

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 or establishment for 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 a  
15 massage therapist who was issued a license before a  
16 specified date to submit to certain background  
17 screening requirements by a specified date; requiring  
18 the Board of Massage Therapy to deny an application  
19 for a new or renewal massage therapy license for  
20 certain offenses; amending s. 480.043, F.S.; requiring  
21 a person with a specified interest in an establishment  
22 to submit to certain background screening  
23 requirements; authorizing the department to adopt  
24 rules related to corporate assets; requiring the  
25 department to deny an application for a new or renewal  
26 massage establishment license for certain offenses;

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

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27 requiring a person with a specified interest in a  
28 massage establishment that was issued a license before  
29 a specified date to submit to certain background  
30 screening requirements by a specified date; conforming  
31 a cross-reference; amending s. 480.0465, F.S.;  
32 conforming a cross-reference; providing an effective  
33 date.

34

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

36

37 Section 1. Section 456.0135, Florida Statutes, is amended  
38 to read:

39 456.0135 General background screening provisions.—

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

53 applicant's license that requires a national criminal history  
54 check, the department shall request the Department of Law  
55 Enforcement to forward the retained fingerprints of the  
56 applicant to the Federal Bureau of Investigation unless the  
57 fingerprints are enrolled in the national retained print arrest  
58 notification program.

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

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

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

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

76 456.074 Certain health care practitioners; immediate  
77 suspension of license.-

78 (5) The department shall issue an emergency order

79 suspending the license of a massage therapist or establishment  
 80 as defined in chapter 480 upon receipt of information that the  
 81 massage therapist, a person with an ownership interest in the  
 82 establishment, or, for a corporation that has more than \$250,000  
 83 of business assets in this state, the owner, officer, or  
 84 individual directly involved in the management of the  
 85 establishment has been convicted or found guilty of, or has  
 86 entered a plea of guilty or nolo contendere to, regardless of  
 87 adjudication, a felony offense under any of the following  
 88 provisions of state law or a similar provision in another  
 89 jurisdiction:

- 90 (a) Section 787.01, relating to kidnapping.
- 91 (b) Section 787.02, relating to false imprisonment.
- 92 (c) Section 787.025, relating to luring or enticing a  
 93 child.
- 94 (d) Section 787.06, relating to human trafficking.
- 95 (e) Section 787.07, relating to human smuggling.
- 96 (f) Section 794.011, relating to sexual battery.
- 97 (g) Section 794.08, relating to female genital mutilation.
- 98 (h) Section 796.03, relating to procuring a person under  
 99 the age of 18 for prostitution.
- 100 (i) Section 796.035, relating to the selling or buying of  
 101 minors into prostitution.
- 102 (j) Section 796.04, relating to forcing, compelling, or  
 103 coercing another to become a prostitute.
- 104 (k) Section 796.05, relating to deriving support from the

105 proceeds of prostitution.

106 (l) Section 796.07(4)(c), relating to a felony of the  
 107 third degree for a third or subsequent violation of s. 796.07,  
 108 relating to prohibiting prostitution and related acts.

109 (m) Section 800.04, relating to lewd or lascivious  
 110 offenses committed upon or in the presence of persons less than  
 111 16 years of age.

112 (n) Section 825.1025(2)(b), relating to lewd or lascivious  
 113 offenses committed upon or in the presence of an elderly or  
 114 disabled person.

115 (o) Section 827.071, relating to sexual performance by a  
 116 child.

117 (p) Section 847.0133, relating to the protection of  
 118 minors.

119 (q) Section 847.0135, relating to computer pornography.

120 (r) Section 847.0138, relating to the transmission of  
 121 material harmful to minors to a minor by electronic device or  
 122 equipment.

123 (s) Section 847.0145, relating to the selling or buying of  
 124 minors.

125 Section 3. Subsections (3) and (4) of section 480.041,  
 126 Florida Statutes, are renumbered as subsections (4) and (5),  
 127 respectively, and a new subsection (3) and subsections (6) and  
 128 (7) are added to that section to read:

129 480.041 Massage therapists; qualifications; licensure;  
 130 endorsement.—

131       (3) An applicant must submit to background screening under  
132 s. 456.0135.

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

136       (7) The board shall deny an application for a new or  
137 renewal license if an applicant has been convicted or found  
138 guilty of, or enters a plea of guilty or nolo contendere to,  
139 regardless of adjudication, a felony offense under any of the  
140 following provisions of state law or a similar provision in  
141 another jurisdiction:

142           (a) Section 787.01, relating to kidnapping.

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

144           (c) Section 787.025, relating to luring or enticing a  
145 child.

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

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

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

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

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

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

154           (j) Section 796.04, relating to forcing, compelling, or  
155 coercing another to become a prostitute.

156           (k) Section 796.05, relating to deriving support from the

157 proceeds of prostitution.

158 (l) Section 796.07(4)(c), relating to a felony of the  
159 third degree for a third or subsequent violation of s. 796.07,  
160 relating to prohibiting prostitution and related acts.

161 (m) Section 800.04, relating to lewd or lascivious  
162 offenses committed upon or in the presence of persons less than  
163 16 years of age.

164 (n) Section 825.1025(2)(b), relating to lewd or lascivious  
165 offenses committed upon or in the presence of an elderly or  
166 disabled person.

