

1 A bill to be entitled
2 An act relating to child welfare; amending s. 39.0138,
3 F.S.; requiring the Department of Children and
4 Families to establish rules and procedures for
5 granting exemptions from criminal history and certain
6 other records checks required for persons being
7 considered for placement of a child; amending s.
8 409.175, F.S.; defining the term "severe disability"
9 and providing an exemption from fingerprint
10 requirements for adult household members with severe
11 disabilities; amending s. 409.991, F.S.; revising the
12 equity allocation formula for community-based care
13 lead agencies; amending s. 435.04, F.S.; requiring
14 certain child care personnel screening to include
15 searches of out-of-state criminal history records and
16 sexual predator and sexual offender registries; adding
17 additional disqualifying offenses to background
18 screening requirements; amending s. 435.07, F.S.;
19 revising the offenses that disqualify certain child
20 care personnel from specified employment; providing an
21 effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:
24

25 Section 1. Subsections (2) through (7) of section 39.0138,

26 Florida Statutes, are renumbered as subsections (3) through (8),
27 respectively, present subsections (2) and (3) are amended, and a
28 new subsection (2) is added to that section, to read:

29 39.0138 Criminal history and other records checks; limit
30 on placement of a child.—

31 (2) (a) The department shall establish rules and procedures
32 for granting an exemption from the fingerprinting requirements
33 under subsection (1) for a household member who has a physical,
34 developmental, or cognitive disability that prevents that person
35 from safely submitting fingerprints.

36 (b) Before granting an exemption, the department or its
37 designee shall assess and document the physical, developmental,
38 or cognitive limitations that justified the exemption and the
39 effect of such limitations on the safety and well-being of the
40 child being placed in the home.

41 (3) (2) The department may not place a child with a person
42 other than a parent if the criminal history records check
43 reveals that the person has been convicted of any felony that
44 falls within any of the following categories:

45 (a) Child abuse, abandonment, or neglect;

46 (b) Domestic violence;

47 (c) Child pornography or other felony in which a child was
48 a victim of the offense; or

49 (d) Homicide or sexual battery, ~~or other felony involving~~
50 ~~violence, other than felony assault or felony battery when an~~

51 ~~adult was the victim of the assault or battery.~~

52 (4)~~(3)~~ The department may not place a child with a person
53 other than a parent if the criminal history records check
54 reveals that the person has, within the previous 5 years, been
55 convicted of a felony that falls within any of the following
56 categories:

57 (a) Assault;

58 (b) Battery; ~~or~~

59 (c) A drug-related offense; or

60 (d) Other felony involving violence.

61 Section 2. Paragraphs (l) and (m) of subsection (2) of
62 section 409.175, Florida Statutes, are redesignated as
63 paragraphs (m) and (n), respectively, a new paragraph (l) is
64 added to that subsection, and paragraph (a) of subsection (6) of
65 that section is amended, to read:

66 409.175 Licensure of family foster homes, residential
67 child-caring agencies, and child-placing agencies; public
68 records exemption.—

69 (2) As used in this section, the term:

70 (1) "Severe disability" means a physical, developmental,
71 or cognitive limitation affecting an individual's ability to
72 safely submit fingerprints.

73 (6) (a) An application for a license shall be made on forms
74 provided, and in the manner prescribed, by the department. The
75 department shall make a determination as to the good moral

76 | character of the applicant based upon screening. The department
 77 | may grant an exemption from fingerprinting requirements,
 78 | pursuant to s. 39.0138, for an adult household member who has a
 79 | severe disability.

80 | Section 3. Paragraph (e) of subsection (1) and subsections
 81 | (2) and (4) of section 409.991, Florida Statutes, are amended to
 82 | read:

83 | 409.991 Allocation of funds for community-based care lead
 84 | agencies.—

85 | (1) As used in this section, the term:

86 | (e) "Proportion of children in care" means the proportion
 87 | of the number of children in care receiving in-home services,
 88 | ~~and~~ the number of children in family support services, and the
 89 | number of children who have entered into ~~in~~ out-of-home care
 90 | with a case management overlay during the most recent 12-month
 91 | period. This subcomponent shall be weighted as follows:

92 | 1. Twenty percent shall be based on children in family
 93 | support services.

