

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Judiciary Committee
 2 Representative Reed offered the following:

3
 4 **Amendment (with title amendment)**
 5 Remove everything after the enacting clause and insert:

6
 7 Section 1. Subsection (4) of section 322.142, Florida
 8 Statutes, is amended to read:

9 322.142 Color photographic or digital imaged licenses.—

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

17 (a) For departmental administrative purposes;

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- 18 (b) For the issuance of duplicate licenses;
- 19 (c) In response to law enforcement agency requests;
- 20 (d) To the Department of Business and Professional
21 Regulation and the Department of Health pursuant to an
22 interagency agreement for the purpose of accessing digital
23 images for reproduction of licenses issued by the Department of
24 Business and Professional Regulation or the Department of
25 Health;
- 26 (e) To the Department of State pursuant to an interagency
27 agreement to facilitate determinations of eligibility of voter
28 registration applicants and registered voters in accordance with
29 ss. 98.045 and 98.075;
- 30 (f) To the Department of Revenue pursuant to an
31 interagency agreement for use in establishing paternity and
32 establishing, modifying, or enforcing support obligations in
33 Title IV-D cases;
- 34 (g) To the Department of Children and Families pursuant to
35 an interagency agreement to conduct protective investigations
36 under part III of chapter 39 and chapter 415;
- 37 (h) To the Department of Children and Families pursuant to
38 an interagency agreement specifying the number of employees in
39 each of that department's regions to be granted access to the
40 records for use as verification of identity to expedite the
41 determination of eligibility for public assistance and for use
42 in public assistance fraud investigations;

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43 (i) To the Agency for Health Care Administration pursuant
44 to an interagency agreement for the purpose of authorized
45 agencies verifying photographs in the Care Provider Background
46 Screening Clearinghouse authorized under s. 435.12;

47 (j)~~(i)~~ To the Department of Financial Services pursuant to
48 an interagency agreement to facilitate the location of owners of
49 unclaimed property, the validation of unclaimed property claims,
50 and the identification of fraudulent or false claims;

51 (k)~~(j)~~ To district medical examiners pursuant to an
52 interagency agreement for the purpose of identifying a deceased
53 individual, determining cause of death, and notifying next of
54 kin of any investigations, including autopsies and other
55 laboratory examinations, authorized in s. 406.11; or

56 (l)~~(k)~~ To the following persons for the purpose of
57 identifying a person as part of the official work of a court:

58 1. A justice or judge of this state;

59 2. An employee of the state courts system who works in a
60 position that is designated in writing for access by the Chief
61 Justice of the Supreme Court or a chief judge of a district or
62 circuit court, or by his or her designee; or

63 3. A government employee who performs functions on behalf
64 of the state courts system in a position that is designated in
65 writing for access by the Chief Justice or a chief judge, or by
66 his or her designee.

67 Section 2. Subsections (1) and (8) of section 408.806,
68 Florida Statutes, are amended to read:

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69 408.806 License application process.—

70 (1) An application for licensure must be made to the
71 agency on forms furnished by the agency, submitted under oath or
72 attestation, and accompanied by the appropriate fee in order to
73 be accepted and considered timely. The application must contain
74 information required by authorizing statutes and applicable
75 rules and must include:

76 (a) The name, address, and social security number, or
77 individual taxpayer identification number if a social security
78 number cannot legally be obtained, of:

79 1. The applicant;

80 2. The administrator or a similarly titled person who is
81 responsible for the day-to-day operation of the provider;

82 3. The financial officer or similarly titled person who is
83 responsible for the financial operation of the licensee or
84 provider; and

85 4. Each controlling interest if the applicant or
86 controlling interest is an individual.

87 (b) The name, address, and federal employer identification
88 number or taxpayer identification number of the applicant and
89 each controlling interest if the applicant or controlling
90 interest is not an individual.

91 (c) The name by which the provider is to be known.

92 (d) The total number of beds or capacity requested, as
93 applicable.

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94 (e) The name of the person or persons under whose
95 management or supervision the provider will operate and the name
96 of the administrator, if required.

97 (f) If the applicant offers continuing care agreements as
98 defined in chapter 651, proof shall be furnished that the
99 applicant has obtained a certificate of authority as required
100 for operation under chapter 651.

101 (g) Other information, including satisfactory inspection
102 results, that the agency finds necessary to determine the
103 ability of the applicant to carry out its responsibilities under
104 this part, authorizing statutes, and applicable rules.

105 (h) An attestation affidavit, under penalty of perjury, as
106 required in s. 435.05(3), stating compliance with the provisions
107 of this section and chapter 435.

