
 229 insurance claims.

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

231 (i) Section 817.568, relating to criminal use of personal
 232 identification information.

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

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

237 (l) Section 831.01, relating to forgery.

238 (m) Section 831.02, relating to uttering forged
 239 instruments.

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

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

244 (p) Section 831.30, relating to fraud in obtaining
 245 medicinal drugs.

246 (q) Section 831.31, relating to the sale, manufacture,
 247 delivery, or possession with the intent to sell, manufacture, or
 248 deliver any counterfeit controlled substance, if the offense was
 249 a felony.

250 (5) A person who serves as a controlling interest of, is
 251 employed by, or contracts with a licensee on July 31, 2010, who
 252 has been screened and qualified according to standards specified

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253 in s. 435.03 or s. 435.04 must be rescreened by July 31, 2015 in
254 compliance with the following schedule. ~~The agency may adopt~~
255 ~~rules to establish a schedule to stagger the implementation of~~
256 ~~the required rescreening over the 5-year period, beginning July~~
257 ~~31, 2010, through July 31, 2015~~. If, upon rescreening, such
258 person has a disqualifying offense that was not a disqualifying
259 offense at the time of the last screening, but is a current
260 disqualifying offense and was committed before the last
261 screening, he or she may apply for an exemption from the
262 appropriate licensing agency and, if agreed to by the employer,
263 may continue to perform his or her duties until the licensing
264 agency renders a decision on the application for exemption if
265 the person is eligible to apply for an exemption and the
266 exemption request is received by the agency within 30 days after
267 receipt of the rescreening results by the person. The
268 rescreening schedule shall be:

269 (a) Individuals for whom the last screening was conducted
270 on or before December 31, 2004, must be rescreened by July 31,
271 2013.

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

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

278 (6)-(5) The costs associated with obtaining the required
279 screening must be borne by the licensee or the person subject to
280 screening. Licensees may reimburse persons for these costs. The

281 Department of Law Enforcement shall charge the agency for
 282 screening pursuant to s. 943.053(3). The agency shall establish
 283 a schedule of fees to cover the costs of screening.

284 (7)~~(6)~~(a) As provided in chapter 435, the agency may grant
 285 an exemption from disqualification to a person who is subject to
 286 this section and who:

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

289 2. Has an active professional license or certification
 290 from the Department of Health but is not providing a service
 291 within the scope of that license or certification.

292 (b) As provided in chapter 435, the appropriate regulatory
 293 board within the Department of Health, or the department itself
 294 if there is no board, may grant an exemption from
 295 disqualification to a person who is subject to this section and
 296 who has received a professional license or certification from
 297 the Department of Health or a regulatory board within that
 298 department and that person is providing a service within the
 299 scope of his or her licensed or certified practice.

300 (8)~~(7)~~ The agency and the Department of Health may adopt
 301 rules pursuant to ss. 120.536(1) and 120.54 to implement this
 302 section, chapter 435, and authorizing statutes requiring
 303 background screening and to implement and adopt criteria
 304 relating to retaining fingerprints pursuant to s. 943.05(2).

305 (9)~~(8)~~ There is no unemployment compensation or other
 306 monetary liability on the part of, and no cause of action for
 307 damages arising against, an employer that, upon notice of a
 308 disqualifying offense listed under chapter 435 or this section,

309 terminates the person against whom the report was issued,
 310 whether or not that person has filed for an exemption with the
 311 Department of Health or the agency.

312 Section 3. Section 409.1757, Florida Statutes, is amended
 313 to read:

314 409.1757 Persons not required to be refingerprinted or
 315 rescreened.—Any ~~provision of~~ law to the contrary
 316 notwithstanding, human resource personnel who have been
 317 fingerprinted or screened pursuant to chapters 393, 394, 397,
 318 402, and this chapter, ~~and~~ teachers who have been fingerprinted
 319 pursuant to chapter 1012, and law enforcement officers who meet
 320 the requirements of s. 943.13, who have not been unemployed for
 321 more than 90 days thereafter, and who under the penalty of
 322 perjury attest to the completion of such fingerprinting or
 323 screening and to compliance with ~~the provisions of~~ this section
 324 and the standards for good moral character as contained in such
 325 provisions as ss. 110.1127(3), 393.0655(1), 394.457(6), 397.451,
 326 402.305(2), ~~and~~ 409.175(6), and 943.13(7), ~~are shall not be~~
 327 required to be refingerprinted or rescreened in order to comply
 328 with any caretaker screening or fingerprinting requirements.

329 Section 4. Paragraph (i) of subsection (4) of section
 330 409.221, Florida Statutes, is amended to read:

331 409.221 Consumer-directed care program.—

332 (4) CONSUMER-DIRECTED CARE.—

333 (i) Background screening requirements.—All persons who
 334 render care under this section must undergo level 2 background
 335 screening pursuant to chapter 435 and s. 408.809. The agency
 336 shall, as allowable, reimburse consumer-employed caregivers for

337 the cost of conducting background screening as required by this
338 section. For purposes of this section, a person who has
339 undergone screening, who is qualified for employment under this
340 section and applicable rule, and who has not been unemployed for
341 more than 90 days following such screening is not required to be
342 rescreened. Such person must attest under penalty of perjury to
343 not having been convicted of a disqualifying offense since
344 completing such screening.

