

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 for granting exemptions
5 from criminal history and certain other records checks
6 required for persons being considered for placement of
7 a child; requiring level 1 screening for persons
8 granted such exemption; prohibiting placement of a
9 child with persons convicted of a certain felony;
10 amending s. 402.305, F.S.; revising minimum
11 requirements for child care personnel related to
12 screening and fingerprinting; amending s. 409.175,
13 F.S.; defining the term "severe disability" and
14 providing an exemption from fingerprint requirements
15 for adult household members with severe disabilities;
16 amending s. 409.991, F.S.; revising the equity
17 allocation formula for community-based care lead
18 agencies; amending s. 435.07, F.S.; revising the
19 offenses that disqualify certain child care personnel
20 from specified employment; providing an effective
21 date.

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

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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 for granting
 32 an exemption from the fingerprinting requirements under
 33 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 (c) If a fingerprint exemption is granted, a level 1
 42 screening pursuant to s. 435.03 shall be completed on the person
 43 who is granted the exemption.

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

- 48 (a) Child abuse, abandonment, or neglect;
- 49 (b) Domestic violence;
- 50 (c) Child pornography or other felony in which a child was

51 a victim of the offense; or

52 (d) Homicide, sexual battery, or other felony involving
 53 violence, other than felony assault or felony battery when an
 54 adult was the victim of the assault or battery, or resisting
 55 arrest with violence.

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

61 (a) Assault;

62 (b) Battery; ~~or~~

63 (c) A drug-related offense; or

64 (d) Resisting arrest with violence.

65 Section 2. Paragraphs (b), (c), and (d) of subsection (2)
 66 of section 402.305, Florida Statutes, are redesignated as
 67 paragraphs (c), (d), and (e), respectively, paragraph (a) of
 68 subsection (2) is amended, and a new paragraph (b) is added to
 69 that subsection, to read:

70 402.305 Licensing standards; child care facilities.—

71 (2) PERSONNEL.—Minimum standards for child care personnel
 72 shall include minimum requirements as to:

73 (a) Good moral character based upon screening as defined
 74 in s. 402.302(15). This screening shall be conducted as provided
 75 in chapter 435, using the level 2 standards for screening set

76 | forth in that chapter, and include employment history checks, a
77 | search of criminal history records, sexual predator and sexual
78 | offender registries, and child abuse and neglect registry of any
79 | state in which the current or prospective child care personnel
80 | resided during the preceding 5 years.

81 | (b) Fingerprint submission for child care personnel, which
82 | shall comply with s. 435.12.

83 | Section 3. Paragraphs (l) and (m) of subsection (2) of
84 | section 409.175, Florida Statutes, are redesignated as
85 | paragraphs (m) and (n), respectively, a new paragraph (l) is
86 | added to that subsection, and paragraph (a) of subsection (6) of
87 | that section is amended, to read:

88 | 409.175 Licensure of family foster homes, residential
89 | child-caring agencies, and child-placing agencies; public
90 | records exemption.—

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

92 | (l) "Severe disability" means a physical, developmental,
93 | or cognitive limitation affecting an individual's ability to
94 | safely submit fingerprints.

95 | (6) (a) An application for a license shall be made on forms
96 | provided, and in the manner prescribed, by the department. The
97 | department shall make a determination as to the good moral
98 | character of the applicant based upon screening. The department
99 | may grant an exemption from fingerprinting requirements,
100 | pursuant to s. 39.0138, for an adult household member who has a

101 severe disability.

102 Section 4. Paragraph (e) of subsection (1) and subsections
103 (2) and (4) of section 409.991, Florida Statutes, are amended to
104 read:

105 409.991 Allocation of funds for community-based care lead
106 agencies.—

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

108 (e) "Proportion of children in care" means the proportion
109 of the number of children in care receiving in-home services
110 over the most recent 12-month period, the number of children
111 whose families are receiving family support services over the
112 most recent 12-month period, and the number of children who have
113 entered into ~~in~~ out-of-home care with a case management overlay
114 during the most recent 24-month ~~12-month~~ period. This
115 subcomponent shall be weighted as follows:

116 1. Fifteen percent shall be based on children whose
117 families are receiving family support services.

118 ~~2.1. Fifty-five~~ Sixty percent shall be based on children
119 in out-of-home care.

120 ~~3.2. Thirty~~ Forty percent shall be based on children in
121 in-home care.

122 (2) The equity allocation of core services funds shall be
123 calculated based on the following weights:

124 (a) Proportion of the child population shall be weighted
125 as 5 percent of the total.~~†~~

126 (b) Proportion of child abuse hotline workload shall be
 127 weighted as 35 ~~15~~ percent of the total. ~~;~~ and

128 (c) Proportion of children in care shall be weighted as 60
 129 ~~80~~ percent of the total.