94 | 2.1. Fifty ~~Sixty~~ percent shall be based on children in
 95 | out-of-home care.

96 | 3.2. Thirty ~~Forty~~ percent shall be based on children in
 97 | in-home care.

98 | (2) The equity allocation of core services funds shall be
 99 | calculated based on the following weights:

100 | (a) Proportion of the child population shall be weighted

101 as 5 percent of the total.~~†~~

102 (b) Proportion of child abuse hotline workload shall be
103 weighted as 35 ~~45~~ percent of the total.~~†~~ ~~and~~

104 (c) Proportion of children in care shall be weighted as 60
105 ~~80~~ percent of the total.

106 (4) Unless otherwise specified in the General
107 Appropriations Act, any new core services funds shall be
108 allocated based on the equity allocation model for community-
109 based care lead agencies that are funded below their equitable
110 share. Funds allocated pursuant to this subsection shall be
111 weighted based on each community-based care lead agency's
112 relative proportion of the total amount of funding below the
113 equitable share, as follows:

114 (a) Twenty percent of new funding shall be allocated among
115 all community-based care lead agencies.

116 (b) Eighty percent of new funding shall be allocated among
117 community-based care lead agencies that are funded below their
118 equitable share. ~~Funds allocated pursuant to this paragraph~~
119 ~~shall be weighted based on each community-based care lead~~
120 ~~agency's relative proportion of the total amount of funding~~
121 ~~below the equitable share.~~

122 Section 4. Paragraphs (q), (r), and (s) of subsection (2)
123 of section 435.04, Florida Statutes, are redesignated as
124 paragraphs (r), (s), and (t), respectively, present paragraphs
125 (t) through (kk) are redesignated as paragraphs (v) through

126 (mm), respectively, paragraphs (ll) through (zz) are
127 redesignated as paragraphs (oo) through (ccc), respectively, new
128 paragraphs (q), (u), and (nn) are added to that subsection, and
129 paragraph (a) of subsection (1) and subsection (3) are amended,
130 to read:

131 435.04 Level 2 screening standards.—

132 (1)(a) All employees required by law to be screened
133 pursuant to this section must undergo security background
134 investigations as a condition of employment and continued
135 employment which includes, but need not be limited to,
136 fingerprinting for statewide criminal history records checks
137 through the Department of Law Enforcement, and national criminal
138 history records checks through the Federal Bureau of
139 Investigation, and may include local criminal records checks
140 through local law enforcement agencies. In addition, security
141 background investigations of current or prospective child care
142 personnel as defined in s. 402.302(3) shall include a search of
143 the criminal history records and the sexual predator and sexual
144 offender registries of any state in which the current or
145 prospective child care personnel resided during the preceding 5
146 years.

147 (2) The security background investigations under this
148 section must ensure that no persons subject to the provisions of
149 this section have been arrested for and are awaiting final
150 disposition of, have been found guilty of, regardless of

151 adjudication, or entered a plea of nolo contendere or guilty to,
152 or have been adjudicated delinquent and the record has not been
153 sealed or expunged for, any offense prohibited under any of the
154 following provisions of state law or similar law of another
155 jurisdiction:

156 (g) Section 787.06, relating to human trafficking.

157 (u) Section 794.023, relating to sexual battery by
158 multiple perpetrators.

159 (nn) Section 827.10, relating to unlawful desertion of a
160 child.

161 (3) The security background investigations under this
162 section must ensure that no person subject to this section has
163 been arrested for and is awaiting final disposition of, has been
164 found guilty of, regardless of adjudication, or has entered a
165 plea of nolo contendere or guilty to, any offense that
166 constitutes domestic violence as defined in s. 741.28, whether
167 such act was committed in this state or in another jurisdiction.

168 Section 5. Subsection (4) of section 435.07, Florida
169 Statutes, is amended to read:

170 435.07 Exemptions from disqualification.—Unless otherwise
171 provided by law, the provisions of this section apply to
172 exemptions from disqualification for disqualifying offenses
173 revealed pursuant to background screenings required under this
174 chapter, regardless of whether those disqualifying offenses are
175 listed in this chapter or other laws.