345 Section 5. Present subsections (20) through (26) of
346 section 413.20, Florida Statutes, are renumbered as subsections
347 (21) through (27), respectively, and a new subsection (20) is
348 added to that section to read:

349 413.20 Definitions.—As used in this part, the term:
350 (20) "Service provider" means a person or entity who
351 provides, pursuant to this part, employment services, supported
352 employment services, independent living services, self-
353 employment services, personal assistance services, vocational
354 evaluation or tutorial services, or rehabilitation technology
355 services on a contractual or fee-for-service basis to vulnerable
356 persons as defined in s. 435.02.

357 Section 6. Section 413.208, Florida Statutes, is amended
358 to read:

359 413.208 Service providers; quality assurance; ~~and~~ fitness
360 for responsibilities; background screening.—

361 (1) Service providers must register with the division. To
362 qualify for registration, the division must ~~of Vocational~~
363 ~~Rehabilitation shall certify providers of direct service and~~
364 ensure that the service provider maintains ~~they maintain~~ an

365 internal system of quality assurance, has ~~have~~ proven functional
 366 systems, and is ~~are~~ subject to a due-diligence inquiry as to its
 367 ~~their~~ fitness to undertake service responsibilities, ~~regardless~~
 368 ~~of whether a contract for services is procured competitively or~~
 369 ~~noncompetitively.~~

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

373 1. The administrator or a similarly titled person who is
 374 responsible for the day-to-day operation of the service
 375 provider.

376 2. The financial officer or similarly titled person who is
 377 responsible for the financial operation of the service provider.

378 3. Any person employed by, or otherwise engaged on the
 379 behalf of, a service provider who is expected to have direct,
 380 face-to-face contact with a vulnerable person as defined in s.
 381 435.02 while providing services to the vulnerable person and
 382 having access to that person's living areas, funds, personal
 383 property, or personal identification information as defined in
 384 s. 817.568.

385 4. A director of the service provider.

386 (b) Level 2 background screening pursuant to chapter 435
 387 is not required for the following persons:

388 1. A licensed physician, nurse, or other professional who
 389 is licensed by the Department of Health and who has undergone
 390 fingerprinting and background screening as part of such
 391 licensure if providing a service that is within the scope of her
 392 or his licensed practice.

393 2. A relative of the vulnerable person receiving services.
394 For purposes of this section, the term "relative" means an
395 individual who is the father, mother, stepfather, stepmother,
396 son, daughter, brother, sister, grandmother, grandfather, great-
397 grandmother, great-grandfather, grandson, granddaughter, uncle,
398 aunt, first cousin, nephew, niece, husband, wife, father-in-law,
399 mother-in-law, son-in-law, daughter-in-law, brother-in-law,
400 sister-in-law, stepson, stepdaughter, stepbrother, stepsister,
401 half-brother, or half-sister of the vulnerable person.

402 (c) Service providers are responsible for initiating and
403 completing the background screening as a condition of
404 registration.

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

409 2. Until the person's background screening results are
410 retained in the clearinghouse created under s. 435.12, the
411 division may accept as satisfying the requirements of this
412 section proof of compliance with level 2 screening standards
413 submitted within the previous 5 years to meet any provider or
414 professional licensure requirements of the Agency for Health
415 Care Administration, the Department of Health, the Department of
416 Elderly Affairs, the Agency for Persons with Disabilities, or
417 the Department of Children and Family Services, provided:

418 a. The screening standards and disqualifying offenses for
419 the prior screening are equivalent to those specified in s.
420 435.04 and this section;

421 b. The person subject to screening has not had a break in
422 service from a position that requires level 2 screening for more
423 than 90 days; and

424 c. Such proof is accompanied, under penalty of perjury, by
425 an affidavit of compliance with the provisions of chapter 435
426 and this section.

427 (e) In addition to the disqualifying offenses listed in s.
428 435.04, all persons subject to undergo background screening
429 pursuant to this section must not have an arrest awaiting final
430 disposition for, must not have been found guilty of, regardless
431 of adjudication, or entered a plea of nolo contendere or guilty
432 to, and must not have been adjudicated delinquent, and the
433 record has not been expunged for, any offense prohibited under
434 any of the following provisions or similar law of another
435 jurisdiction:

436 1. Section 409.920, relating to Medicaid provider fraud.

437 2. Section 409.9201, relating to Medicaid fraud.

438 3. Section 741.28, relating to domestic violence.

439 4. Section 817.034, relating to fraudulent acts through
440 mail, wire, radio, electromagnetic, photoelectronic, or
441 photooptical systems.

442 5. Section 817.234, relating to false and fraudulent
443 insurance claims.

444 6. Section 817.505, relating to patient brokering.

445 7. Section 817.568, relating to criminal use of personal
446 identification information.

447 8. Section 817.60, relating to obtaining a credit card
448 through fraudulent means.

449 9. Section 817.61, relating to fraudulent use of credit
450 cards, if the offense was a felony.

451 10. Section 831.01, relating to forgery.

452 11. Section 831.02, relating to uttering forged
453 instruments.

454 12. Section 831.07, relating to forging bank bills,
455 checks, drafts, or promissory notes.

456 13. Section 831.09, relating to uttering forged bank
457 bills, checks, drafts, or promissory notes.