167 (o) Section 827.071, relating to sexual performance by a  
168 child.

169 (p) Section 847.0133, relating to the protection of  
170 minors.

171 (q) Section 847.0135, relating to computer pornography.

172 (r) Section 847.0138, relating to the transmission of  
173 material harmful to minors to a minor by electronic device or  
174 equipment.

175 (s) Section 847.0145, relating to the selling or buying of  
176 minors.

177 Section 4. Subsections (2) through (6) of section 480.043,  
178 Florida Statutes, are renumbered as subsections (3) through (7),  
179 respectively, present subsections (7) through (9) are renumbered  
180 as subsections (9) through (11), respectively, present  
181 subsections (5) and (6) are amended, and new subsections (2),  
182 (8), and (12) are added to that section, to read:

183 480.043 Massage establishments; requisites; licensure;  
184 inspection.-

185 (2) A person who has an ownership interest in an  
186 establishment shall submit to the background screening  
187 requirements under s. 456.0135. However, if a corporation  
188 submits proof of having more than \$250,000 of business assets in  
189 this state, the department shall require the owner, officer, or  
190 individual directly involved in the management of the  
191 establishment to submit to the background screening requirements  
192 of s. 456.0135. The department may adopt rules regarding the  
193 type of proof that may be submitted by a corporation.

194 ~~(6)(5)~~ If, based upon the application and any necessary  
195 investigation, the department determines that the proposed  
196 establishment would fail to meet the standards adopted by the  
197 board under subsection (3) ~~(2)~~, the department shall deny the  
198 application for license. Such denial shall be in writing and  
199 shall list the reasons for denial. Upon correction of any  
200 deficiencies, an applicant previously denied permission to  
201 operate a massage establishment may reapply for licensure.

202 ~~(7)(6)~~ If, based upon the application and any necessary  
203 investigation, the department determines that the proposed  
204 massage establishment may reasonably be expected to meet the  
205 standards adopted by the department under subsection (3) ~~(2)~~,  
206 the department shall grant the license under such restrictions  
207 as it shall deem proper as soon as the original licensing fee is  
208 paid.



209       (8) The department shall deny an application for a new or  
 210 renewal license if a person with an ownership interest in the  
 211 establishment or, for a corporation that has more than \$250,000  
 212 of business assets in this state, the owner, officer, or  
 213 individual directly involved in the management of the  
 214 establishment has been convicted or found guilty of, or entered  
 215 a plea of guilty or nolo contendere to, regardless of  
 216 adjudication, a felony offense under any of the following  
 217 provisions of state law or a similar provision in another  
 218 jurisdiction:

- 219       (a) Section 787.01, relating to kidnapping.
- 220       (b) Section 787.02, relating to false imprisonment.
- 221       (c) Section 787.025, relating to luring or enticing a  
 222 child.
- 223       (d) Section 787.06, relating to human trafficking.
- 224       (e) Section 787.07, relating to human smuggling.
- 225       (f) Section 794.011, relating to sexual battery.
- 226       (g) Section 794.08, relating to female genital mutilation.
- 227       (h) Section 796.03, relating to procuring a person under  
 228 the age of 18 for prostitution.
- 229       (i) Section 796.035, relating to selling or buying of  
 230 minors into prostitution.
- 231       (j) Section 796.04, relating to forcing, compelling, or  
 232 coercing another to become a prostitute.
- 233       (k) Section 796.05, relating to deriving support from the  
 234 proceeds of prostitution.

235 (l) Section 796.07(4)(c), relating to a felony of the  
 236 third degree for a third or subsequent violation of s. 796.07,  
 237 relating to prohibiting prostitution and related acts.

238 (m) Section 800.04, relating to lewd or lascivious  
 239 offenses committed upon or in the presence of persons less than  
 240 16 years of age.

241 (n) Section 825.1025(2)(b), relating to lewd or lascivious  
 242 offenses committed upon or in the presence of an elderly or  
 243 disabled person.

244 (o) Section 827.071, relating to sexual performance by a  
 245 child.

246 (p) Section 847.0133, relating to the protection of  
 247 minors.

248 (q) Section 847.0135, relating to computer pornography.

249 (r) Section 847.0138, relating to the transmission of  
 250 material harmful to minors to a minor by electronic device or  
 251 equipment.

252 (s) Section 847.0145, relating to the selling or buying of  
 253 minors.

254 (12) A person with an ownership interest in or, for a  
 255 corporation that has more than \$250,000 of business assets in  
 256 this state, the owner, officer, or individual directly involved  
 257 in the management of an establishment that was issued a license  
 258 before July 1, 2014, shall submit to the background screening  
 259 requirements of s. 456.0135 before January 31, 2015.

260 Section 5. Section 480.0465, Florida Statutes, is amended

261 to read:

262           480.0465 Advertisement.—Each massage therapist or massage  
263 establishment licensed under the provisions of this act shall  
264 include the number of the license in any advertisement of  
265 massage services appearing in a ~~any~~ newspaper, airwave  
266 transmission, telephone directory, or other advertising medium.  
267 Pending licensure of a new massage establishment pursuant to the  
268 provisions of s. 480.043(7) ~~480.043(6)~~, the license number of a  
269 licensed massage therapist who is an owner or principal officer  
270 of the establishment may be used in lieu of the license number  
271 for the establishment.

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