176 (4) (a) Disqualification from employment under this chapter
177 may not be removed from, nor may an exemption be granted to, any
178 personnel who is found guilty of, regardless of adjudication, or
179 who has entered a plea of nolo contendere or guilty to, any
180 felony covered by s. 435.03 or s. 435.04 solely by reason of any
181 pardon, executive clemency, or restoration of civil rights.

182 (b) Disqualification from employment under this chapter
183 may not be removed from, nor may an exemption be granted to, any
184 person who is a:

- 185 1. Sexual predator as designated pursuant to s. 775.21;
- 186 2. Career offender pursuant to s. 775.261; or
- 187 3. Sexual offender pursuant to s. 943.0435, unless the
188 requirement to register as a sexual offender has been removed
189 pursuant to s. 943.04354.

190 (c) Disqualification from employment under this chapter
191 may not be removed from, and an exemption may not be granted to,
192 any current or prospective child care personnel, as defined in
193 s. 402.302(3), and such a person is disqualified from employment
194 as child care personnel, regardless of any previous exemptions
195 from disqualification, if the person has been registered as a
196 sex offender as described in 42 U.S.C. s. 9858f(c)(1)(C) or has
197 been arrested for and is awaiting final disposition of, has been
198 convicted or found guilty of, or entered a plea of guilty or
199 nolo contendere to, regardless of adjudication, or has been
200 adjudicated delinquent and the record has not been sealed or

201 expunged for, any offense prohibited under any of the following
202 provisions of state law or a similar law of another
203 jurisdiction:

204 1. A felony offense prohibited under any of the following
205 statutes:

206 a. Chapter 741, relating to domestic violence.

207 b. Section 782.04, relating to murder.

208 c. Section 782.07, relating to manslaughter, aggravated
209 manslaughter of an elderly person or disabled adult, aggravated
210 manslaughter of a child, or aggravated manslaughter of an
211 officer, a firefighter, an emergency medical technician, or a
212 paramedic.

213 d. Section 784.021, relating to aggravated assault.

214 e. Section 784.045, relating to aggravated battery.

215 f. Section 787.01, relating to kidnapping.

216 g. Section 787.025, relating to luring or enticing a
217 child.

218 h. Section 787.04(2), relating to leading, taking,
219 enticing, or removing a minor beyond the state limits, or
220 concealing the location of a minor, with criminal intent pending
221 custody proceedings.

222 i. Section 787.04(3), relating to leading, taking,
223 enticing, or removing a minor beyond the state limits, or
224 concealing the location of a minor, with criminal intent pending
225 dependency proceedings or proceedings concerning alleged abuse

226 or neglect of a minor.

227 j. Section 787.06, relating to human trafficking.

228 ~~k.j.~~ Section 794.011, relating to sexual battery.

229 l. Section 794.023, relating to sexual battery by multiple

230 perpetrators.

231 ~~m.k.~~ Former s. 794.041, relating to sexual activity with

232 or solicitation of a child by a person in familial or custodial

233 authority.

234 n.l. Section 794.05, relating to unlawful sexual activity

235 with certain minors.

236 ~~o.m.~~ Section 794.08, relating to female genital

237 mutilation.

238 p.n. Section 806.01, relating to arson.

239 q.o. Section 826.04, relating to incest.

240 r.p. Section 827.03, relating to child abuse, aggravated

241 child abuse, or neglect of a child.

242 ~~s.q.~~ Section 827.04, relating to contributing to the

243 delinquency or dependency of a child.

244 t.r. Section 827.071, relating to sexual performance by a

245 child.

246 u. Section 827.10, relating to unlawful desertion of a

247 child.

248 ~~v.s.~~ Chapter 847, relating to child pornography.

249 w.t. Section 985.701, relating to sexual misconduct in

250 juvenile justice programs.

251 2. A misdemeanor offense prohibited under any of the
252 following statutes:

253 a. Section 784.03, relating to battery, if the victim of
254 the offense was a minor.

255 b. Section 787.025, relating to luring or enticing a
256 child.

257 c. Chapter 847, relating to child pornography.

258 3. A criminal act committed in another state or under
259 federal law which, if committed in this state, constitutes an
260 offense prohibited under any statute listed in subparagraph 1.
261 or subparagraph 2.

262 Section 6. This act shall take effect July 1, 2018.