458 14. Section 831.31, relating to the sale, manufacture,
459 delivery, or possession with the intent to sell, manufacture, or
460 deliver any counterfeit controlled substance, if the offense was
461 a felony.

462 (f) The division may grant an exemption from
463 disqualification from this section only as provided in s.
464 435.07.

465 (3) The cost of the state and national criminal history
466 records checks required by level 2 screening and their retention
467 shall be borne by the service provider or the person being
468 screened.

469 (4) (a) The division shall deny, suspend, terminate, or
470 revoke a registration, rate agreement, purchase order, referral,
471 contract, or other agreement, or pursue other remedies in
472 addition to or in lieu of denial, suspension, termination, or
473 revocation, for failure to comply with this section.

474 (b) If the division has reasonable cause to believe that
475 grounds for denial or termination of registration exist, it
476 shall provide written notification to the person affected,

477 identifying the specific record that indicates noncompliance
 478 with the standards established in this section.

479 (c) If a provider refuses to remove a person who is
 480 employed by, or otherwise engaged on behalf of, the provider and
 481 who is found to be not in compliance with the standards
 482 established in this section from contact with any vulnerable
 483 person, the service provider's registration and contract shall
 484 be revoked.

485 Section 7. The background screening requirements of s.
 486 413.208, Florida Statutes, as amended by this act do not apply
 487 to existing registrants with the Division of Vocational
 488 Rehabilitation within the Department of Education in effect
 489 before October 1, 2012. Such requirements apply to all
 490 registrants with the division that are renewed or entered into
 491 on or after October 1, 2012.

492 Section 8. Section 430.0402, Florida Statutes, is amended
 493 to read:

494 430.0402 Screening of direct service providers.—

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

500 (b) For purposes of this section, the term "direct service
 501 provider" means a person 18 years of age or older who, pursuant
 502 to a program to provide services to the elderly, has direct,
 503 face-to-face contact with a client while providing services to
 504 the client and ~~or~~ has access to the client's living areas, or ~~or to~~

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505 ~~the client's funds, or personal property, or personal~~
506 identification information as defined in s. 817.568. The term
507 includes coordinators, managers, and supervisors of residential
508 facilities and volunteers.

509 (2) Level 2 background screening pursuant to chapter 435
510 and this section is not required for the following direct
511 service providers:

512 (a)1. Licensed physicians, nurses, or other professionals
513 licensed by the Department of Health who have been fingerprinted
514 and undergone background screening as part of their licensure;
515 and

516 2. Attorneys in good standing with The Florida Bar; are
517 ~~not subject to background screening~~

518
519 if they are providing a service that is within the scope of
520 their licensed practice.

521 (b) Relatives. For purposes of this section, the term
522 "relative" means an individual who is the father, mother,
523 stepfather, stepmother, son, daughter, brother, sister,
524 grandmother, grandfather, great-grandmother, great-grandfather,
525 grandson, granddaughter, uncle, aunt, first cousin, nephew,
526 niece, husband, wife, father-in-law, mother-in-law, son-in-law,
527 daughter-in-law, brother-in-law, sister-in-law, stepson,
528 stepdaughter, stepbrother, stepsister, half-brother, or half-
529 sister of the client.

530 (c) Volunteers who assist on an intermittent basis for
531 less than 20 hours per month and who are not listed on the
532 Department of Law Enforcement Career Offender Search or the Dru

533 Sjodin National Sex Offender Public Website.

534 1. The program that provides services to the elderly is
535 responsible for verifying that the volunteer is not listed on
536 either database.

537 2. Once the department is participating as a specified
538 agency in the clearinghouse created under s. 435.12, the
539 provider shall forward the volunteer information to the
540 Department of Elderly Affairs if the volunteer is not listed in
541 either database specified in subparagraph 1. The department must
542 then perform a check of the clearinghouse. If a disqualification
543 is identified in the clearinghouse, the volunteer must undergo
544 level 2 background screening pursuant to chapter 435 and this
545 section.

546 (3) Until the department is participating as a specified
547 agency in the clearinghouse created under s. 435.12, the
548 department may not require additional level 2 screening if the
549 individual is qualified for licensure or employment by the
550 Agency for Health Care Administration pursuant to the agency's
551 background screening standards under s. 408.809 and the
552 individual is providing a service that is within the scope of
553 his or her licensed practice or employment.

554 (4)~~(3)~~ Refusal on the part of an employer to dismiss a
555 manager, supervisor, or direct service provider who has been
556 found to be in noncompliance with standards of this section
557 shall result in the automatic denial, termination, or revocation
558 of the license or certification, rate agreement, purchase order,
559 or contract, in addition to any other remedies authorized by
560 law.

561 (5) Individuals serving as direct service providers on
562 July 31, 2011, must be screened by July 1, 2013. The department
563 may adopt rules to establish a schedule to stagger the
564 implementation of the required screening over a 1-year period,
565 beginning July 1, 2012, through July 1, 2013.

566 (6) An employer of a direct service provider who
567 previously qualified for employment or volunteer work under
568 Level 1 screening standards or an individual who is required to
569 be screened according to the level 2 screening standards
570 contained in chapter 435, pursuant to this section, shall be
571 rescreened every 5 years following the date of his or her last
572 background screening or exemption, unless such individual's
573 fingerprints are continuously retained and monitored by the
574 Department of Law Enforcement in the federal fingerprint
575 retention program according to the procedures specified in s.
576 943.05.

