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LEGISLATIVE ACTION

Senate

House

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Floor: WD/2R

05/03/2013 03:23 PM

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Senator Garcia moved the following:

**Senate Amendment (with title amendment)**

Between lines 147 and 148

insert:

Section 3. Subsection (4) of section 322.142, Florida Statutes, is amended to read:

322.142 Color photographic or digital imaged licenses.—

(4) The department may maintain a film negative or print file. The department shall maintain a record of the digital image and signature of the licensees, together with other data required by the department for identification and retrieval. Reproductions from the file or digital record are exempt from the provisions of s. 119.07(1) and shall be made and issued only



967228

14 for departmental administrative purposes; for the issuance of  
15 duplicate licenses; in response to law enforcement agency  
16 requests; to the Department of Business and Professional  
17 Regulation pursuant to an interagency agreement for the purpose  
18 of accessing digital images for reproduction of licenses issued  
19 by the Department of Business and Professional Regulation; to  
20 the Department of State pursuant to an interagency agreement to  
21 facilitate determinations of eligibility of voter registration  
22 applicants and registered voters in accordance with ss. 98.045  
23 and 98.075; to the Department of Revenue pursuant to an  
24 interagency agreement for use in establishing paternity and  
25 establishing, modifying, or enforcing support obligations in  
26 Title IV-D cases; to the Department of Children and Family  
27 Services pursuant to an interagency agreement to conduct  
28 protective investigations under part III of chapter 39 and  
29 chapter 415; to the Department of Children and Family Services  
30 pursuant to an interagency agreement specifying the number of  
31 employees in each of that department's regions to be granted  
32 access to the records for use as verification of identity to  
33 expedite the determination of eligibility for public assistance  
34 and for use in public assistance fraud investigations; to the  
35 Agency for Health Care Administration pursuant to an interagency  
36 agreement for the purpose of verifying photographs in the Care  
37 Provider Background Screening Clearinghouse authorized in s.  
38 435.12; to the Department of Financial Services pursuant to an  
39 interagency agreement to facilitate the location of owners of  
40 unclaimed property, the validation of unclaimed property claims,  
41 and the identification of fraudulent or false claims; or to  
42 district medical examiners pursuant to an interagency agreement



967228

43 for the purpose of identifying a deceased individual,  
44 determining cause of death, and notifying next of kin of any  
45 investigations, including autopsies and other laboratory  
46 examinations, authorized in s. 406.011.

47 Section 4. Subsection (4) of section 408.809, Florida  
48 Statutes, is amended to read:

49 408.809 Background screening; prohibited offenses.—

50 (4) In addition to the offenses listed in s. 435.04, all  
51 persons required to undergo background screening pursuant to  
52 this part or authorizing statutes must not have an arrest  
53 awaiting final disposition for, must not have been found guilty  
54 of, regardless of adjudication, or entered a plea of nolo  
55 contendere or guilty to, and must not have been adjudicated  
56 delinquent and the record not have been sealed or expunged for  
57 any of the following offenses or any similar offense of another  
58 jurisdiction:

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

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

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

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

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

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

66 (g)~~(f)~~ Section 817.034, relating to fraudulent acts through  
67 mail, wire, radio, electromagnetic, photoelectronic, or  
68 photooptical systems.

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

71 (i) Section 817.481, relating to obtaining goods by using



967228

72 false, expired, etc., credit cards, if the offense was a felony.

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

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

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

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

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

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

83 (p)~~(m)~~ Section 831.02, relating to uttering forged  
84 instruments.

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

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

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

91 (t)~~(q)~~ Section 831.31, relating to the sale, manufacture,  
92 delivery, or possession with the intent to sell, manufacture, or  
93 deliver any counterfeit controlled substance, if the offense was  
94 a felony.

95 (u) Section 895.03, relating to racketeering and illegal  
96 debts.

97 (v) Section 896.101, relating to the Florida Money  
98 Laundering Act.

99 Section 5. Paragraphs (d) through (yy) of subsection (2) of  
100 section 435.04, Florida Statutes, are redesignated as paragraphs



967228

101 (e) through (zz), respectively, paragraph (e) of subsection (1)  
102 of that section is amended, and a new paragraph (d) is added to  
103 subsection (2) of that section, to read:

104 435.04 Level 2 screening standards.—

105 (1)

106 (e) Vendors who submit fingerprints on behalf of employers  
107 must:

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

109 2. Have the ability to communicate electronically with the  
110 state agency accepting screening results from the Department of  
111 Law Enforcement and provide the first, middle, and last name;  
112 social security number; date of birth; mailing address; sex; and  
113 race of the applicant ~~a photograph of the applicant taken at the~~  
114 ~~time the fingerprints are submitted.~~

115 (2) The security background investigations under this  
116 section must ensure that no persons subject to the provisions of  
117 this section have been arrested for and are awaiting final  
118 disposition of, have been found guilty of, regardless of  
119 adjudication, or entered a plea of nolo contendere or guilty to,  
120 or have been adjudicated delinquent and the record has not been  
121 sealed or expunged for, any offense prohibited under any of the  
122 following provisions of state law or similar law of another  
123 jurisdiction:

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

126 Section 6. Subsections (1) and (2) of section 435.07,  
127 Florida Statutes, are amended to read:

128 435.07 Exemptions from disqualification.—Unless otherwise  
129 provided by law, the provisions of this section apply to



967228

130 exemptions from disqualification for disqualifying offenses  
131 revealed pursuant to background screenings required under this  
132 chapter, regardless of whether those disqualifying offenses are  
133 listed in this chapter or other laws.