108 (8) The agency may establish procedures for the electronic
109 notification and submission of required information, including,
110 but not limited to:

111 (a) Licensure applications.

112 (b) Required signatures.

113 (c) Payment of fees.

114 (d) Notarization or attestation of applications.

115
116 Requirements for electronic submission of any documents required
117 by this part or authorizing statutes may be established by rule.
118 As an alternative to sending documents as required by

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119 authorizing statutes, the agency may provide electronic access
120 to information or documents.

121 Section 3. Subsections (2) and (4) of section 408.809,
122 Florida Statutes, are amended to read:

123 408.809 Background screening; prohibited offenses.—

124 (2) Every 5 years following his or her licensure,
125 employment, or entry into a contract in a capacity that under
126 subsection (1) would require level 2 background screening under
127 chapter 435, each such person must submit to level 2 background
128 rescreening as a condition of retaining such license or
129 continuing in such employment or contractual status. For any
130 such rescreening, the agency shall request the Department of Law
131 Enforcement to forward the person's fingerprints to the Federal
132 Bureau of Investigation for a national criminal history record
133 check unless the person's fingerprints are enrolled in the
134 Federal Bureau of Investigation's national retained print arrest
135 notification program. If the fingerprints of such a person are
136 not retained by the Department of Law Enforcement under s.
137 943.05(2)(g) and (h), the person must submit fingerprints
138 electronically ~~file a complete set of fingerprints with the~~
139 ~~agency and the agency shall forward the fingerprints to the~~
140 Department of Law Enforcement for state processing, and the
141 Department of Law Enforcement shall forward the fingerprints to
142 the Federal Bureau of Investigation for a national criminal
143 history record check. The fingerprints shall ~~may~~ be retained by
144 the Department of Law Enforcement under s. 943.05(2)(g) and (h)

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145 and enrolled in the national retained print arrest notification
146 program when the Department of Law Enforcement begins
147 participation in the program. The cost of the state and national
148 criminal history records checks required by level 2 screening
149 may be borne by the licensee or the person fingerprinted. Until
150 a specified agency is fully implemented ~~the person's background~~
151 ~~screening results are retained~~ in the clearinghouse created
152 under s. 435.12, the agency may accept as satisfying the
153 requirements of this section proof of compliance with level 2
154 screening standards submitted within the previous 5 years to
155 meet any provider or professional licensure requirements of the
156 agency, the Department of Health, the Department of Elderly
157 Affairs, the Agency for Persons with Disabilities, the
158 Department of Children and Families ~~Family Services~~, or the
159 Department of Financial Services for an applicant for a
160 certificate of authority or provisional certificate of authority
161 to operate a continuing care retirement community under chapter
162 651, provided that:

163 (a) The screening standards and disqualifying offenses for
164 the prior screening are equivalent to those specified in s.
165 435.04 and this section;

166 (b) The person subject to screening has not had a break in
167 service from a position that requires level 2 screening for more
168 than 90 days; and

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169 (c) Such proof is accompanied, under penalty of perjury,
170 by an attestation affidavit of compliance with ~~the provisions of~~
171 chapter 435 and this section using forms provided by the agency.

172 (4) In addition to the offenses listed in s. 435.04, all
173 persons required to undergo background screening pursuant to
174 this part or authorizing statutes must not have an arrest
175 awaiting final disposition for, must not have been found guilty
176 of, regardless of adjudication, or entered a plea of nolo
177 contendere or guilty to, and must not have been adjudicated
178 delinquent and the record not have been sealed or expunged for
179 any of the following offenses or any similar offense of another
180 jurisdiction:

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

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

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

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

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

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

188 (g) ~~(f)~~ Section 817.034, relating to fraudulent acts
189 through mail, wire, radio, electromagnetic, photoelectronic, or
190 photooptical systems.

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

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193 (i) Section 817.481, relating to obtaining goods by using
194 a false or expired credit card or other credit device, if the
195 offense was a felony.

196 (j) Section 817.50, relating to fraudulently obtaining
197 goods or services from a health care provider.

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

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

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

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

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

206 (p)~~(m)~~ Section 831.02, relating to uttering forged
207 instruments.

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

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

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

214 (t)~~(q)~~ Section 831.31, relating to the sale, manufacture,
215 delivery, or possession with the intent to sell, manufacture, or
216 deliver any counterfeit controlled substance, if the offense was
217 a felony.

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218 (u) Section 895.03, relating to racketeering and
219 collection of unlawful debts.

220 (v) Section 896.101, relating to the Florida Money
221 Laundering Act.

