

1 A bill to be entitled

2 An act relating to background screening; amending s.
3 322.142, F.S.; authorizing the Department of Highway
4 Safety and Motor Vehicles to share reproductions of
5 driver license images with the Department of Health
6 and the Agency for Health Care Administration for
7 specified purposes; amending s. 408.809, F.S.; adding
8 additional qualifying offenses to background screening
9 requirements; amending s. 413.208, F.S., and repealing
10 s. 7, chapter 2012-73, Laws of Florida; revising the
11 applicability of background screening requirements for
12 certain service providers who must register with the
13 Division of Vocational Rehabilitation of the
14 Department of Education; amending s. 435.04, F.S.;
15 revising information required for vendors submitting
16 employee fingerprints; adding additional qualifying
17 offenses to background screening requirements;
18 amending s. 435.07, F.S.; revising criteria for an
19 exemption from disqualification for an employee under
20 certain conditions; amending s. 435.12, F.S.;
21 requiring simultaneous submission of a photographic
22 image and electronic fingerprints to the Care Provider
23 Background Screening Clearinghouse; requiring an
24 employer to follow certain criminal history checks
25 procedures and include specified information regarding
26 referral and registration of an employee for

27 | electronic fingerprinting with the clearinghouse;
28 | providing an effective date.

29 |

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

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32 | Section 1. Subsection (4) of section 322.142, Florida
33 | Statutes, is amended to read:

34 | 322.142 Color photographic or digital imaged licenses.—

35 | (4) The department may maintain a film negative or print
36 | file. The department shall maintain a record of the digital
37 | image and signature of the licensees, together with other data
38 | required by the department for identification and retrieval.
39 | Reproductions from the file or digital record are exempt from
40 | the provisions of s. 119.07(1) and may ~~shall~~ be made and issued
41 | only:

42 | (a) For departmental administrative purposes;

43 | (b) For the issuance of duplicate licenses;

44 | (c) In response to law enforcement agency requests;

45 | (d) To the Department of Business and Professional
46 | Regulation and the Department of Health pursuant to an
47 | interagency agreement for the purpose of accessing digital
48 | images for reproduction of licenses issued by the Department of
49 | Business and Professional Regulation or the Department of
50 | Health;

51 | (e) To the Department of State pursuant to an interagency
52 | agreement to facilitate determinations of eligibility of voter

53 registration applicants and registered voters in accordance with
 54 ss. 98.045 and 98.075;

55 (f) To the Department of Revenue pursuant to an
 56 interagency agreement for use in establishing paternity and
 57 establishing, modifying, or enforcing support obligations in
 58 Title IV-D cases;

59 (g) To the Department of Children and Families pursuant to
 60 an interagency agreement to conduct protective investigations
 61 under part III of chapter 39 and chapter 415;

62 (h) To the Department of Children and Families pursuant to
 63 an interagency agreement specifying the number of employees in
 64 each of that department's regions to be granted access to the
 65 records for use as verification of identity to expedite the
 66 determination of eligibility for public assistance and for use
 67 in public assistance fraud investigations;

68 (i) To the Agency for Health Care Administration pursuant
 69 to an interagency agreement for the purpose of verifying
 70 photographs in the Care Provider Background Screening
 71 Clearinghouse authorized in s. 435.12;

72 (j)~~(i)~~ To the Department of Financial Services pursuant to
 73 an interagency agreement to facilitate the location of owners of
 74 unclaimed property, the validation of unclaimed property claims,
 75 and the identification of fraudulent or false claims;

76 (k)~~(j)~~ To district medical examiners pursuant to an
 77 interagency agreement for the purpose of identifying a deceased
 78 individual, determining cause of death, and notifying next of

79 kin of any investigations, including autopsies and other
 80 laboratory examinations, authorized in s. 406.11; or

81 (1)~~(*)~~ To the following persons for the purpose of
 82 identifying a person as part of the official work of a court:

- 83 1. A justice or judge of this state;
- 84 2. An employee of the state courts system who works in a
 85 position that is designated in writing for access by the Chief
 86 Justice of the Supreme Court or a chief judge of a district or
 87 circuit court, or by his or her designee; or
- 88 3. A government employee who performs functions on behalf
 89 of the state courts system in a position that is designated in
 90 writing for access by the Chief Justice or a chief judge, or by
 91 his or her designee.

92 Section 2. Paragraphs (f) and (g) and (h) through (q) of
 93 subsection (4) of section 408.809, Florida Statutes, are
 94 redesignated as paragraphs (g) and (h) and (k) through (t),
 95 respectively, and new paragraphs (f), (i), (j), (u), and (v) are
 96 added to that subsection to read:

97 408.809 Background screening; prohibited offenses.—

98 (4) In addition to the offenses listed in s. 435.04, all
 99 persons required to undergo background screening pursuant to
 100 this part or authorizing statutes must not have an arrest
 101 awaiting final disposition for, must not have been found guilty
 102 of, regardless of adjudication, or entered a plea of nolo
 103 contendere or guilty to, and must not have been adjudicated
 104 delinquent and the record not have been sealed or expunged for

105 any of the following offenses or any similar offense of another
 106 jurisdiction:

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

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

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

114 (u) Section 895.03, relating to racketeering and
 115 collection of unlawful debts.

116 (v) Section 896.101, relating to the Florida Money
 117 Laundering Act.

