

By Senator Perry

8-00930A-20

20201404\_\_

1                                   A bill to be entitled  
2       An act relating to the Department of Financial  
3       Services; amending s. 20.121, F.S.; specifying powers  
4       and duties of the Division of Public Assistance Fraud;  
5       amending s. 497.101, F.S.; revising provisions  
6       relating to membership of the Board of Funeral,  
7       Cemetery, and Consumer Services; deleting a  
8       requirement for the department to adopt certain rules;  
9       creating s. 497.1411, F.S.; defining terms; providing  
10      for permanent disqualification of applicants for  
11      licensure under ch. 497, F.S., for certain offenses;  
12      providing for disqualifying periods for applicants for  
13      certain offenses; requiring the department to adopt  
14      rules; providing for calculation of disqualifying  
15      periods; providing conditions for licensure after  
16      completion of a disqualifying period; providing for  
17      the effect of a pardon or clemency; providing for  
18      exemptions from disqualification in certain  
19      circumstances; providing procedures for consideration  
20      of applications for such exemptions; providing  
21      construction; amending s. 497.157, F.S.; prohibiting  
22      persons from acting as or advertising themselves as  
23      being funeral directors, embalmers, direct disposers,  
24      or preneed sales agents unless they are so licensed;  
25      prohibiting persons from engaging in certain  
26      activities requiring licensure without holding  
27      required licenses; providing criminal penalties;  
28      amending s. 552.081, F.S.; revising the definition of  
29      the term "two-component explosives" for the purpose of

8-00930A-20

20201404\_\_

30 regulation by the Division of State Fire Marshal;  
31 amending s. 553.7921, F.S.; authorizing a contractor  
32 repairing certain existing fire alarm systems to begin  
33 work after filing an application for a required permit  
34 but before receiving the permit; providing  
35 construction; amending s. 633.416, F.S.; providing  
36 that certain persons serving as volunteer firefighters  
37 may serve as a regular or permanent firefighter for a  
38 limited period, subject to certain restrictions;  
39 amending s. 843.08, F.S.; prohibiting false  
40 personation of personnel or representatives of the  
41 Division of Investigative and Forensic Services;  
42 providing criminal penalties; amending s. 943.045,  
43 F.S.; revising the definition of the term "criminal  
44 justice agency" to include the investigations  
45 component of the department which investigates certain  
46 crimes; providing an effective date.

47  
48 Be It Enacted by the Legislature of the State of Florida:

49  
50 Section 1. Paragraph (f) of subsection (2) of section  
51 20.121, Florida Statutes, is amended to read:

52 20.121 Department of Financial Services.—There is created a  
53 Department of Financial Services.

54 (2) DIVISIONS.—The Department of Financial Services shall  
55 consist of the following divisions and office:

56 (f) The Division of Public Assistance Fraud, which shall  
57 function as a criminal justice agency for purposes of ss.  
58 943.045-943.08. The division shall conduct investigations

8-00930A-20

20201404\_\_

59 pursuant to s. 414.411 within or outside of this state as it  
60 deems necessary. If, during an investigation, the division has  
61 reason to believe that any criminal law of this state has or may  
62 have been violated, it shall refer any records tending to show  
63 such violation to state or federal law enforcement or  
64 prosecutorial agencies and shall provide investigative  
65 assistance to those agencies as required.

66 Section 2. Subsections (1), (2), (3), (6), and (8) of  
67 section 497.101, Florida Statutes, are amended to read:

68 497.101 Board of Funeral, Cemetery, and Consumer Services;  
69 membership; appointment; terms.—

70 (1) The Board of Funeral, Cemetery, and Consumer Services  
71 is created within the Department of Financial Services and shall  
72 consist of 10 members, 9 of whom shall be appointed by the  
73 Governor from nominations made by the Chief Financial Officer  
74 and confirmed by the Senate. The Chief Financial Officer shall  
75 nominate one to three persons for each of the nine vacancies on  
76 the board, and the Governor shall fill each vacancy on the board  
77 by appointing one of the ~~three~~ persons nominated by the Chief  
78 Financial Officer to fill that vacancy. If the Governor objects  
79 to each of the ~~three~~ nominations for a vacancy, she or he shall  
80 inform the Chief Financial Officer in writing. Upon notification  
81 of an objection by the Governor, the Chief Financial Officer  
82 shall submit one to three additional nominations for that  
83 vacancy until the vacancy is filled. One member must be the  
84 State Health Officer or her or his designee.