222 Section 4. Subsection (5) is added to section 413.208,
223 Florida Statutes, to read:

224 413.208 Service providers; quality assurance; fitness for
225 responsibilities; background screening.—

226 (5) The background screening requirements of this section
227 apply only to registrations entered into or renewed with the
228 division after the Care Provider Background Screening
229 Clearinghouse becomes operational and retains the background
230 screening results in the clearinghouse under s. 435.12.

231 Section 5. Section 7 of chapter 2012-73, Laws of Florida,
232 is repealed.

233 Section 6. Paragraph (e) of subsection (1) of section
234 435.04, Florida Statutes, is amended, present paragraphs (d)
235 through (yy) of subsection (2) are redesignated as paragraphs
236 (e) through (zz), respectively, and a new paragraph (d) is added
237 to that subsection, to read:

238 435.04 Level 2 screening standards.—

239 (1)

240 (e) Vendors who submit fingerprints on behalf of employers
241 must:

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

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243 2. Have the ability to communicate electronically with the
244 state agency accepting screening results from the Department of
245 Law Enforcement and provide the applicant's full first name,
246 middle initial, and last name; social security number or
247 individual taxpayer identification number; date of birth;
248 mailing address; sex; and race ~~a photograph of the applicant~~
249 ~~taken at the time the fingerprints are submitted.~~

250 (2) The security background investigations under this
251 section must ensure that no persons subject to the provisions of
252 this section have been arrested for and are awaiting final
253 disposition of, have been found guilty of, regardless of
254 adjudication, or entered a plea of nolo contendere or guilty to,
255 or have been adjudicated delinquent and the record has not been
256 sealed or expunged for, any offense prohibited under any of the
257 following provisions of state law or similar law of another
258 jurisdiction:

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

261 Section 7. Subsection (3) of section 435.05, Florida
262 Statutes, is amended to read:

263 435.05 Requirements for covered employees and employers.—
264 Except as otherwise provided by law, the following requirements
265 apply to covered employees and employers:

266 (3) Each employer licensed or registered with an agency
267 must conduct level 2 background screening and must submit to the
268 agency annually or at the time of license renewal, under penalty

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269 of perjury, a signed attestation ~~affidavit~~ attesting to
270 compliance with the provisions of this chapter.

271 Section 8. Subsections (1) and (2) of section 435.07,
272 Florida Statutes, are amended to read:

273 435.07 Exemptions from disqualification.—Unless otherwise
274 provided by law, the provisions of this section apply to
275 exemptions from disqualification for disqualifying offenses
276 revealed pursuant to background screenings required under this
277 chapter, regardless of whether those disqualifying offenses are
278 listed in this chapter or other laws.

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

282 1.-(a) Felonies for which at least 3 years have elapsed
283 since the applicant for the exemption has completed or been
284 lawfully released from confinement, supervision, or nonmonetary
285 condition imposed by the court ~~sanction~~ for the disqualifying
286 felony;

287 2.-(b) Misdemeanors prohibited under any of the statutes
288 cited in this chapter or under similar statutes of other
289 jurisdictions for which the applicant for the exemption has
290 completed or been lawfully released from confinement,
291 supervision, or nonmonetary condition imposed by the court
292 ~~sanction~~;

293 3.-(c) Offenses that were felonies when committed but that
294 are now misdemeanors and for which the applicant for the

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295 exemption has completed or been lawfully released from
296 confinement, supervision, or nonmonetary condition imposed by
297 the court ~~sanction~~; or

298 4. ~~(d)~~ Findings of delinquency. For offenses that would be
299 felonies if committed by an adult and the record has not been
300 sealed or expunged, the exemption may not be granted until at
301 least 3 years have elapsed since the applicant for the exemption
302 has completed or been lawfully released from confinement,
303 supervision, or nonmonetary condition imposed by the court
304 ~~sanction~~ for the disqualifying offense.

305 (b) A person applying for an exemption who was ordered to
306 pay any amount for any fee, fine, fund, lien, civil judgment,
307 application, costs of prosecution, trust, or restitution as part
308 of the judgment and sentence for any disqualifying felony or
309 misdemeanor must have paid the court-ordered amount in full
310 before being eligible for the exemption.

311
312 For the purposes of this subsection, the term "felonies" means
313 both felonies prohibited under any of the statutes cited in this
314 chapter or under similar statutes of other jurisdictions.

315 (2) Persons employed, or applicants for employment, by
316 treatment providers who treat adolescents 13 years of age and
317 older who are disqualified from employment solely because of
318 crimes under s. 817.563, s. 893.13, or s. 893.147 may be
319 exempted from disqualification from employment pursuant to this

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320 chapter without application of the waiting period in
321 subparagraph (1) (a) 1 ~~paragraph (1) (a)~~.