577 ~~(7)(4)~~ The background screening conducted pursuant to this
578 section must ensure that, in addition to the disqualifying
579 offenses listed in s. 435.04, no person subject to the
580 provisions of this section has an arrest awaiting final
581 disposition for, has been found guilty of, regardless of
582 adjudication, or entered a plea of nolo contendere or guilty to,
583 or has been adjudicated delinquent and the record has not been
584 sealed or expunged for, any offense prohibited under any of the
585 following provisions of state law or similar law of another
586 jurisdiction:

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

588 (a) ~~(b)~~ Section 409.920, relating to Medicaid provider

589 fraud.

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

591 (c)~~(d)~~ Section 817.034, relating to fraudulent acts

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

593 photooptical systems.

594 (d)~~(e)~~ Section 817.234, relating to false and fraudulent

595 insurance claims.

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

597 (f)~~(g)~~ Section 817.568, relating to criminal use of

598 personal identification information.

599 (g)~~(h)~~ Section 817.60, relating to obtaining a credit card

600 through fraudulent means.

601 (h)~~(i)~~ Section 817.61, relating to fraudulent use of

602 credit cards, if the offense was a felony.

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

604 (j)~~(k)~~ Section 831.02, relating to uttering forged

605 instruments.

606 (k)~~(l)~~ Section 831.07, relating to forging bank bills,

607 checks, drafts, or promissory notes.

608 (l)~~(m)~~ Section 831.09, relating to uttering forged bank

609 bills, checks, drafts, or promissory notes.

610 Section 9. Section 435.02, Florida Statutes, is amended to

611 read:

612 435.02 Definitions.—For the purposes of this chapter, the

613 term:

614 (1) "Agency" means any state, county, or municipal agency

615 that grants licenses or registration permitting the operation of

616 an employer or is itself an employer or that otherwise

617 facilitates the screening of employees pursuant to this chapter.
 618 If there is no state agency or the municipal or county agency
 619 chooses not to conduct employment screening, "agency" means the
 620 Department of Children and Family Services.

621 (2) "Employee" means any person required by law to be
 622 screened pursuant to this chapter, including, but not limited
 623 to, persons who are contractors, licensees, or volunteers.

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

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

629 (5) "Specified agency" means the Department of Health, the
 630 Department of Children and Family Services, the Division of
 631 Vocational Rehabilitation within the Department of Education,
 632 the Agency for Health Care Administration, the Department of
 633 Elderly Affairs, the Department of Juvenile Justice, and the
 634 Agency for Persons with Disabilities when these agencies are
 635 conducting state and national criminal history background
 636 screening on persons who work with children or persons who are
 637 elderly or disabled.

638 ~~(6)~~ (5) "Vulnerable person" means a minor as defined in s.
 639 1.01 or a vulnerable adult as defined in s. 415.102.

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

642 435.04 Level 2 screening standards.-

643 (1)

644 (e) Vendors who submit fingerprints on behalf of employers

645 must:

- 646 1. Meet the requirements of s. 943.053; and
647 2. Have the ability to communicate electronically with the
648 state agency accepting screening results from the Department of
649 Law Enforcement and provide a photograph of the applicant taken
650 at the time the fingerprints are submitted.

651 Section 11. Paragraph (d) is added to subsection (2) of
652 section 435.06, Florida Statutes, to read:

653 435.06 Exclusion from employment.—

654 (2)

655 (d) An employer may hire an employee to a position that
656 requires background screening before the employee completes the
657 screening process for training and orientation purposes.
658 However, the employee may not have direct contact with
659 vulnerable persons until the screening process is completed and
660 the employee demonstrates that he or she exhibits no behaviors
661 that warrant the denial or termination of employment.

662 Section 12. Section 435.12, Florida Statutes, is created
663 to read:

664 435.12 Care Provider Background Screening Clearinghouse.—

665 (1) The Agency for Health Care Administration in
666 consultation with the Department of Law Enforcement shall create
667 a secure web-based system, which shall be known as the "Care
668 Provider Background Screening Clearinghouse" or "clearinghouse,"
669 and which shall be implemented to the full extent practicable no
670 later than September 30, 2013, subject to the specified agencies
671 being funded and equipped to participate in such program. The
672 clearinghouse shall allow the results of criminal history checks

673 provided to the specified agencies for screening of persons
674 qualified as care providers under s. 943.0542 to be shared among
675 the specified agencies when a person has applied to volunteer,
676 be employed, be licensed, or enter into a contract that requires
677 a state and national fingerprint-based criminal history check.
678 The Agency for Health Care Administration and the Department of
679 Law Enforcement may adopt rules to create forms or implement
680 procedures needed to carry out this section.

681 (2) (a) To ensure that the information in the clearinghouse
682 is current, the fingerprints of an employee required to be
683 screened by a specified agency and included in the clearinghouse
684 must be:

685 1. Retained by the Department of Law Enforcement pursuant
686 to s. 943.05(2)(g) and (h) and (3), and the Department of Law
687 Enforcement must report the results of searching those
688 fingerprints against state incoming arrest fingerprint
689 submissions to the Agency for Health Care Administration for
690 inclusion in the clearinghouse.

