

1 A bill to be entitled

2 An act relating to licensed massage therapists;  
3 amending s. 456.0135, F.S.; requiring an applicant for  
4 licensure under chapter 480, F.S., to submit to  
5 certain fingerprinting requirements; requiring  
6 fingerprints to be enrolled in the national retained  
7 print arrest notification program and the Care  
8 Provider Background Screening Clearinghouse; amending  
9 s. 456.074, F.S.; requiring the Department of Health  
10 to issue an emergency order suspending the license of  
11 a massage therapist for the commission of certain  
12 offenses; amending s. 480.041, F.S.; requiring an  
13 applicant for a massage therapist license to submit to  
14 certain background screening requirements; requiring  
15 that a massage therapist who was issued a license  
16 before a specified date meet the background screening  
17 requirements by a specified date; requiring the Board  
18 of Massage Therapy to deny an application for a  
19 massage therapy license for certain offenses; amending  
20 s. 480.043, F.S.; requiring specified persons in a  
21 massage establishment to submit to certain background  
22 screening requirements; requiring the board to deny an  
23 application for a massage establishment permit under  
24 certain circumstances; requiring that a massage  
25 establishment that was issued a license before a  
26 specified date submit to the background screening

Page 1 of 10

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

27 requirements by a specified date; amending s.  
28 480.0465, F.S.; conforming a cross-reference;  
29 providing an effective date.  
30

31 Be It Enacted by the Legislature of the State of Florida:  
32

33 Section 1. Section 456.0135, Florida Statutes, is amended  
34 to read:

35 456.0135 General background screening provisions.—

36 (1) An application for initial licensure received on or  
37 after January 1, 2013, under chapter 458, chapter 459, chapter  
38 460, chapter 461, chapter 464, ~~or~~ s. 465.022, or chapter 480  
39 shall include fingerprints pursuant to procedures established by  
40 the department through a vendor approved by the Department of  
41 Law Enforcement and fees imposed for the initial screening and  
42 retention of fingerprints. Fingerprints must be submitted  
43 electronically to the Department of Law Enforcement for state  
44 processing, and the Department of Law Enforcement shall forward  
45 the fingerprints to the Federal Bureau of Investigation for  
46 national processing. Each board, or the department if there is  
47 no board, shall screen the results to determine if an applicant  
48 meets licensure requirements. For any subsequent renewal of the  
49 applicant's license that requires a national criminal history  
50 check, the department shall request the Department of Law  
51 Enforcement to forward the retained fingerprints of the  
52 applicant to the Federal Bureau of Investigation unless the

53 fingerprints are enrolled in the national retained print arrest  
 54 notification program.

55 (2) All fingerprints submitted to the Department of Law  
 56 Enforcement as required under subsection (1) shall be retained  
 57 by the Department of Law Enforcement as provided under s.  
 58 943.05(2)(g) and (h) and (3) and, effective on the date the  
 59 Department of Law Enforcement begins participation in the  
 60 program, submitted to the national retained print arrest  
 61 notification program within the Federal Bureau of Investigation.  
 62 The department shall notify the Department of Law Enforcement  
 63 regarding any person whose fingerprints have been retained but  
 64 who is no longer licensed.

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

68 (4) All fingerprints received under this section shall be  
 69 entered into the Care Provider Background Screening  
 70 Clearinghouse as provided in s. 435.12.

71 Section 2. Subsection (5) is added to section 456.074,  
 72 Florida Statutes, to read:

73 456.074 Certain health care practitioners; immediate  
 74 suspension of license.—

75 (5) The department shall issue an emergency order  
 76 suspending the license of a massage therapist as defined in  
 77 chapter 480 upon receipt of information that such therapist has  
 78 been convicted or found guilty of, or has entered a plea of nolo

79 contendere to, regardless of adjudication, a felony offense  
 80 under any of the following provisions of state law or a similar  
 81 provision in another jurisdiction:

82 (a) Section 787.01, relating to kidnapping.

83 (b) Section 787.02, relating to false imprisonment.