85 (2) Two members of the board shall be funeral directors  
86 licensed under part III of this chapter who are associated with  
87 a funeral establishment. One member of the board shall be a

8-00930A-20

20201404\_\_

88 funeral director licensed under part III of this chapter who is  
89 associated with a funeral establishment licensed under part III  
90 of this chapter that has a valid preneed license issued pursuant  
91 to this chapter and who owns or operates a cinerator facility  
92 approved under chapter 403 and licensed under part VI of this  
93 chapter. Two members of the board shall be persons whose primary  
94 occupation is associated with a cemetery company licensed  
95 pursuant to this chapter. Two ~~Three~~ members of the board shall  
96 be consumers who are residents of the state, have never been  
97 licensed as funeral directors or embalmers, are not connected  
98 with a cemetery or cemetery company licensed pursuant to this  
99 chapter, and are not connected with the death care industry or  
100 the practice of embalming, funeral directing, or direct  
101 disposition. One of the two consumer members shall be at least  
102 60 years of age, ~~and one shall be licensed as a certified public~~  
103 ~~accountant under chapter 473.~~ One member of the board shall be a  
104 consumer who is a resident of this state; is licensed as a  
105 certified public accountant under chapter 473; has never been  
106 licensed as a funeral director or embalmer; is not a principal  
107 or employee of any licensee licensed under this chapter; and  
108 does not otherwise have control, as defined in s. 497.005, over  
109 any licensee licensed under this chapter. One member of the  
110 board shall be a principal of a monument establishment licensed  
111 under this chapter as a monument builder. One member shall be  
112 the State Health Officer or her or his designee. There shall not  
113 be two or more board members who are principals or employees of  
114 the same company or partnership or group of companies or  
115 partnerships under common control.

116 (3) Board members shall be appointed for terms of 4 years,

8-00930A-20

20201404\_\_

117 and the State Health Officer shall serve as long as that person  
118 holds that office. The designee of the State Health Officer  
119 shall serve at the pleasure of the Governor. ~~When the terms of~~  
120 ~~the initial board members expire, the Chief Financial Officer~~  
121 ~~shall stagger the terms of the successor members as follows: one~~  
122 ~~funeral director, one cemetery representative, the monument~~  
123 ~~builder, and one consumer member shall be appointed for terms of~~  
124 ~~2 years, and the remaining members shall be appointed for terms~~  
125 ~~of 4 years. All subsequent terms shall be for 4 years.~~

126 (6) The headquarters and records of the board shall be in  
127 the Division of Funeral, Cemetery, and Consumer Services of the  
128 Department of Financial Services in the City of Tallahassee. The  
129 board may be contacted through the Division of Funeral,  
130 Cemetery, and Consumer Services of the Department of Financial  
131 Services in the City of Tallahassee. The Chief Financial Officer  
132 shall annually appoint from among the board members a chair and  
133 vice chair of the board. The board shall meet at least every 6  
134 months, and more often as necessary. Special meetings of the  
135 board shall be convened upon the direction of the Chief  
136 Financial Officer. A quorum is necessary for the conduct of  
137 business by the board. Unless otherwise provided by law, a  
138 majority of the board members eligible to vote shall constitute  
139 a quorum for the purpose of conducting its business ~~six board~~  
140 ~~members shall constitute a quorum for the conduct of the board's~~  
141 ~~business.~~

142 ~~(8) The department shall adopt rules establishing forms by~~  
143 ~~which persons may apply for membership on the board and~~  
144 ~~procedures for applying for such membership. Such forms shall~~  
145 ~~require disclosure of the existence and nature of all current~~

8-00930A-20

20201404\_\_

146 ~~and past employments by or contracts with, and direct or~~  
147 ~~indirect affiliations or interests in, any entity or business~~  
148 ~~that at any time was licensed by the board or by the former~~  
149 ~~Board of Funeral and Cemetery Services or the former Board of~~  
150 ~~Funeral Directors and Embalmers or that is or was otherwise~~  
151 ~~involved in the death care industry, as specified by department~~  
152 ~~rule.~~

153 Section 3. Section 497.1411, Florida Statutes, is created  
154 to read:

155 497.1411 Disqualification of applicants and licensees;  
156 penalties against licensees; rulemaking.-

157 (1) For purposes of this section, the term:

158 (a) "Applicant" means an individual applying for licensure  
159 or relicensure under this chapter, and an officer, a director, a  
160 majority owner, a partner, a manager, or other person who  
161 manages or controls an entity applying for licensure or  
162 relicensure under this chapter.