691 2. Resubmitted for a Federal Bureau of Investigation
692 national criminal history check every 5 years until such time as
693 the fingerprints are retained by the Federal Bureau of
694 Investigation.

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

698 (b) Until such time as the fingerprints are retained at
699 the Federal Bureau of Investigation, an employee with a break in
700 service of more than 90 days from a position that requires

701 screening by a specified agency must submit to a national
 702 screening if the person returns to a position that requires
 703 screening by a specified agency.

704 (c) An employer of persons subject to screening by a
 705 specified agency must register with the clearinghouse and
 706 maintain the employment status of all employees within the
 707 clearinghouse. Initial employment status and any changes in
 708 status must be reported within 10 business days.

709 (3) An employee who has undergone a fingerprint-based
 710 criminal history check by a specified agency before the
 711 clearinghouse is operational is not required to be checked again
 712 solely for the purpose of entry in the clearinghouse. Every
 713 employee who is or will become subject to fingerprint-based
 714 criminal history checks to be eligible to be licensed, have
 715 their license renewed, or meet screening or rescreening
 716 requirements by a specified agency once the specified agency
 717 participates in the clearinghouse shall be subject to the
 718 requirements of this section with respect to entry of records in
 719 the clearinghouse and retention of fingerprints for reporting
 720 the results of searching against state incoming arrest
 721 fingerprint submissions.

722 Section 13. Section 456.0135, Florida Statutes, is created
 723 to read:

724 456.0135 General background screening provisions.—

725 (1) An application for initial licensure received on or
 726 after January 1, 2013, under chapter 458, chapter 459, chapter
 727 460, chapter 461, chapter 464, or s. 465.022 shall include
 728 fingerprints pursuant to procedures established by the

729 department through a vendor approved by the Department of Law
730 Enforcement and fees imposed for the initial screening and
731 retention of fingerprints. Fingerprints must be submitted
732 electronically to the Department of Law Enforcement for state
733 processing and the Department of Law Enforcement shall forward
734 the fingerprints to the Federal Bureau of Investigation for
735 national processing. Each board, or the department if there is
736 no board, shall screen the results to determine if an applicant
737 meets licensure requirements. For any subsequent renewal of the
738 applicant's license that requires a national criminal history
739 check, the department shall request the Department of Law
740 Enforcement to forward the retained fingerprints of the
741 applicant to the Federal Bureau of Investigation.

742 (2) All fingerprints submitted to the Department of Law
743 Enforcement as required under subsection (1) shall be retained
744 by the Department of Law Enforcement as provided under s.
745 943.05(2)(g) and (h) and (3). The department shall notify the
746 Department of Law Enforcement regarding any person whose
747 fingerprints have been retained but who is no longer licensed.

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

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

753 464.203 Certified nursing assistants; certification
754 requirement.—

755 (1) The board shall issue a certificate to practice as a
756 certified nursing assistant to any person who demonstrates a

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757 minimum competency to read and write and successfully passes the
758 required background screening pursuant to s. 400.215. If the
759 person has successfully passed the required background screening
760 pursuant to s. 400.215 or s. 408.809 within 90 days before
761 applying for a certificate to practice and the person's
762 background screening results are not retained in the
763 clearinghouse created under s. 435.12, the board shall waive the
764 requirement that the applicant successfully pass an additional
765 background screening pursuant to s. 400.215. The person must
766 also meet ~~and meets~~ one of the following requirements:

767 (a) Has successfully completed an approved training
768 program and achieved a minimum score, established by rule of the
769 board, on the nursing assistant competency examination, which
770 consists of a written portion and skills-demonstration portion
771 approved by the board and administered at a site and by
772 personnel approved by the department.

773 (b) Has achieved a minimum score, established by rule of
774 the board, on the nursing assistant competency examination,
775 which consists of a written portion and skills-demonstration
776 portion, approved by the board and administered at a site and by
777 personnel approved by the department and:

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

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

784 (d) Has completed the curriculum developed by the

785 Department of Education and achieved a minimum score,
 786 established by rule of the board, on the nursing assistant
 787 competency examination, which consists of a written portion and
 788 skills-demonstration portion, approved by the board and
 789 administered at a site and by personnel approved by the
 790 department.

791 Section 15. Paragraph (h) of subsection (2) of section
 792 943.05, Florida Statutes, is amended to read:

793 943.05 Criminal Justice Information Program; duties; crime
 794 reports.—

795 (2) The program shall:

796 (h) For each agency or qualified entity that officially
 797 requests retention of fingerprints or for which retention is
 798 otherwise required by law, search all arrest fingerprint
 799 submissions received under s. 943.051 against the fingerprints
 800 retained in the statewide automated fingerprint identification
 801 system under paragraph (g).