84 (c) Section 787.025, relating to luring or enticing a  
 85 child.

86 (d) Section 787.06, relating to human trafficking.

87 (e) Section 787.07, relating to human smuggling.

88 (f) Section 794.011, relating to sexual battery.

89 (g) Section 794.08, relating to female genital mutilation.

90 (h) Section 796.03, relating to procuring a person under  
 91 the age of 18 for prostitution.

92 (i) Section 796.035, relating to the selling or buying of  
 93 minors into prostitution.

94 (j) Section 800.04, relating to lewd or lascivious  
 95 offenses committed upon or in the presence of persons less than  
 96 16 years of age.

97 (k) Section 825.1025(2)(b), relating to lewd or lascivious  
 98 offenses committed upon or in the presence of an elderly or  
 99 disabled person.

100 (l) Section 827.071, relating to sexual performance by a  
 101 child.

102 (m) Section 847.0133, relating to the protection of  
 103 minors.

104 (n) Section 847.0135, relating to computer pornography.

105       (o) Section 847.0138, relating to the transmission of  
 106 material harmful to minors to a minor by electronic device or  
 107 equipment.

108       (p) Section 847.0145, relating to the selling or buying of  
 109 minors.

110       Section 3. Subsections (3) and (4) of section 480.041,  
 111 Florida Statutes, are renumbered as subsections (4) and (5),  
 112 respectively, and a new subsection (3) and subsections (6) and  
 113 (7) are added to that section to read:

114       480.041 Massage therapists; qualifications; licensure;  
 115 endorsement.—

116       (3) An applicant must submit to background screening under  
 117 s. 456.0135.

118       (6) Massage therapists who were issued a license before  
 119 July 1, 2014, must submit to the background screening  
 120 requirements of s. 456.0135 by January 31, 2015.

121       (7) The board shall deny an application for a license if  
 122 an applicant has been convicted or found guilty of, or enters a  
 123 plea of nolo contendere to, regardless of adjudication, a felony  
 124 offense under any of the following provisions of state law or a  
 125 similar provision in another jurisdiction:

126       (a) Section 787.01, relating to kidnapping.

127       (b) Section 787.02, relating to false imprisonment.

128       (c) Section 787.025, relating to luring or enticing a  
 129 child.

130       (d) Section 787.06, relating to human trafficking.

- 131        (e) Section 787.07, relating to human smuggling.
- 132        (f) Section 794.011, relating to sexual battery.
- 133        (g) Section 794.08, relating to female genital mutilation.
- 134        (h) Section 796.03, relating to procuring a person under  
 135 the age of 18 for prostitution.
- 136        (i) Section 796.035, relating to the selling or buying of  
 137 minors into prostitution.
- 138        (j) Section 800.04, relating to lewd or lascivious  
 139 offenses committed upon or in the presence of persons less than  
 140 16 years of age.
- 141        (k) Section 825.1025(2)(b), relating to lewd or lascivious  
 142 offenses committed upon or in the presence of an elderly or  
 143 disabled person.
- 144        (l) Section 827.071, relating to sexual performance by a  
 145 child.
- 146        (m) Section 847.0133, relating to the protection of  
 147 minors.
- 148        (n) Section 847.0135, relating to computer pornography.
- 149        (o) Section 847.0138, relating to the transmission of  
 150 material harmful to minors to a minor by electronic device or  
 151 equipment.
- 152        (p) Section 847.0145, relating to the selling or buying of  
 153 minors.

154        Section 4. Subsections (2) through (6) of section 480.043,  
 155 Florida Statutes, are renumbered as subsections (3) through (7),  
 156 respectively, present subsections (7) through (9) are renumbered

157 as subsections (9) through (11), respectively, present  
158 subsections (5) and (6) are amended, and new subsections (2),  
159 (8), and (12) are added to that section, to read:

160 480.043 Massage establishments; requisites; licensure;  
161 inspection.—

162 (2) A person who has an ownership interest in a massage  
163 establishment shall submit to the background screening  
164 requirements under s. 456.0135. However, if a corporation  
165 submits proof of having more than \$250,000 of business assets in  
166 this state, the department shall require the owner, officer, or  
167 individual directly involved in the management of the  
168 establishment to submit to the background screening requirements  
169 of s. 456.0135.