163 (b) "Felony of the first degree" and "capital felony"  
164 include all felonies designated as such in this state at the  
165 time of the commission of the offense, as well as any offense in  
166 another jurisdiction that is substantially similar to an offense  
167 so designated in this state.

168 (c) "Financial services business" means any financial  
169 activity regulated by the department, the Office of Insurance  
170 Regulation, or the Office of Financial Regulation.

171 (2) An applicant who has been found guilty of or has  
172 pleaded guilty or nolo contendere to any of the following  
173 crimes, regardless of adjudication, is permanently barred from  
174 licensure under this chapter:

8-00930A-20

20201404\_\_

175       (a) A felony of the first degree.  
176       (b) A capital felony.  
177       (c) A felony money laundering offense.  
178       (d) A felony embezzlement.  
179       (3) An applicant who has been found guilty of or has  
180 pleaded guilty or nolo contendere to a crime not included in  
181 subsection (2), regardless of adjudication, is subject to:  
182       (a) A 10-year disqualifying period for all felonies  
183 involving moral turpitude that are not specifically included in  
184 the permanent bar contained in subsection (2).  
185       (b) A 5-year disqualifying period for all felonies to which  
186 neither the permanent bar in subsection (2) nor the 10-year  
187 disqualifying period in paragraph (a) applies.  
188       (c) A 5-year disqualifying period for all misdemeanors  
189 directly related to the financial services business.  
190       (4) The department shall adopt rules to administer this  
191 section. The rules must provide for additional disqualifying  
192 periods due to the commitment of multiple crimes and may include  
193 other factors reasonably related to the applicant's criminal  
194 history. The rules shall provide for mitigating and aggravating  
195 factors. However, mitigation may not result in a period of  
196 disqualification of less than 5 years and may not mitigate the  
197 disqualifying periods in paragraphs (3) (b) and (c).  
198       (5) For purposes of this section, a disqualifying period  
199 begins upon the applicant's final release from supervision or  
200 upon completion of the applicant's criminal sentence. The  
201 department may not issue a license to an applicant unless all  
202 related fines, court costs and fees, and court-ordered  
203 restitution have been paid.

8-00930A-20

20201404\_\_

204       (6) After the disqualifying period has expired, the burden  
205 is on the applicant to demonstrate that he or she has been  
206 rehabilitated, does not pose a risk to the public, is fit and  
207 trustworthy to engage in business regulated by this chapter, and  
208 is otherwise qualified for licensure.

209       (7) Notwithstanding subsections (2) and (3), upon a grant  
210 of a pardon or the restoration of civil rights pursuant to  
211 chapter 940 and s. 8, Art. IV of the State Constitution with  
212 respect to a finding of guilt or a plea under subsection (2) or  
213 subsection (3), or such pardon or the restoration of civil  
214 rights under the laws of another jurisdiction with respect to a  
215 conviction in that jurisdiction, such finding or plea no longer  
216 bars or disqualifies the applicant from licensure under this  
217 chapter; however, such a pardon or restoration of civil rights  
218 does not require the department to award such license.

219       (8) (a) The Board of Funeral, Cemetery, and Consumer  
220 Services may grant an exemption from disqualification to any  
221 person disqualified from licensure under this section because of  
222 a criminal record if:

223           1. The applicant has paid in full any fee, fine, fund,  
224 lien, civil judgment, restitution, or cost of prosecution  
225 imposed by the court as part of the judgment and sentence for  
226 any disqualifying offense; and

227           2. At least 5 years have elapsed since the applicant  
228 completed or has been lawfully released from confinement,  
229 supervision, or nonmonetary condition imposed by the court for a  
230 disqualifying offense.

231       (b) For the board to grant an exemption under this  
232 subsection, the applicant must clearly and convincingly



8-00930A-20

20201404\_\_

233 demonstrate that he or she would not pose a risk to persons or  
234 property if licensed under this chapter, evidence of which must  
235 include, but need not be limited to, facts and circumstances  
236 surrounding the disqualifying offense, the time that has elapsed  
237 since the offense, the nature of the offense and harm caused to  
238 the victim, the applicant's history before and after the  
239 offense, and any other evidence or circumstances indicating that  
240 the applicant will not present a danger if licensed or  
241 certified.