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

806 2. To participate in this search process, agencies or
 807 qualified entities must notify each person fingerprinted that
 808 his or her fingerprints will be retained, pay an annual fee to
 809 the department, and inform the department of any change in the
 810 affiliation, employment, or contractual status of each person
 811 whose fingerprints are retained under paragraph (g) if such
 812 change removes or eliminates the agency or qualified entity's

813 basis or need for receiving reports of any arrest of that
814 person, so that the agency or qualified entity is not obligated
815 to pay the upcoming annual fee for the retention and searching
816 of that person's fingerprints to the department. The department
817 shall adopt a rule setting the amount of the annual fee to be
818 imposed upon each participating agency or qualified entity for
819 performing these searches and establishing the procedures for
820 the retention of fingerprints and the dissemination of search
821 results. The fee may be borne by the agency, qualified entity,
822 or person subject to fingerprint retention or as otherwise
823 provided by law. Consistent with the recognition of criminal
824 justice agencies expressed in s. 943.053(3), these services
825 shall be provided to criminal justice agencies for criminal
826 justice purposes free of charge. Qualified entities that elect
827 to participate in the fingerprint retention and search process
828 are required to timely remit the fee to the department by a
829 payment mechanism approved by the department. If requested by
830 the qualified entity, and with the approval of the department,
831 such fees may be timely remitted to the department by a
832 qualified entity upon receipt of an invoice for such fees from
833 the department. Failure of a qualified entity to pay the amount
834 due on a timely basis or as invoiced by the department may
835 result in the refusal by the department to permit the qualified
836 entity to continue to participate in the fingerprint retention
837 and search process until all fees due and owing are paid.

838 3. Agencies that participate in the fingerprint retention
839 and search process may adopt rules pursuant to ss. 120.536(1)
840 and 120.54 to require employers to keep the agency informed of

841 any change in the affiliation, employment, or contractual status
842 of each person whose fingerprints are retained under paragraph
843 (g) if such change removes or eliminates the agency's basis or
844 need for receiving reports of any arrest of that person, so that
845 the agency is not obligated to pay the upcoming annual fee for
846 the retention and searching of that person's fingerprints to the
847 department.

848 Section 16. Subsection (12) of section 943.053, Florida
849 Statutes, is amended, and subsection (13) is added to that
850 section, to read:

851 943.053 Dissemination of criminal justice information;
852 fees.—

853 (12) Notwithstanding any other provision of law, when a
854 criminal history check or a duty to disclose the absence of a
855 criminal history check is mandated by state law, or when a
856 privilege or benefit is conferred by state law in return for
857 exercising an option of conducting a criminal history check, the
858 referenced criminal history check, whether it is an initial or
859 renewal check, shall include a Florida criminal history provided
860 by the department as set forth in this section. Such Florida
861 criminal history information may be provided by a private vendor
862 only if that information is directly obtained from the
863 department for each request. When a national criminal history
864 check is required or authorized by state law, the national
865 criminal history check shall be submitted by and through the
866 department in the manner established by the department for such
867 checks, unless otherwise required by federal law. The fee for
868 criminal history information as established by state law or, in

869 the case of national checks, by the Federal Government, shall be
 870 borne by the person or entity submitting the request, or as
 871 provided by law. Criminal history information provided by any
 872 other governmental entity of this state or any private entity
 873 shall not be substituted for criminal history information
 874 provided by the department when the criminal history check or a
 875 duty to disclose the absence of a criminal history check is
 876 required by statute or is made a condition of a privilege or
 877 benefit by law. When fingerprints are required or permitted to
 878 be used as a basis for identification in conducting such a
 879 criminal history check, the fingerprints must be taken by a law
 880 enforcement agency employee, a government agency employee, a
 881 qualified electronic fingerprint service provider, or a private
 882 employer. Fingerprints taken by the subject of the criminal
 883 history check may not be accepted or used for the purpose of
 884 identification in conducting the criminal history check.

885 (13) (a) For the department to accept an electronic
 886 fingerprint submission from:

887 1. A private vendor engaged in the business of providing
 888 electronic fingerprint submission; or

889 2. A private entity or public agency that submits the
 890 fingerprints of its own employees, volunteers, contractors,
 891 associates, or applicants for the purpose of conducting a
 892 required or permitted criminal history background check,

893
 894 the vendor, entity, or agency submitting the fingerprints must
 895 enter into an agreement with the department that at a minimum
 896 obligates the vendor, entity, or agency to comply with certain

897 specified standards to ensure that all persons having direct or
 898 indirect responsibility for taking, identifying, and
 899 electronically submitting fingerprints are qualified to do so
 900 and will ensure the integrity and security of all personal
 901 information gathered from the persons whose fingerprints are
 902 submitted.

903 (b) Such standards shall include, but need not be limited
 904 to, requiring that:

905 1. All persons responsible for taking fingerprints and
 906 collecting personal identifying information from the persons
 907 being fingerprinted to meet current written state and federal
 908 guidelines for identity verification and for recording legible
 909 fingerprints;

910 2. The department and the Federal Bureau of
 911 Investigation's technical standards for the electronic
 912 submission of fingerprints are satisfied;

913 3. The fingerprint images electronically submitted satisfy
 914 the department's and the Federal Bureau of Investigation's
 915 quality standards; and

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

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

921 (d) The agreement with the department must require the
 922 vendor, entity, or agency to collect from the person or entity
 923 on whose behalf the fingerprints are submitted the fees
 924 prescribed by state and federal law for processing the

925 fingerprints for a criminal history check. The agreement must
926 provide that such fees be timely remitted to the department by a
927 payment mechanism approved by the department. If requested by
928 the vendor, entity, or agency, and with the approval of the
929 department, such fees may be timely remitted to the department
930 by a vendor, entity, or agency upon receipt of an invoice for
931 such fees from the department. Failure of a vendor, entity, or
932 agency to pay the amount due on a timely basis or as invoiced by
933 the department may result in the refusal by the department to
934 accept future fingerprint submissions until all fees due and
935 owing are paid.