322 Section 9. Subsection (2) of section 435.12, Florida
323 Statutes, is amended to read:

324 435.12 Care Provider Background Screening Clearinghouse.—

325 (2) (a) To ensure that the information in the clearinghouse
326 is current, the fingerprints of an employee required to be
327 screened by a specified agency and included in the clearinghouse
328 must be:

329 1. Retained by the Department of Law Enforcement pursuant
330 to s. 943.05(2) (g) and (h) and (3), and the Department of Law
331 Enforcement must report the results of searching those
332 fingerprints against state incoming arrest fingerprint
333 submissions to the Agency for Health Care Administration for
334 inclusion in the clearinghouse.

335 2. Retained by the Federal Bureau of Investigation in the
336 national retained print arrest notification program as soon as
337 the Department of Law Enforcement begins participation in such
338 program. Arrest prints will be searched against retained prints
339 at the Federal Bureau of Investigation and notification of
340 arrests will be forwarded to the Department of Law Enforcement
341 and reported to the Agency for Health Care Administration for
342 inclusion in the clearinghouse.

343 3.2. Resubmitted for a Federal Bureau of Investigation
344 national criminal history check every 5 years until such time as

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345 the fingerprints are retained by the Federal Bureau of
346 Investigation.

347 ~~4.3.~~ Subject to retention on a 5-year renewal basis with
348 fees collected at the time of initial submission or resubmission
349 of fingerprints.

350 5. Submitted with a photograph of the person taken at the
351 time the fingerprints are submitted.

352 (b) Until such time as the fingerprints are enrolled in
353 the national retained print arrest notification program ~~retained~~
354 at the Federal Bureau of Investigation, an employee with a break
355 in service of more than 90 days from a position that requires
356 screening by a specified agency must submit to a national
357 screening if the person returns to a position that requires
358 screening by a specified agency.

359 (c) An employer of persons subject to screening by a
360 specified agency must register with the clearinghouse and
361 maintain the employment status of all employees within the
362 clearinghouse. Initial employment status and any changes in
363 status must be reported within 10 business days.

364 (d) An employer must register with and initiate all
365 criminal history checks through the clearinghouse before
366 referring an employee or potential employee for electronic
367 fingerprint submission to the Department of Law Enforcement. The
368 registration must include the employee's full first name, middle
369 initial, and last name; social security number; date of birth;
370 mailing address; sex; and race. Individuals, persons,

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371 applicants, and controlling interests that cannot legally obtain
372 a social security number must provide an individual taxpayer
373 identification number.

374 Section 10. This act shall take effect July 1, 2014.

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377 -----

378

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

379

Remove everything before the enacting clause and insert:

380

An act relating to background screening; amending s.

381

322.142, F.S.; authorizing the Department of Highway Safety and

382

Motor Vehicles to share reproductions of driver license images

383

with the Department of Health and the Agency for Health Care

384

Administration for specified purposes; amending s. 408.806,

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F.S.; revising the requirements for licensure; revising a

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provision requiring an affidavit; amending s. 408.809, F.S.;

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exempting a person whose fingerprints are already enrolled in a

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certain Federal Bureau of Investigation program from the

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requirement that such fingerprints be forwarded to the bureau;

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requiring certain persons to submit their fingerprints

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electronically; requiring the Department of Law Enforcement to

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retain fingerprints when the department begins participation in

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a certain program; revising requirements for proof of compliance

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with level 2 screening standards; revising terminology; adding

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additional disqualifying offenses to background screening

396

requirements; amending s. 413.208, F.S.; providing applicability

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397 for background screening requirements for certain registrants;
398 repealing s. 7 of chapter 2012-73, Laws of Florida, relating to
399 background screening requirements; amending s. 435.04, F.S.;
400 revising information to be required for vendors submitting
401 employee fingerprints; adding an additional disqualifying
402 offense to background screening requirements; amending s.
403 435.05, F.S.; revising a provision requiring the annual
404 submission of an affidavit; amending s. 435.07, F.S.; revising
405 criteria for an exemption from disqualification for an employee
406 under certain conditions; amending s. 435.12, F.S.; requiring
407 the fingerprints of an employee required to be screened by a
408 specified agency and included in the clearinghouse also to be
409 retained in the national retained print arrest notification
410 program at a specified time; requiring simultaneous submission
411 of a photographic image and electronic fingerprints to the Care
412 Provider Background Screening Clearinghouse; requiring an
413 employer to follow certain criminal history check procedures and
414 include specified information regarding referral and
415 registration of an employee for electronic fingerprinting with
416 the clearinghouse; providing an effective date.