

By the Committee on Health Policy; and 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.; allowing the Department of Highway
4 Safety and Motor Vehicles to share driver license
5 photographs with the Agency for Health Care
6 Administration pursuant to an interagency agreement;
7 amending s. 408.809, F.S.; adding additional
8 disqualifying offenses to background screening
9 provisions; amending s. 435.04, F.S.; revising
10 information to be submitted for a background
11 screening; adding additional disqualifying offenses;
12 amending s. 435.07, F.S.; revising terminology;
13 requiring that individuals seeking an exemption from
14 disqualification must have completed all nonmonetary
15 conditions imposed by the court for the disqualifying
16 felony; requiring that all persons seeking an
17 exemption from disqualification have paid any court-
18 ordered monetary penalty in full before being eligible
19 to apply; amending s. 435.12, F.S.; requiring that a
20 photograph of the person taken at the time the
21 fingerprints are processed be submitted to the Care
22 Provider Background Screening Clearinghouse before
23 submission of the electronic fingerprints; requiring
24 specified information to be included with the
25 initiation of the screening registration within the
26 clearinghouse; providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
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30 Section 1. Subsection (4) of section 322.142, Florida
31 Statutes, is amended to read:

32 322.142 Color photographic or digital imaged licenses.—

33 (4) The department may maintain a film negative or print
34 file. The department shall maintain a record of the digital
35 image and signature of the licensees, together with other data
36 required by the department for identification and retrieval.
37 Reproductions from the file or digital record are exempt from
38 the provisions of s. 119.07(1) and shall be made and issued only
39 for departmental administrative purposes; for the issuance of
40 duplicate licenses; in response to law enforcement agency
41 requests; to the Department of Business and Professional
42 Regulation pursuant to an interagency agreement for the purpose
43 of accessing digital images for reproduction of licenses issued
44 by the Department of Business and Professional Regulation; to
45 the Department of State pursuant to an interagency agreement to
46 facilitate determinations of eligibility of voter registration
47 applicants and registered voters in accordance with ss. 98.045
48 and 98.075; to the Department of Revenue pursuant to an
49 interagency agreement for use in establishing paternity and
50 establishing, modifying, or enforcing support obligations in
51 Title IV-D cases; to the Department of Children and Family
52 Services pursuant to an interagency agreement to conduct
53 protective investigations under part III of chapter 39 and
54 chapter 415; to the Department of Children and Family Services
55 pursuant to an interagency agreement specifying the number of
56 employees in each of that department's regions to be granted
57 access to the records for use as verification of identity to
58 expedite the determination of eligibility for public assistance

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59 and for use in public assistance fraud investigations; to the
60 Agency for Health Care Administration pursuant to an interagency
61 agreement for the purpose of verifying photographs in the Care
62 Provider Background Screening Clearinghouse authorized in s.
63 435.12; to the Department of Financial Services pursuant to an
64 interagency agreement to facilitate the location of owners of
65 unclaimed property, the validation of unclaimed property claims,
66 and the identification of fraudulent or false claims; or to
67 district medical examiners pursuant to an interagency agreement
68 for the purpose of identifying a deceased individual,
69 determining cause of death, and notifying next of kin of any
70 investigations, including autopsies and other laboratory
71 examinations, authorized in s. 406.011.

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

74 408.809 Background screening; prohibited offenses.—

75 (4) In addition to the offenses listed in s. 435.04, all
76 persons required to undergo background screening pursuant to
77 this part or authorizing statutes must not have an arrest
78 awaiting final disposition for, must not have been found guilty
79 of, regardless of adjudication, or entered a plea of nolo
80 contendere or guilty to, and must not have been adjudicated
81 delinquent and the record not have been sealed or expunged for
82 any of the following offenses or any similar offense of another
83 jurisdiction:

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

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

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

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

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

89 (f) Section 777.04, relating to attempts, solicitation, and
90 conspiracy to commit an offense listed in this subsection.

91 (g)~~(f)~~ Section 817.034, relating to fraudulent acts through
92 mail, wire, radio, electromagnetic, photoelectronic, or
93 photooptical systems.

94 (h)~~(g)~~ Section 817.234, relating to false and fraudulent
95 insurance claims.

96 (i) Section 817.481, relating to obtaining goods by using
97 false, expired, etc., credit cards, if the offense was a felony.

98 (j) Section 817.50, relating to fraudulently obtaining
99 goods, services, etc., from a health care provider.

100 (k)~~(h)~~ Section 817.505, relating to patient brokering.

101 (l)~~(i)~~ Section 817.568, relating to criminal use of
102 personal identification information.

103 (m)~~(j)~~ Section 817.60, relating to obtaining a credit card
104 through fraudulent means.

105 (n)~~(k)~~ Section 817.61, relating to fraudulent use of credit
106 cards, if the offense was a felony.

107 (o)~~(l)~~ Section 831.01, relating to forgery.

108 (p)~~(m)~~ Section 831.02, relating to uttering forged
109 instruments.

110 (q)~~(n)~~ Section 831.07, relating to forging bank bills,
111 checks, drafts, or promissory notes.

112 (r)~~(o)~~ Section 831.09, relating to uttering forged bank
113 bills, checks, drafts, or promissory notes.

114 (s)~~(p)~~ Section 831.30, relating to fraud in obtaining
115 medicinal drugs.