130 (4) Unless otherwise specified in the General
 131 Appropriations Act, any new core services funds shall be
 132 allocated based on the equity allocation model as follows:

133 (a) Seventy ~~Twenty~~ percent of new funding shall be
 134 allocated among all community-based care lead agencies.

135 (b) Thirty ~~Eighty~~ percent of new funding shall be
 136 allocated among community-based care lead agencies that are
 137 funded below their equitable share. Funds allocated pursuant to
 138 this paragraph shall be weighted based on each community-based
 139 care lead agency's relative proportion of the total amount of
 140 funding below the equitable share.

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

143 435.07 Exemptions from disqualification.—Unless otherwise
 144 provided by law, the provisions of this section apply to
 145 exemptions from disqualification for disqualifying offenses
 146 revealed pursuant to background screenings required under this
 147 chapter, regardless of whether those disqualifying offenses are
 148 listed in this chapter or other laws.

149 (4) (a) Disqualification from employment under this chapter
 150 may not be removed from, nor may an exemption be granted to, any

151 personnel who is found guilty of, regardless of adjudication, or
152 who has entered a plea of nolo contendere or guilty to, any
153 felony covered by s. 435.03 or s. 435.04 solely by reason of any
154 pardon, executive clemency, or restoration of civil rights.

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

- 158 1. Sexual predator as designated pursuant to s. 775.21;
- 159 2. Career offender pursuant to s. 775.261; or
- 160 3. Sexual offender pursuant to s. 943.0435, unless the
161 requirement to register as a sexual offender has been removed
162 pursuant to s. 943.04354.

163 (c) Disqualification from employment under this chapter
164 may not be removed from, and an exemption may not be granted to,
165 any current or prospective child care personnel, as defined in
166 s. 402.302(3), and such a person is disqualified from employment
167 as child care personnel, regardless of any previous exemptions
168 from disqualification, if the person has been registered as a
169 sex offender as described in 42 U.S.C. s. 9858f(c)(1)(C) or has
170 been arrested for and is awaiting final disposition of, has been
171 convicted or found guilty of, or entered a plea of guilty or
172 nolo contendere to, regardless of adjudication, or has been
173 adjudicated delinquent and the record has not been sealed or
174 expunged for, any offense prohibited under any of the following
175 provisions of state law or a similar law of another

176 jurisdiction:

177 1. A felony offense prohibited under any of the following
 178 statutes:

179 a. Chapter 741, relating to domestic violence.

180 b. Section 782.04, relating to murder.

181 c. Section 782.07, relating to manslaughter, aggravated
 182 manslaughter of an elderly person or disabled adult, aggravated
 183 manslaughter of a child, or aggravated manslaughter of an
 184 officer, a firefighter, an emergency medical technician, or a
 185 paramedic.

186 d. Section 784.021, relating to aggravated assault.

187 e. Section 784.045, relating to aggravated battery.

188 f. Section 787.01, relating to kidnapping.

189 g. Section 787.025, relating to luring or enticing a
 190 child.

191 h. Section 787.04(2), relating to leading, taking,
 192 enticing, or removing a minor beyond the state limits, or
 193 concealing the location of a minor, with criminal intent pending
 194 custody proceedings.

195 i. Section 787.04(3), relating to leading, taking,
 196 enticing, or removing a minor beyond the state limits, or
 197 concealing the location of a minor, with criminal intent pending
 198 dependency proceedings or proceedings concerning alleged abuse
 199 or neglect of a minor.

200 j. Section 794.011, relating to sexual battery.

201 k. Former s. 794.041, relating to sexual activity with or
 202 solicitation of a child by a person in familial or custodial
 203 authority.

204 l. Section 794.05, relating to unlawful sexual activity
 205 with certain minors.

206 m. Section 794.08, relating to female genital mutilation.

207 n. Section 806.01, relating to arson.

208 o. Section 826.04, relating to incest.

209 p. Section 827.03, relating to child abuse, aggravated
 210 child abuse, or neglect of a child.

211 q. Section 827.04, relating to contributing to the
 212 delinquency or dependency of a child.

213 r. Section 827.071, relating to sexual performance by a
 214 child.

215 s. Chapter 847, relating to child pornography.

216 t. Chapter 893, relating to drug abuse prevention and
 217 control.

218 ~~u.~~ Section 985.701, relating to sexual misconduct in
 219 juvenile justice programs.

220 2. A misdemeanor offense prohibited under any of the
 221 following statutes:

222 a. Section 784.03, relating to battery, if the victim of
 223 the offense was a minor.

224 b. Section 787.025, relating to luring or enticing a
 225 child.

226 | c. Chapter 847, relating to child pornography.

227 | 3. A criminal act committed in another state or under
228 | federal law which, if committed in this state, constitutes an
229 | offense prohibited under any statute listed in subparagraph 1.
230 | or subparagraph 2.

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