170 (6)~~(5)~~ If, based upon the application and any necessary  
171 investigation, the department determines that the proposed  
172 establishment would fail to meet the standards adopted by the  
173 board under subsection (3) ~~(2)~~, the department shall deny the  
174 application for license. Such denial shall be in writing and  
175 shall list the reasons for denial. Upon correction of any  
176 deficiencies, an applicant previously denied permission to  
177 operate a massage establishment may reapply for licensure.

178 (7)~~(6)~~ If, based upon the application and any necessary  
179 investigation, the department determines that the proposed  
180 massage establishment may reasonably be expected to meet the  
181 standards adopted by the department under subsection (3) ~~(2)~~,  
182 the department shall grant the license under such restrictions

183 as it shall deem proper as soon as the original licensing fee is  
184 paid.

185 (8) The department shall deny an application for a massage  
186 establishment permit if the applicant, a person with an  
187 ownership interest in a massage establishment, or a corporation  
188 that has more than \$250,000 of business assets in this state, or  
189 the owner, officer, or individual directly involved in the  
190 management of such massage establishment, has been convicted or  
191 found guilty of, or entered a plea of nolo contendere to,  
192 regardless of adjudication, a felony offense under any of the  
193 following provisions of state law or a similar provision in  
194 another jurisdiction:

195 (a) Section 787.01, relating to kidnapping.

196 (b) Section 787.02, relating to false imprisonment.

197 (c) Section 787.025, relating to luring or enticing a  
198 child.

199 (d) Section 787.06, relating to human trafficking.

200 (e) Section 787.07, relating to human smuggling.

201 (f) Section 794.011, relating to sexual battery.

202 (g) Section 794.08, relating to female genital mutilation.

203 (h) Section 796.03, relating to procuring a person under  
204 the age of 18 for prostitution.

205 (i) Section 796.035, relating to the selling or buying of  
206 minors into prostitution.

207 (j) Section 800.04, relating to lewd or lascivious  
208 offenses committed upon or in the presence of persons less than



209 16 years of age.

210 (k) Section 825.1025(2)(b), relating to lewd or lascivious  
211 offenses committed upon or in the presence of an elderly or  
212 disabled person.

213 (l) Section 827.071, relating to sexual performance by a  
214 child.

215 (m) Section 847.0133, relating to the protection of  
216 minors.

217 (n) Section 847.0135, relating to computer pornography.

218 (o) Section 847.0138, relating to the transmission of  
219 material harmful to minors to a minor by electronic device or  
220 equipment.

221 (p) Section 847.0145, relating to the selling or buying of  
222 minors.

223 (12) A message establishment owner whose message  
224 establishment was issued a license before July 1, 2014, shall  
225 submit to the background screening requirements of s. 456.0135  
226 before January 31, 2015. However, if a corporation submits proof  
227 of having more than \$250,000 of business assets in this state,  
228 the department shall require the owner, officer, or individual  
229 directly involved in the management of the message establishment  
230 to submit to the background screening requirements of s.  
231 456.0135.

232 Section 5. Section 480.0465, Florida Statutes, is amended  
233 to read:

234 480.0465 Advertisement.—Each message therapist or message

HB 1065

2014

235 establishment licensed under the provisions of this act shall  
236 include the number of the license in any advertisement of  
237 massage services appearing in a ~~any~~ newspaper, airwave  
238 transmission, telephone directory, or other advertising medium.  
239 Pending licensure of a new massage establishment pursuant to the  
240 provisions of s. 480.043(7) ~~480.043(6)~~, the license number of a  
241 licensed massage therapist who is an owner or principal officer  
242 of the establishment may be used in lieu of the license number  
243 for the establishment.

244 Section 6. This act shall take effect July 1, 2014.