936 Section 17. Paragraph (a) of subsection (4) of section
937 943.0585, Florida Statutes, is amended to read:

938 943.0585 Court-ordered expunction of criminal history
939 records.—The courts of this state have jurisdiction over their
940 own procedures, including the maintenance, expunction, and
941 correction of judicial records containing criminal history
942 information to the extent such procedures are not inconsistent
943 with the conditions, responsibilities, and duties established by
944 this section. Any court of competent jurisdiction may order a
945 criminal justice agency to expunge the criminal history record
946 of a minor or an adult who complies with the requirements of
947 this section. The court shall not order a criminal justice
948 agency to expunge a criminal history record until the person
949 seeking to expunge a criminal history record has applied for and
950 received a certificate of eligibility for expunction pursuant to
951 subsection (2). A criminal history record that relates to a
952 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,

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953 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
954 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
955 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
956 any violation specified as a predicate offense for registration
957 as a sexual predator pursuant to s. 775.21, without regard to
958 whether that offense alone is sufficient to require such
959 registration, or for registration as a sexual offender pursuant
960 to s. 943.0435, may not be expunged, without regard to whether
961 adjudication was withheld, if the defendant was found guilty of
962 or pled guilty or nolo contendere to the offense, or if the
963 defendant, as a minor, was found to have committed, or pled
964 guilty or nolo contendere to committing, the offense as a
965 delinquent act. The court may only order expunction of a
966 criminal history record pertaining to one arrest or one incident
967 of alleged criminal activity, except as provided in this
968 section. The court may, at its sole discretion, order the
969 expunction of a criminal history record pertaining to more than
970 one arrest if the additional arrests directly relate to the
971 original arrest. If the court intends to order the expunction of
972 records pertaining to such additional arrests, such intent must
973 be specified in the order. A criminal justice agency may not
974 expunge any record pertaining to such additional arrests if the
975 order to expunge does not articulate the intention of the court
976 to expunge a record pertaining to more than one arrest. This
977 section does not prevent the court from ordering the expunction
978 of only a portion of a criminal history record pertaining to one
979 arrest or one incident of alleged criminal activity.
980 Notwithstanding any law to the contrary, a criminal justice

981 agency may comply with laws, court orders, and official requests
 982 of other jurisdictions relating to expunction, correction, or
 983 confidential handling of criminal history records or information
 984 derived therefrom. This section does not confer any right to the
 985 expunction of any criminal history record, and any request for
 986 expunction of a criminal history record may be denied at the
 987 sole discretion of the court.

988 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any
 989 criminal history record of a minor or an adult which is ordered
 990 expunged by a court of competent jurisdiction pursuant to this
 991 section must be physically destroyed or obliterated by any
 992 criminal justice agency having custody of such record; except
 993 that any criminal history record in the custody of the
 994 department must be retained in all cases. A criminal history
 995 record ordered expunged that is retained by the department is
 996 confidential and exempt from the provisions of s. 119.07(1) and
 997 s. 24(a), Art. I of the State Constitution and not available to
 998 any person or entity except upon order of a court of competent
 999 jurisdiction. A criminal justice agency may retain a notation
 1000 indicating compliance with an order to expunge.

1001 (a) The person who is the subject of a criminal history
 1002 record that is expunged under this section or under other
 1003 provisions of law, including former s. 893.14, former s. 901.33,
 1004 and former s. 943.058, may lawfully deny or fail to acknowledge
 1005 the arrests covered by the expunged record, except when the
 1006 subject of the record:

- 1007 1. Is a candidate for employment with a criminal justice
 1008 agency;

- 1009 2. Is a defendant in a criminal prosecution;
- 1010 3. Concurrently or subsequently petitions for relief under
- 1011 this section or s. 943.059;
- 1012 4. Is a candidate for admission to The Florida Bar;
- 1013 5. Is seeking to be employed or licensed by or to contract
- 1014 with the Department of Children and Family Services, the
- 1015 Division of Vocational Rehabilitation within the Department of
- 1016 Education, the Agency for Health Care Administration, the Agency
- 1017 for Persons with Disabilities, the Department of Health, the
- 1018 Department of Elderly Affairs, or the Department of Juvenile
- 1019 Justice or to be employed or used by such contractor or licensee
- 1020 in a sensitive position having direct contact with children, the
- 1021 ~~developmentally disabled, the aged, or the elderly as provided~~
- 1022 ~~in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.~~
- 1023 ~~402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(5),~~
- 1024 ~~chapter 916, s. 985.644, chapter 400, or chapter 429;~~
- 1025 6. Is seeking to be employed or licensed by the Department
- 1026 of Education, any district school board, any university
- 1027 laboratory school, any charter school, any private or parochial
- 1028 school, or any local governmental entity that licenses child
- 1029 care facilities; or
- 1030 7. Is seeking authorization from a seaport listed in s.
- 1031 311.09 for employment within or access to one or more of such
- 1032 seaports pursuant to s. 311.12.

