

By Senator Latvala

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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 ch. 480, F.S., to submit to certain
5 fingerprinting requirements; requiring fingerprints to
6 be enrolled in the national retained print arrest
7 notification program and the Care Provider Background
8 Screening Clearinghouse; amending s. 456.074, F.S.;
9 requiring the Department of Health to issue an
10 emergency order suspending the license of a massage
11 therapist for the commission of certain offenses;
12 amending s. 480.041, F.S.; requiring an applicant for
13 a massage therapist license to submit to certain
14 background screening requirements; requiring that a
15 massage therapist who was issued a license before a
16 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 a person with an ownership
21 interest in a massage establishment to submit to
22 certain background screening requirements; requiring
23 the board to deny an application for a massage
24 establishment permit under certain circumstances;
25 requiring that the owner of a massage establishment
26 that was issued a license before a specified date
27 submit to the background screening requirements by a
28 specified date; amending s. 480.0465, F.S.; conforming
29 a cross-reference; providing an effective date.

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

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

456.0135 General background screening provisions.—

(1) An application for initial licensure received on or after January 1, 2013, under chapter 458, chapter 459, chapter 460, chapter 461, chapter 464, ~~or~~ s. 465.022, or chapter 480 shall include fingerprints pursuant to procedures established by the department through a vendor approved by the Department of Law Enforcement and fees imposed for the initial screening and retention of fingerprints. Fingerprints must be submitted electronically to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for national processing. Each board, or the department if there is no board, shall screen the results to determine if an applicant meets licensure requirements. For any subsequent renewal of the applicant's license that requires a national criminal history check, the department shall request the Department of Law Enforcement to forward the retained fingerprints of the applicant to the Federal Bureau of Investigation unless the fingerprints are enrolled in the national retained print arrest notification program.

(2) All fingerprints submitted to the Department of Law Enforcement as required under subsection (1) shall be retained by the Department of Law Enforcement as provided under s. 943.05(2)(g) and (h) and (3) and enrolled in the national

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59 retained print arrest notification program at the Federal Bureau
60 of Investigation when the Department of Law Enforcement begins
61 participation in the program. The department shall notify the
62 Department of Law Enforcement regarding any person whose
63 fingerprints have been retained but who is no longer licensed.

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

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

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

72 456.074 Certain health care practitioners; immediate
73 suspension of license.—

74 (5) The department shall issue an emergency order
75 suspending the license of a massage therapist as defined in
76 chapter 480 upon receipt of information that such therapist has
77 been convicted or found guilty of, or has entered a plea of
78 guilty or nolo contendere to, regardless of adjudication, a
79 felony offense under any of the following provisions of state
80 law or a similar provision in another jurisdiction:

81 (a) Section 787.01, relating to kidnapping.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

106 (p) Section 847.0145, relating to the selling or buying of
107 minors.

108 Section 3. Present subsections (3) and (4) of section
109 480.041, Florida Statutes, are redesignated as subsections (4)
110 and (5), respectively, and a new subsection (3) and subsections
111 (6) and (7) are added to that section, to read:

112 480.041 Massage therapists; qualifications; licensure;
113 endorsement.—

114 (3) An applicant must submit to background screening under
115 s. 456.0135.

116 (6) Massage therapists who were issued a license before

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117 July 1, 2014, must submit to the background screening
118 requirements of s. 456.0135 by January 31, 2015.

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

125 (a) Section 787.01, relating to kidnapping.

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

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

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

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

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

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

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

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

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

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

143 (l) Section 827.071, relating to sexual performance by a
144 child.

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

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

147 (o) Section 847.0138, relating to the transmission of
148 material harmful to minors to a minor by electronic device or
149 equipment.

150 (p) Section 847.0145, relating to the selling or buying of
151 minors.

152 Section 4. Present subsections (2) through (6) of section
153 480.043, Florida Statutes, are redesignated as subsections (3)
154 through (7), respectively, present subsections (7) through (9)
155 of that section are redesignated as subsections (9) through
156 (11), respectively, and new subsections (2), (8), and (12) are
157 added to that section, to read:

158 480.043 Massage establishments; requisites; licensure;
159 inspection.—

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

168 (8) The department shall deny an application for a massage
169 establishment permit if the applicant; a person with an
170 ownership interest in a massage establishment; or a corporation
171 that has more than \$250,000 of business assets in this state, or
172 the owner, officer, or individual directly involved in the
173 management of such massage establishment, has been convicted or
174 found guilty of, or entered a plea of guilty or nolo contendere

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175 to, regardless of adjudication, a felony offense under any of
176 the following provisions of state law or a similar provision in
177 another jurisdiction:

178 (a) Section 787.01, relating to kidnapping.

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

180 (c) Section 787.025, relating to luring or enticing a
181 child.

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

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

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

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

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

188 (i) Section 796.035, relating to selling or buying of
189 minors into prostitution.

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

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

196 (l) Section 827.071, relating to sexual performance by a
197 child.

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

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

200 (o) Section 847.0138, relating to the transmission of
201 material harmful to minors to a minor by electronic device or
202 equipment.

203 (p) Section 847.0145, relating to the selling or buying of

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204 minors.

205 (12) A massage establishment owner whose massage
206 establishment was issued a license before July 1, 2014, shall
207 submit to the background screening requirements of s. 456.0135
208 before January 31, 2015. However, if a corporation submits proof
209 of having more than \$250,000 of business assets in this state,
210 the department shall require the owner, officer, or individual
211 directly involved in the management of the massage establishment
212 to submit to the background screening requirements of s.
213 456.0135.

214 Section 5. Section 480.0465, Florida Statutes, is amended
215 to read:

216 480.0465 Advertisement.—Each massage therapist or massage
217 establishment licensed under the provisions of this act shall
218 include the number of the license in any advertisement of
219 massage services appearing in a ~~any~~ newspaper, airwave
220 transmission, telephone directory, or other advertising medium.
221 Pending licensure of a new massage establishment pursuant to the
222 provisions of s. 480.043(7) ~~s. 480.043(6)~~, the license number of
223 a licensed massage therapist who is an owner or principal
224 officer of the establishment may be used in lieu of the license
225 number for the establishment.

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