242 (c) The board has discretion whether to grant or deny an  
243 exemption under this subsection. The board's decision is subject  
244 to chapter 120, except that a formal proceeding under s.  
245 120.57(1) is available only if there are disputed issues of  
246 material fact that the department relied upon in reaching its  
247 decision.

248 Section 4. Present subsections (2) through (5) of section  
249 497.157, Florida Statutes, are redesignated as subsections (4)  
250 through (7), respectively, new subsections (2) and (3) and  
251 subsection (8) are added to that section, and present subsection  
252 (3) of that section is amended, to read:

253 497.157 Unlicensed practice; remedies concerning violations  
254 by unlicensed persons.—

255 (2) A person may not be, act as, or advertise or hold  
256 himself or herself out to be a funeral director, embalmer, or  
257 direct disposer unless he or she is currently licensed by the  
258 department.

259 (3) A person may not be, act as, or advertise or hold  
260 himself or herself out to be a preneed sales agent unless he or  
261 she is currently licensed by the department and appointed by a

8-00930A-20

20201404\_\_

262 preneed main licensee for which they are executing preneed  
263 contracts.

264 (5)~~(3)~~ Where the department determines that an emergency  
265 exists regarding any violation of this chapter by any unlicensed  
266 person or entity, the department may issue and serve an  
267 immediate final order upon such unlicensed person or entity, in  
268 accordance with s. 120.569(2) (n). Such an immediate final order  
269 may impose such prohibitions and requirements as are reasonably  
270 necessary to protect the public health, safety, and welfare, and  
271 shall be effective when served.

272 (a) For the purpose of enforcing such an immediate final  
273 order, the department may file an emergency or other proceeding  
274 in the circuit courts of the state seeking enforcement of the  
275 immediate final order by injunctive or other order of the court.  
276 The court shall issue its injunction or other order enforcing  
277 the immediate final order pending administrative resolution of  
278 the matter under subsection (4) ~~(2)~~, unless the court determines  
279 that such action would work a manifest injustice under the  
280 circumstances. Venue for judicial actions under this paragraph  
281 shall be, at the election of the department, in the courts of  
282 Leon County, or in a county where the respondent resides or has  
283 a place of business.

284 (b) After serving an immediate final order to cease and  
285 desist upon any person or entity, the department shall within 10  
286 days issue and serve upon the same person or entity an  
287 administrative complaint as set forth in subsection (4) ~~(2)~~,  
288 except that, absent order of a court to the contrary, the  
289 immediate final order shall be effective throughout the pendency  
290 of proceedings under subsection (4) ~~(2)~~.

8-00930A-20

20201404\_\_

291 (8) Any person who is not licensed under this chapter and  
 292 who engages in activity requiring licensure under this chapter  
 293 commits a felony of the third degree, punishable as provided in  
 294 s. 775.082, s. 775.083, or s. 775.084.

295 Section 5. Subsection (13) of section 552.081, Florida  
 296 Statutes, is amended to read:

297 552.081 Definitions.—As used in this chapter:

298 (13) "Two-component explosives" means any two inert  
 299 components which, when mixed, become capable of detonation by  
 300 any detonator ~~a No. 6 blasting cap~~, and shall be classified as a  
 301 Class "A" explosive when so mixed.

302 Section 6. Present subsection (2) of section 553.7921,  
 303 Florida Statutes, is redesignated as subsection (3), a new  
 304 subsection (2) is added to that section, and subsection (1) of  
 305 that section is amended, to read:

306 553.7921 Fire alarm permit application to local enforcement  
 307 agency.—

308 (1) A contractor must file a Uniform Fire Alarm Permit  
 309 Application as provided in subsection (3) ~~(2)~~ with the local  
 310 enforcement agency and must receive the fire alarm permit  
 311 before:

312 ~~(a) installing or replacing a fire alarm, if the local~~  
 313 ~~enforcement agency requires a plan review for the installation~~  
 314 ~~or replacement; or~~

315 ~~(b) Repairing an existing alarm system that was previously~~  
 316 ~~permitted by the local enforcement agency if the local~~  
 317 ~~enforcement agency requires a fire alarm permit for the repair.~~

318 (2) If the local enforcement agency requires a fire alarm  
 319 permit to repair an existing alarm system that was previously

8-00930A-20

20201404\_\_

320 permitted by the local enforcement agency, a contractor may  
321 begin work after filing a Uniform Fire Alarm Permit Application  
322 as provided in subsection (3). A fire alarm repaired pursuant to  
323 this subsection may not be considered compliant until the  
324 required permit is issued and the local enforcement agency  
325 approves the repair.