1033 Section 18. Paragraph (a) of subsection (4) of section

1034 943.059, Florida Statutes, is amended to read:

1035 943.059 Court-ordered sealing of criminal history

1036 records.—The courts of this state shall continue to have

1037 jurisdiction over their own procedures, including the
 1038 maintenance, sealing, and correction of judicial records
 1039 containing criminal history information to the extent such
 1040 procedures are not inconsistent with the conditions,
 1041 responsibilities, and duties established by this section. Any
 1042 court of competent jurisdiction may order a criminal justice
 1043 agency to seal the criminal history record of a minor or an
 1044 adult who complies with the requirements of this section. The
 1045 court shall not order a criminal justice agency to seal a
 1046 criminal history record until the person seeking to seal a
 1047 criminal history record has applied for and received a
 1048 certificate of eligibility for sealing pursuant to subsection
 1049 (2). A criminal history record that relates to a violation of s.
 1050 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
 1051 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter
 1052 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
 1053 916.1075, a violation enumerated in s. 907.041, or any violation
 1054 specified as a predicate offense for registration as a sexual
 1055 predator pursuant to s. 775.21, without regard to whether that
 1056 offense alone is sufficient to require such registration, or for
 1057 registration as a sexual offender pursuant to s. 943.0435, may
 1058 not be sealed, without regard to whether adjudication was
 1059 withheld, if the defendant was found guilty of or pled guilty or
 1060 nolo contendere to the offense, or if the defendant, as a minor,
 1061 was found to have committed or pled guilty or nolo contendere to
 1062 committing the offense as a delinquent act. The court may only
 1063 order sealing of a criminal history record pertaining to one
 1064 arrest or one incident of alleged criminal activity, except as

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1065 provided in this section. The court may, at its sole discretion,
1066 order the sealing of a criminal history record pertaining to
1067 more than one arrest if the additional arrests directly relate
1068 to the original arrest. If the court intends to order the
1069 sealing of records pertaining to such additional arrests, such
1070 intent must be specified in the order. A criminal justice agency
1071 may not seal any record pertaining to such additional arrests if
1072 the order to seal does not articulate the intention of the court
1073 to seal records pertaining to more than one arrest. This section
1074 does not prevent the court from ordering the sealing of only a
1075 portion of a criminal history record pertaining to one arrest or
1076 one incident of alleged criminal activity. Notwithstanding any
1077 law to the contrary, a criminal justice agency may comply with
1078 laws, court orders, and official requests of other jurisdictions
1079 relating to sealing, correction, or confidential handling of
1080 criminal history records or information derived therefrom. This
1081 section does not confer any right to the sealing of any criminal
1082 history record, and any request for sealing a criminal history
1083 record may be denied at the sole discretion of the court.

1084 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal
1085 history record of a minor or an adult which is ordered sealed by
1086 a court of competent jurisdiction pursuant to this section is
1087 confidential and exempt from the provisions of s. 119.07(1) and
1088 s. 24(a), Art. I of the State Constitution and is available only
1089 to the person who is the subject of the record, to the subject's
1090 attorney, to criminal justice agencies for their respective
1091 criminal justice purposes, which include conducting a criminal
1092 history background check for approval of firearms purchases or

1093 transfers as authorized by state or federal law, to judges in
 1094 the state courts system for the purpose of assisting them in
 1095 their case-related decisionmaking responsibilities, as set forth
 1096 in s. 943.053(5), or to those entities set forth in
 1097 subparagraphs (a)1., 4., 5., 6., and 8. for their respective
 1098 licensing, access authorization, and employment purposes.

1099 (a) The subject of a criminal history record sealed under
 1100 this section or under other provisions of law, including former
 1101 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
 1102 deny or fail to acknowledge the arrests covered by the sealed
 1103 record, except when the subject of the record:

- 1104 1. Is a candidate for employment with a criminal justice
 1105 agency;
- 1106 2. Is a defendant in a criminal prosecution;
- 1107 3. Concurrently or subsequently petitions for relief under
 1108 this section or s. 943.0585;
- 1109 4. Is a candidate for admission to The Florida Bar;
- 1110 5. Is seeking to be employed or licensed by or to contract
 1111 with the Department of Children and Family Services, the
 1112 Division of Vocational Rehabilitation within the Department of
 1113 Education, the Agency for Health Care Administration, the Agency
 1114 for Persons with Disabilities, the Department of Health, the
 1115 Department of Elderly Affairs, or the Department of Juvenile
 1116 Justice or to be employed or used by such contractor or licensee
 1117 in a sensitive position having direct contact with children, the
 1118 ~~developmentally disabled, the aged, or the elderly as provided~~
 1119 ~~in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.~~
 1120 ~~402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(5), s.~~

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1121 ~~415.103, chapter 916, s. 985.644, chapter 400, or chapter 429;~~

1122 6. Is seeking to be employed or licensed by the Department
 1123 of Education, any district school board, any university
 1124 laboratory school, any charter school, any private or parochial
 1125 school, or any local governmental entity that licenses child
 1126 care facilities;

1127 7. Is attempting to purchase a firearm from a licensed
 1128 importer, licensed manufacturer, or licensed dealer and is
 1129 subject to a criminal history check under state or federal law;
 1130 or

1131 8. Is seeking authorization from a Florida seaport
 1132 identified in s. 311.09 for employment within or access to one
 1133 or more of such seaports pursuant to s. 311.12.

1134 Section 19. This act shall take effect upon becoming a
 1135 law.