

By Senator Garcia

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1 A bill to be entitled
2 An act relating to background screening; amending s.
3 322.142, F.S.; authorizing the Department of Highway
4 Safety and Motor Vehicles to share photographs or
5 digital images of driver licenses with the Agency for
6 Health Care Administration; amending s. 408.809, F.S.;
7 adding additional disqualifying theft offenses for
8 persons who must undergo background screening for
9 health care licensing; amending s. 435.04, F.S.;
10 revising the requirement that vendors who submit
11 fingerprints on behalf of employers must provide the
12 necessary information required by law, or the agency,
13 in order to process the submission; adding an
14 additional disqualifying offense; amending s. 435.07,
15 F.S.; requiring that individuals seeking an exemption
16 from disqualification must have completed all
17 nonmonetary conditions imposed by the court, rather
18 than sanctions, for a disqualifying felony or
19 misdemeanor; authorizing the head of the appropriate
20 agency to grant an exemption to an employee otherwise
21 disqualified from employment for payment in full of a
22 court-ordered fee, fine, fund, lien, civil judgment,
23 application, trust, restitution, or costs of
24 prosecution as part of the judgment and sentence for a
25 disqualifying felony or misdemeanor; amending s.
26 435.12, F.S.; requiring that a photograph be submitted
27 of the potential employee taken at the time the
28 fingerprints are processed; requiring an employer to
29 register and initiate criminal background checks

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30 through the Care Provider Background Screening
31 Clearinghouse before submission of the electronic
32 fingerprints; providing requirements for the
33 registration; providing an effective date.
34

35 Be It Enacted by the Legislature of the State of Florida:
36

37 Section 1. Subsection (4) of section 322.142, Florida
38 Statutes, is amended to read:

39 322.142 Color photographic or digital imaged licenses.—

40 (4) The department may maintain a film negative or print
41 file. The department shall maintain a record of the digital
42 image and signature of the licensees, together with other data
43 required by the department for identification and retrieval.
44 Reproductions from the file or digital record are exempt from
45 the provisions of s. 119.07(1) and may ~~shall~~ be made and issued
46 only for departmental administrative purposes; for the issuance
47 of duplicate licenses; in response to law enforcement agency
48 requests; to the Department of Business and Professional
49 Regulation pursuant to an interagency agreement for the purpose
50 of accessing digital images for reproduction of licenses issued
51 by the Department of Business and Professional Regulation; to
52 the Department of State pursuant to an interagency agreement to
53 facilitate determinations of eligibility of voter registration
54 applicants and registered voters in accordance with ss. 98.045
55 and 98.075; to the Department of Revenue pursuant to an
56 interagency agreement for use in establishing paternity and
57 establishing, modifying, or enforcing support obligations in
58 Title IV-D cases; to the Department of Children and Family

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59 Services pursuant to an interagency agreement to conduct
60 protective investigations under part III of chapter 39 and
61 chapter 415; to the Department of Children and Family Services
62 pursuant to an interagency agreement specifying the number of
63 employees in each of that department's regions to be granted
64 access to the records for use as verification of identity to
65 expedite the determination of eligibility for public assistance
66 and for use in public assistance fraud investigations; to the
67 Agency for Health Care Administration pursuant to an interagency
68 agreement for the purpose of verifying photographs in the Care
69 Provider Background Screening Clearinghouse authorized in s.
70 435.12; to the Department of Financial Services pursuant to an
71 interagency agreement to facilitate the location of owners of
72 unclaimed property, the validation of unclaimed property claims,
73 and the identification of fraudulent or false claims; or to
74 district medical examiners pursuant to an interagency agreement
75 for the purpose of identifying a deceased individual,
76 determining cause of death, and notifying next of kin of ~~any~~
77 investigations, including autopsies and other laboratory
78 examinations, authorized in s. 406.011.

79 Section 2. Subsection (4) of section 408.809, Florida
80 Statutes, is amended to read:

81 408.809 Background screening; prohibited offenses.—

82 (4) In addition to the offenses listed in s. 435.04, all
83 persons required to undergo background screening pursuant to
84 this part or authorizing statutes must not have an arrest
85 awaiting final disposition for, must not have been found guilty
86 of, regardless of adjudication, or entered a plea of nolo
87 contendere or guilty to, and must not have been adjudicated

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88 delinquent and the record not have been sealed or expunged for
89 any of the following offenses or any similar offense of another
90 jurisdiction:

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

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

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

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

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

96 (f) Section 817.034, relating to fraudulent acts through
97 mail, wire, radio, electromagnetic, photoelectronic, or
98 photooptical systems.

99 (g) Section 817.234, relating to false and fraudulent
100 insurance claims.

101 (h) Section 817.481, relating to the use of false,
102 counterfeit, or expired credit cards, if the offense was a
103 felony.

104 (i) Section 817.50, relating to fraudulently obtaining
105 goods or service from a health care provider.

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

107 (k)~~(i)~~ Section 817.568, relating to criminal use of
108 personal identification information.

109 (l)~~(j)~~ Section 817.60, relating to obtaining a credit card
110 through fraudulent means.

111 (m)~~(k)~~ Section 817.61, relating to fraudulent use of credit
112 cards, if the offense was a felony.

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

114 (o)~~(m)~~ Section 831.02, relating to uttering forged
115 instruments.

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

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117 checks, drafts, or promissory notes.

118 (q)~~(e)~~ Section 831.09, relating to uttering forged bank
119 bills, checks, drafts, or promissory notes.