326 Section 7. Subsection (1) of section 633.416, Florida  
327 Statutes, is amended to read:

328 633.416 Firefighter employment and volunteer firefighter  
329 service; saving clause.—

330 (1) A fire service provider may not employ an individual  
331 to:

332 (a) Extinguish fires for the protection of life or property  
333 or to supervise individuals who perform such services unless the  
334 individual holds a current and valid Firefighter Certificate of  
335 Compliance. However, a person who is currently serving as a  
336 volunteer firefighter and holds a volunteer firefighter  
337 certificate of completion with a fire service provider, who is  
338 then employed as a regular or permanent firefighter by such fire  
339 service provider, may function, for a period of 1 year under the  
340 direct supervision of an individual holding a valid firefighter  
341 certificate of compliance, in the same capacity in which he or  
342 she acted as a volunteer firefighter, provided that he or she  
343 has completed all training required by the volunteer  
344 organization. Under no circumstance can this period extend  
345 beyond 1 year either collectively or consecutively from the  
346 start of employment to obtain a Firefighter Certificate of  
347 Compliance; or

348 (b) Serve as the administrative and command head of a fire

8-00930A-20

20201404\_\_

349 service provider for a period in excess of 1 year unless the  
350 individual holds a current and valid Firefighter Certificate of  
351 Compliance or Special Certificate of Compliance.

352 Section 8. Section 843.08, Florida Statutes, is amended to  
353 read:

354 843.08 False personation.—A person who falsely assumes or  
355 pretends to be a firefighter, a sheriff, an officer of the  
356 Florida Highway Patrol, an officer of the Fish and Wildlife  
357 Conservation Commission, an officer of the Department of  
358 Environmental Protection, ~~a fire or arson investigator of the~~  
359 ~~Department of Financial Services,~~ an officer of the Department  
360 of Financial Services, any personnel or representative of the  
361 Division of Investigative and Forensic Services, an officer of  
362 the Department of Corrections, a correctional probation officer,  
363 a deputy sheriff, a state attorney or an assistant state  
364 attorney, a statewide prosecutor or an assistant statewide  
365 prosecutor, a state attorney investigator, a coroner, a police  
366 officer, a lottery special agent or lottery investigator, a  
367 beverage enforcement agent, a school guardian as described in s.  
368 30.15(1)(k), a security officer licensed under chapter 493, any  
369 member of the Florida Commission on Offender Review or any  
370 administrative aide or supervisor employed by the commission,  
371 any personnel or representative of the Department of Law  
372 Enforcement, or a federal law enforcement officer as defined in  
373 s. 901.1505, and takes upon himself or herself to act as such,  
374 or to require any other person to aid or assist him or her in a  
375 matter pertaining to the duty of any such officer, commits a  
376 felony of the third degree, punishable as provided in s.  
377 775.082, s. 775.083, or s. 775.084. However, a person who

8-00930A-20

20201404\_\_

378 falsely personates any such officer during the course of the  
379 commission of a felony commits a felony of the second degree,  
380 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.  
381 If the commission of the felony results in the death or personal  
382 injury of another human being, the person commits a felony of  
383 the first degree, punishable as provided in s. 775.082, s.  
384 775.083, or s. 775.084.

385 Section 9. Paragraph (f) is added to subsection (11) of  
386 section 943.045, Florida Statutes, to read:

387 943.045 Definitions; ss. 943.045-943.08.—The following  
388 words and phrases as used in ss. 943.045-943.08 shall have the  
389 following meanings:

390 (11) "Criminal justice agency" means:

391 (f) The investigations component of the Department of  
392 Financial Services which investigates the crimes of fraud and  
393 official misconduct in all public assistance given to residents  
394 of the state or provided to others by the state.

395 Section 10. This act shall take effect July 1, 2020.