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

137 1. ~~(a)~~ Felonies for which at least 3 years have elapsed  
138 since the applicant for the exemption has completed or been  
139 lawfully released from confinement, supervision, or nonmonetary  
140 condition imposed by the court ~~sanction~~ for the disqualifying  
141 felony;

142 2. ~~(b)~~ Misdemeanors prohibited under any of the statutes  
143 cited in this chapter or under similar statutes of other  
144 jurisdictions for which the applicant for the exemption has  
145 completed or been lawfully released from confinement,  
146 supervision, or nonmonetary condition imposed by the court  
147 ~~sanction~~;

148 3. ~~(c)~~ Offenses that were felonies when committed but that  
149 are now misdemeanors and for which the applicant for the  
150 exemption has completed or been lawfully released from  
151 confinement, supervision, or nonmonetary condition imposed by  
152 the court ~~sanction~~; or

153 4. ~~(d)~~ Findings of delinquency. For offenses that would be  
154 felonies if committed by an adult and the record has not been  
155 sealed or expunged, the exemption may not be granted until at  
156 least 3 years have elapsed since the applicant for the exemption  
157 has completed or been lawfully released from confinement,  
158 supervision, or nonmonetary condition imposed by the court



967228

159 ~~sanction~~ for the disqualifying offense.

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

166  
167 For the purposes of this subsection, the term "felonies" means  
168 both felonies prohibited under any of the statutes cited in this  
169 chapter or under similar statutes of other jurisdictions.

170 (2) Persons employed, or applicants for employment, by  
171 treatment providers who treat adolescents 13 years of age and  
172 older who are disqualified from employment solely because of  
173 crimes under s. 817.563, s. 893.13, or s. 893.147 may be  
174 exempted from disqualification from employment pursuant to this  
175 chapter without application of the waiting period in  
176 subparagraph (1) (a) 1 paragraph (1) (a).

177 Section 7. Subsection (2) of section 435.12, Florida  
178 Statutes, is amended to read:

179 435.12 Care Provider Background Screening Clearinghouse.—

180 (2) (a) To ensure that the information in the clearinghouse  
181 is current, the fingerprints of an employee required to be  
182 screened by a specified agency and included in the clearinghouse  
183 must be:

184 1. Retained by the Department of Law Enforcement pursuant  
185 to s. 943.05(2) (g) and (h) and (3), and the Department of Law  
186 Enforcement must report the results of searching those  
187 fingerprints against state incoming arrest fingerprint



967228

188 submissions to the Agency for Health Care Administration for  
189 inclusion in the clearinghouse.

190 2. Resubmitted for a Federal Bureau of Investigation  
191 national criminal history check every 5 years until such time as  
192 the fingerprints are retained by the Federal Bureau of  
193 Investigation.

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

197 4. Submitted with a photograph of the person taken at the  
198 time the fingerprints are submitted.

199 (b) Until such time as the fingerprints are retained at the  
200 Federal Bureau of Investigation, an employee with a break in  
201 service of more than 90 days from a position that requires  
202 screening by a specified agency must submit to a national  
203 screening if the person returns to a position that requires  
204 screening by a specified agency.

205 (c) An employer of persons subject to screening by a  
206 specified agency must register with the clearinghouse and  
207 maintain the employment status of all employees within the  
208 clearinghouse. Initial employment status and any changes in  
209 status must be reported within 10 business days.

210 (d) An employer must register and initiate all criminal  
211 history checks through the clearinghouse before referring an  
212 employee or potential employee for electronic fingerprint  
213 submission to the Department of Law Enforcement. The  
214 registration must include the employee's full name (first,  
215 middle, last), social security number, date of birth, mailing  
216 address, sex, and race.





967228

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218 ===== T I T L E A M E N D M E N T =====

219 And the title is amended as follows:

220 Delete line 16

221 and insert:

222 for specified violations; providing for fines;  
223 amending s. 322.142, F.S.; allowing the Department of  
224 Highway Safety and Motor Vehicles to share driver  
225 license photographs with the Agency for Health Care  
226 Administration pursuant to an interagency agreement;  
227 amending s. 408.809, F.S.; adding additional  
228 disqualifying offenses to background screening  
229 provisions; amending s. 435.04, F.S.; revising  
230 information to be submitted for a background  
231 screening; adding additional disqualifying offenses;  
232 amending s. 435.07, F.S.; revising terminology;  
233 requiring that individuals seeking an exemption from  
234 disqualification must have completed all nonmonetary  
235 conditions imposed by the court for the disqualifying  
236 felony; requiring that all persons seeking an  
237 exemption from disqualification have paid any court-  
238 ordered monetary penalty in full before being eligible  
239 to apply; amending s. 435.12, F.S.; requiring that a  
240 photograph of the person taken at the time the  
241 fingerprints are processed be submitted to the Care  
242 Provider Background Screening Clearinghouse before  
243 submission of the electronic fingerprints; requiring  
244 specified information to be included with the  
245 initiation of the screening registration within the



967228

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clearinghouse;