116 (t)~~(q)~~ Section 831.31, relating to the sale, manufacture,

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117 delivery, or possession with the intent to sell, manufacture, or
118 deliver any counterfeit controlled substance, if the offense was
119 a felony.

120 (u) Section 895.03, relating to racketeering and illegal
121 debts.

122 (v) Section 896.101, relating to the Florida Money
123 Laundering Act.

124 Section 3. Paragraphs (d) through (yy) of subsection (2) of
125 section 435.04, Florida Statutes, are redesignated as paragraphs
126 (e) through (zz), respectively, paragraph (e) of subsection (1)
127 of that section is amended, and a new paragraph (d) is added to
128 subsection (2) of that section, to read:

129 435.04 Level 2 screening standards.—

130 (1)

131 (e) Vendors who submit fingerprints on behalf of employers
132 must:

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

134 2. Have the ability to communicate electronically with the
135 state agency accepting screening results from the Department of
136 Law Enforcement and provide the first, middle, and last name;
137 social security number; date of birth; mailing address; sex; and
138 race of the applicant ~~a photograph of the applicant taken at the~~
139 ~~time the fingerprints are submitted.~~

140 (2) The security background investigations under this
141 section must ensure that no persons subject to the provisions of
142 this section have been arrested for and are awaiting final
143 disposition of, have been found guilty of, regardless of
144 adjudication, or entered a plea of nolo contendere or guilty to,
145 or have been adjudicated delinquent and the record has not been

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146 sealed or expunged for, any offense prohibited under any of the
147 following provisions of state law or similar law of another
148 jurisdiction:

149 (d) Section 777.04, relating to attempts, solicitation, and
150 conspiracy to commit an offense listed in this subsection.

151 Section 4. Subsections (1) and (2) of section 435.07,
152 Florida Statutes, are amended to read:

153 435.07 Exemptions from disqualification.—Unless otherwise
154 provided by law, the provisions of this section apply to
155 exemptions from disqualification for disqualifying offenses
156 revealed pursuant to background screenings required under this
157 chapter, regardless of whether those disqualifying offenses are
158 listed in this chapter or other laws.

159 (1) (a) The head of the appropriate agency may grant to any
160 employee otherwise disqualified from employment an exemption
161 from disqualification for:

162 1.-(a) Felonies for which at least 3 years have elapsed
163 since the applicant for the exemption has completed or been
164 lawfully released from confinement, supervision, or nonmonetary
165 condition imposed by the court ~~sanction~~ for the disqualifying
166 felony;

167 2.-(b) Misdemeanors prohibited under any of the statutes
168 cited in this chapter or under similar statutes of other
169 jurisdictions for which the applicant for the exemption has
170 completed or been lawfully released from confinement,
171 supervision, or nonmonetary condition imposed by the court
172 ~~sanction~~;

173 3.-(c) Offenses that were felonies when committed but that
174 are now misdemeanors and for which the applicant for the

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175 exemption has completed or been lawfully released from
176 confinement, supervision, or nonmonetary condition imposed by
177 the court ~~sanction~~; or

178 4.~~(d)~~ Findings of delinquency. For offenses that would be
179 felonies if committed by an adult and the record has not been
180 sealed or expunged, the exemption may not be granted until at
181 least 3 years have elapsed since the applicant for the exemption
182 has completed or been lawfully released from confinement,
183 supervision, or nonmonetary condition imposed by the court
184 ~~sanction~~ for the disqualifying offense.

185 (b) A person who wishes to apply for an exemption who was
186 ordered to pay any amount for any fee, fine, fund, lien, civil
187 judgment, application, costs of prosecution, trust, or
188 restitution as part of the judgment and sentence for any
189 disqualifying felony or misdemeanor must have paid the court-
190 ordered amount in full before being eligible for an exemption.

191
192 For the purposes of this subsection, the term "felonies" means
193 both felonies prohibited under any of the statutes cited in this
194 chapter or under similar statutes of other jurisdictions.

195 (2) Persons employed, or applicants for employment, by
196 treatment providers who treat adolescents 13 years of age and
197 older who are disqualified from employment solely because of
198 crimes under s. 817.563, s. 893.13, or s. 893.147 may be
199 exempted from disqualification from employment pursuant to this
200 chapter without application of the waiting period in
201 subparagraph (1) (a)1 ~~paragraph (1) (a)~~.

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

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204 435.12 Care Provider Background Screening Clearinghouse.—

205 (2) (a) To ensure that the information in the clearinghouse
206 is current, the fingerprints of an employee required to be
207 screened by a specified agency and included in the clearinghouse
208 must be:

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

215 2. Resubmitted for a Federal Bureau of Investigation
216 national criminal history check every 5 years until such time as
217 the fingerprints are retained by the Federal Bureau of
218 Investigation.

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

222 4. Submitted with a photograph of the person taken at the
223 time the fingerprints are submitted.

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

230 (c) An employer of persons subject to screening by a
231 specified agency must register with the clearinghouse and
232 maintain the employment status of all employees within the

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233 clearinghouse. Initial employment status and any changes in
234 status must be reported within 10 business days.

235 (d) An employer must register and initiate all criminal
236 history checks through the clearinghouse before referring an
237 employee or potential employee for electronic fingerprint
238 submission to the Department of Law Enforcement. The
239 registration must include the employee's full name (first,
240 middle, last), social security number, date of birth, mailing
241 address, sex, and race.

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