

By the Committee on Health Policy; and Senator Latvala

588-02463-14

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1 A bill to be entitled
2 An act relating to massage therapy; amending s.
3 456.0135, F.S.; requiring an applicant for licensure
4 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 or massage establishment for the commission
12 of certain offenses; amending s. 480.041, F.S.;
13 requiring an applicant for a massage therapist license
14 to submit to certain background screening
15 requirements; requiring that a massage therapist who
16 was issued a license before a specified date meet the
17 background screening requirements by a specified date;
18 requiring the Board of Massage Therapy to deny an
19 application for a massage therapy license or renewal
20 license for certain offenses; amending s. 480.043,
21 F.S.; requiring a person with a specified interest in
22 a massage establishment to submit to certain
23 background screening requirements; authorizing the
24 department to adopt a rule related to corporate
25 assets; requiring the department to deny an
26 application for a massage establishment license or
27 renewal license under certain circumstances; requiring
28 that the owner of a massage establishment that was
29 issued a license before a specified date submit to the

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30 background screening requirements by a specified date;
31 exempting certain entities from massage establishment
32 licensure requirements; amending s. 480.0465, F.S.;
33 conforming a cross-reference; providing an effective
34 date.

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

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

40 456.0135 General background screening provisions.—

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

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59 notification program.

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

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

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

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

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

79 (5) The department shall issue an emergency order
80 suspending the license of a massage therapist or massage
81 establishment as defined in chapter 480 upon receipt of
82 information that such therapist or person with an ownership
83 interest in the massage establishment, or for a corporation that
84 has more than \$250,000 of business assets in this state, the
85 owner, officer, or individual directly involved in the
86 management of the massage establishment has been convicted or
87 found guilty of, or has entered a plea of guilty or nolo

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88 contendere to, regardless of adjudication, a felony offense
89 under any of the following provisions of state law or a similar
90 provision in another jurisdiction:

91 (a) Section 787.01, relating to kidnapping.

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

93 (c) Section 787.025, relating to luring or enticing a
94 child.

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

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

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

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

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

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

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

105 (k) Section 796.05, relating to deriving support from the
106 proceeds of a prostitute.

107 (l) Section 796.07(4)(c), relating to a felony of the third
108 degree for a third or subsequent violation as provided in s.
109 775.082, s. 775.083, or s. 775.084.

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

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

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

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117 child.

118 (p) Section 847.0133, relating to the protection of 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. Present subsections (3) and (4) of section
126 480.041, Florida Statutes, are redesignated as subsections (4)
127 and (5), respectively, and a new subsection (3) and subsections
128 (6) and (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.

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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 a prostitute.

158 (l) Section 796.07(4)(c), relating to a felony of the third
159 degree for a third or subsequent violation as provided in s.
160 775.082, s. 775.083, or s. 775.084.

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

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

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

174 (s) Section 847.0145, relating to the selling or buying of

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175 minors.

176 Section 4. Present subsections (2) through (6) of section
177 480.043, Florida Statutes, are redesignated as subsections (3)
178 through (7), respectively, present subsections (7) through (9)
179 of that section are redesignated as subsections (9) through
180 (11), respectively, and new subsections (2), (8), (12), and (13)
181 are added to that section, to read:

182 480.043 Massage establishments; requisites; licensure;
183 inspection.—

184 (2) A person who has an ownership interest in a massage
185 establishment shall submit to the background screening
186 requirements under s. 456.0135. However, if a corporation
187 submits proof, as determined by department rule, of having more
188 than \$250,000 of business assets in this state, the department
189 shall require the owner, officer, or individual directly
190 involved in the management of the massage establishment to
191 submit to the background screening requirements of s. 456.0135.

192 (8) The department shall deny an application for a new or
193 renewal license if a person with an ownership interest in the
194 massage establishment, or for a corporation that has more than
195 \$250,000 of business assets in this state, the owner, officer,
196 or individual directly involved in the management of the massage
197 establishment has been convicted or found guilty of, or entered
198 a plea of guilty or nolo contendere to, regardless of
199 adjudication, a felony offense under any of the following
200 provisions of state law or a similar provision in another
201 jurisdiction:

202 (a) Section 787.01, relating to kidnapping.

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

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- 204 (c) Section 787.025, relating to luring or enticing a
205 child.
- 206 (d) Section 787.06, relating to human trafficking.
- 207 (e) Section 787.07, relating to human smuggling.
- 208 (f) Section 794.011, relating to sexual battery.
- 209 (g) Section 794.08, relating to female genital mutilation.
- 210 (h) Section 796.03, relating to procuring a person under
211 the age of 18 for prostitution.
- 212 (i) Section 796.035, relating to selling or buying of
213 minors into prostitution.
- 214 (j) Section 796.04, relating to forcing, compelling, or
215 coercing another to become a prostitute.
- 216 (k) Section 796.05, relating to deriving support from the
217 proceeds of a prostitute.
- 218 (l) Section 796.07(4)(c), relating to a felony of the third
219 degree for a third or subsequent violation as provided in s.
220 775.082, s. 775.083, or s. 775.084.
- 221 (m) Section 800.04, relating to lewd or lascivious offenses
222 committed upon or in the presence of persons less than 16 years
223 of age.
- 224 (n) Section 825.1025(2)(b), relating to lewd or lascivious
225 offenses committed upon or in the presence of an elderly or
226 disabled person.
- 227 (o) Section 827.071, relating to sexual performance by a
228 child.
- 229 (p) Section 847.0133, relating to the protection of minors.
- 230 (q) Section 847.0135, relating to computer pornography.
- 231 (r) Section 847.0138, relating to the transmission of
232 material harmful to minors to a minor by electronic device or

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233 equipment.

234 (s) Section 847.0145, relating to the selling or buying of
235 minors.

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

242 (13) An entity wholly owned by one or more physicians
243 licensed under chapter 458, chapter 459, or chapter 460 or by
244 such physicians and the spouse, parent, child, or sibling of
245 such physicians is exempt from the requirements of this section.
246 As used in this subsection, the term "entity wholly owned" means
247 a proprietorship, group practice, partnership, or corporation
248 that provides health care services rendered by licensed
249 physicians and health care practitioners in which the licensed
250 physicians or such physicians and the spouse, parent, child, or
251 sibling of such physicians are the business owners in all
252 aspects of the business entity, including, but not limited to,
253 being reflected as the business owners on the title or lease of
254 the physical facility, filing taxes as the business owners,
255 being account holders on the entity's bank account, being listed
256 as the principals on all incorporation documents required by
257 this state, and having ultimate authority over all personnel and
258 compensation decisions relating to the entity.

259 Section 5. Section 480.0465, Florida Statutes, is amended
260 to read:

261 480.0465 Advertisement.—Each massage therapist or massage

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

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