118 Section 3. Subsection (5) is added to section 413.208,
 119 Florida Statutes, to read:

120 413.208 Service providers; quality assurance; fitness for
 121 responsibilities; background screening.—

122 (5) The background screening requirements of this section
 123 apply only to registrations entered into or renewed with the
 124 division after the Care Provider Background Screening
 125 Clearinghouse becomes operational and retains the background
 126 screening results in the clearinghouse pursuant to s. 435.12.

127 Section 4. Section 7 of chapter 2012-73, Laws of Florida,
 128 is repealed.

129 Section 5. Paragraphs (d) through (yy) of subsection (2)
 130 of section 435.04, Florida Statutes, are redesignated as

131 paragraphs (e) through (zz), respectively, paragraph (e) of
 132 subsection (1) is amended, and a new paragraph (d) is added to
 133 subsection (2) of that section, to read:

134 435.04 Level 2 screening standards.—

135 (1)

136 (e) Vendors who submit fingerprints on behalf of employers
 137 must:

- 138 1. Meet the requirements of s. 943.053; and
- 139 2. Have the ability to communicate electronically with the
 140 state agency accepting screening results from the Department of
 141 Law Enforcement and provide the applicant's full first name,
 142 middle initial, and last name, social security number, date of
 143 birth, mailing address, sex, and race ~~a photograph of the~~
 144 ~~applicant taken at the time the fingerprints are submitted.~~

145 (2) The security background investigations under this
 146 section must ensure that no persons subject to the provisions of
 147 this section have been arrested for and are awaiting final
 148 disposition of, have been found guilty of, regardless of
 149 adjudication, or entered a plea of nolo contendere or guilty to,
 150 or have been adjudicated delinquent and the record has not been
 151 sealed or expunged for, any offense prohibited under any of the
 152 following provisions of state law or similar law of another
 153 jurisdiction:

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

156 Section 6. Subsections (1) and (2) of section 435.07,

157 Florida Statutes, are amended to read:

158 435.07 Exemptions from disqualification.—Unless otherwise
159 provided by law, the provisions of this section apply to
160 exemptions from disqualification for disqualifying offenses
161 revealed pursuant to background screenings required under this
162 chapter, regardless of whether those disqualifying offenses are
163 listed in this chapter or other laws.

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

167 1.(a) Felonies for which at least 3 years have elapsed
168 since the applicant for the exemption has completed or been
169 lawfully released from confinement, supervision, or nonmonetary
170 condition imposed by the court ~~sanction~~ for the disqualifying
171 felony;

172 2.(b) Misdemeanors prohibited under any of the statutes
173 cited in this chapter or under similar statutes of other
174 jurisdictions for which the applicant for the exemption has
175 completed or been lawfully released from confinement,
176 supervision, or nonmonetary condition imposed by the court
177 ~~sanction~~;

178 3.(c) Offenses that were felonies when committed but that
179 are now misdemeanors and for which the applicant for the
180 exemption has completed or been lawfully released from
181 confinement, supervision, or nonmonetary condition imposed by
182 the court ~~sanction~~; or

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

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

196
 197 For the purposes of this subsection, the term "felonies" means
 198 both felonies prohibited under any of the statutes cited in this
 199 chapter or under similar statutes of other jurisdictions.

200 (2) Persons employed, or applicants for employment, by
 201 treatment providers who treat adolescents 13 years of age and
 202 older who are disqualified from employment solely because of
 203 crimes under s. 817.563, s. 893.13, or s. 893.147 may be
 204 exempted from disqualification from employment pursuant to this
 205 chapter without application of the waiting period in
 206 subparagraph (1) (a)1 ~~paragraph (1) (a)~~.

207 Section 7. Paragraph (a) of subsection (2) of section
 208 435.12, Florida Statutes, is amended, and paragraph (d) is added

209 to that subsection, to read:

210 435.12 Care Provider Background Screening Clearinghouse.—

211 (2) (a) To ensure that the information in the clearinghouse
212 is current, the fingerprints of an employee required to be
213 screened by a specified agency and included in the clearinghouse
214 must be:

215 1. Retained by the Department of Law Enforcement pursuant
216 to s. 943.05(2) (g) and (h) and (3), and the Department of Law
217 Enforcement must report the results of searching those
218 fingerprints against state incoming arrest fingerprint
219 submissions to the Agency for Health Care Administration for
220 inclusion in the clearinghouse.

221 2. Resubmitted for a Federal Bureau of Investigation
222 national criminal history check every 5 years until such time as
223 the fingerprints are retained by the Federal Bureau of
224 Investigation.

225 3. Subject to retention on a 5-year renewal basis with
226 fees collected at the time of initial submission or resubmission
227 of fingerprints.

228 4. Submitted with a photograph of the person taken at the
229 time the fingerprints are submitted.

230 (d) An employer must register with and initiate all
231 criminal history checks through the clearinghouse before
232 referring an employee or potential employee for electronic
233 fingerprint submission to the Department of Law Enforcement. The
234 registration must include the employee's full first name, middle

HB 463

2014

235 initial, and last name, social security number, date of birth,
236 mailing address, sex, and race. Individuals, persons,
237 applicants, and controlling interests that cannot legally obtain
238 a social security number must provide an individual taxpayer
239 identification number.

240 Section 8. This act shall take effect July 1, 2014.