120 (r)~~(p)~~ Section 831.30, relating to fraud in obtaining
121 medicinal drugs.

122 (s)~~(q)~~ Section 831.31, relating to the sale, manufacture,
123 delivery, or possession with the intent to sell, manufacture, or
124 deliver any counterfeit controlled substance, if the offense was
125 a felony.

126 (t) Section 895.03, relating to racketeering and illegal
127 debts.

128 (u) Section 896.101, relating to the Florida Money
129 Laundering Act.

130 Section 3. Paragraph (e) of subsection (1) of section
131 435.04, Florida Statutes, is amended, present paragraphs (d)
132 through (yy) of subsection (2) of that section are redesignated
133 as (e) through (zz), respectively, and a new paragraph (d) is
134 added to that subsection, to read:

135 435.04 Level 2 screening standards.—

136 (1)

137 (e) Vendors who submit fingerprints on behalf of employers
138 must:

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

140 2. Have the ability to communicate electronically with the
141 state agency accepting screening results from the Department of
142 Law Enforcement and provide the necessary information required
143 by law, or the agency, in order to process the submission a
144 photograph of the applicant taken at the time the fingerprints
145 are submitted.

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146 (2) The security background investigations under this
147 section must ensure that no persons subject to the provisions of
148 this section have been arrested for and are awaiting final
149 disposition of, have been found guilty of, regardless of
150 adjudication, or entered a plea of nolo contendere or guilty to,
151 or have been adjudicated delinquent and the record has not been
152 sealed or expunged for, any offense prohibited under any of the
153 following provisions of state law or similar law of another
154 jurisdiction:

155 (d) Section 777.04, relating to attempts, solicitation, and
156 conspiracy.

157 Section 4. Subsection (1) of section 435.07, Florida
158 Statutes, is amended to read:

159 435.07 Exemptions from disqualification.—Unless otherwise
160 provided by law, the provisions of this section apply to
161 exemptions from disqualification for disqualifying offenses
162 revealed pursuant to background screenings required under this
163 chapter, regardless of whether those disqualifying offenses are
164 listed in this chapter or other laws.

165 (1) The head of the appropriate agency may grant to an ~~any~~
166 employee otherwise disqualified from employment an exemption
167 from disqualification for:

168 (a) Felonies for which at least 3 years have elapsed since
169 the applicant for the exemption has completed or been lawfully
170 released from confinement, supervision, or nonmonetary
171 conditions imposed by the court ~~sanction~~ for the disqualifying
172 felony;

173 (b) Misdemeanors prohibited under any of the statutes cited
174 in this chapter or under similar statutes of other jurisdictions

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175 for which the applicant for the exemption has completed or been
176 lawfully released from confinement, supervision, or nonmonetary
177 conditions imposed by the court for the disqualifying offense
178 sanction;

179 (c) Payment in full of a court-ordered fee, fine, fund,
180 lien, civil judgment, application, trust, or restitution or the
181 costs of prosecution as part of the judgment and sentence for a
182 disqualifying felony or misdemeanor;

183 (d) ~~(e)~~ Offenses that were felonies when committed but that
184 are now misdemeanors and for which the applicant for the
185 exemption has completed or been lawfully released from
186 confinement, supervision, or sanction; or

187 (e) ~~(d)~~ Findings of delinquency. For offenses that would be
188 felonies if committed by an adult and the record has not been
189 sealed or expunged, the exemption may not be granted until at
190 least 3 years have elapsed since the applicant for the exemption
191 has completed or been lawfully released from confinement,
192 supervision, or sanction for the disqualifying offense.

193
194 For the purposes of this subsection, the term "felonies" means
195 both felonies prohibited under any of the statutes cited in this
196 chapter or under similar statutes of other jurisdictions.

197 Section 5. Subsection (2) of section 435.12, Florida
198 Statutes, is amended to read:

199 435.12 Care Provider Background Screening Clearinghouse.—

200 (2) (a) To ensure that the information in the clearinghouse
201 is current, the fingerprints of an employee required to be
202 screened by a specified agency and included in the clearinghouse
203 must be:

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204 1. Retained by the Department of Law Enforcement pursuant
205 to s. 943.05(2)(g) and (h) and (3), and the Department of Law
206 Enforcement must report the results of searching those
207 fingerprints against state incoming arrest fingerprint
208 submissions to the Agency for Health Care Administration for
209 inclusion in the clearinghouse.

210 2. Resubmitted for a Federal Bureau of Investigation
211 national criminal history check every 5 years until such time as
212 the fingerprints are retained by the Federal Bureau of
213 Investigation.

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

217 4. Submitted with a photograph of the potential employee
218 taken at the time the fingerprints are submitted.

219 (b) Until such time as the fingerprints are retained at the
220 Federal Bureau of Investigation, an employee with a break in
221 service of more than 90 days from a position that requires
222 screening by a specified agency must submit to a national
223 screening if the person returns to a position that requires
224 screening by a specified agency.

225 (c) An employer of persons subject to screening by a
226 specified agency must register with the clearinghouse and
227 maintain the employment status of all employees within the
228 clearinghouse. Initial employment status and any subsequent
229 changes in status must be reported within 10 business days.

230 (d) An employer shall register and initiate all criminal
231 history checks through the clearinghouse before referring an
232 employee or potential employee for electronic fingerprint

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233 submission to the Department of Law Enforcement. The
234 registration must include the employee's first name, middle
235 name, last name, social security number, date of birth, mailing
236 address, sex, and race.

237 Section 6. This act shall take effect July 1, 2013.