

By the Committee on Banking and Insurance; and Senator Perry

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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

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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; creating s. 633.217, F.S.; prohibiting
36 certain acts to influence a firesafety inspector into
37 violating certain laws; prohibiting a firesafety
38 inspector from knowingly and willfully accepting an
39 attempt to influence him or her into violating certain
40 laws; amending s. 633.416, F.S.; providing that
41 certain persons serving as volunteer firefighters may
42 serve as a regular or permanent firefighter for a
43 limited period, subject to certain restrictions;
44 amending s. 843.08, F.S.; prohibiting false
45 personation of personnel or representatives of the
46 Division of Investigative and Forensic Services;
47 providing criminal penalties; amending s. 943.045,
48 F.S.; revising the definition of the term "criminal
49 justice agency" to include the investigations
50 component of the department which investigates certain
51 crimes; providing an effective date.

52
53 Be It Enacted by the Legislature of the State of Florida:

54
55 Section 1. Paragraph (f) of subsection (2) of section
56 20.121, Florida Statutes, is amended to read:

57 20.121 Department of Financial Services.—There is created a
58 Department of Financial Services.

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

61 (f) The Division of Public Assistance Fraud, which shall
62 function as a criminal justice agency for purposes of ss.
63 943.045-943.08. The division shall conduct investigations
64 pursuant to s. 414.411 within or outside of this state as it
65 deems necessary. If, during an investigation, the division has
66 reason to believe that any criminal law of this state has or may
67 have been violated, it shall refer any records tending to show
68 such violation to state or federal law enforcement or
69 prosecutorial agencies and shall provide investigative
70 assistance to those agencies as required.

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

73 497.101 Board of Funeral, Cemetery, and Consumer Services;
74 membership; appointment; terms.—

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

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88 vacancy until the vacancy is filled. One member must be the
89 State Health Officer or her or his designee.

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

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117 the State Health Officer or her or his designee. There shall not
118 be two or more board members who are principals or employees of
119 the same company or partnership or group of companies or
120 partnerships under common control.

121 (3) Board members shall be appointed for terms of 4 years,
122 and the State Health Officer shall serve as long as that person
123 holds that office. The designee of the State Health Officer
124 shall serve at the pleasure of the Governor. ~~When the terms of~~
125 ~~the initial board members expire, the Chief Financial Officer~~
126 ~~shall stagger the terms of the successor members as follows: one~~
127 ~~funeral director, one cemetery representative, the monument~~
128 ~~builder, and one consumer member shall be appointed for terms of~~
129 ~~2 years, and the remaining members shall be appointed for terms~~
130 ~~of 4 years. All subsequent terms shall be for 4 years.~~

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

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146 business.

147 ~~(8) The department shall adopt rules establishing forms by~~
148 ~~which persons may apply for membership on the board and~~
149 ~~procedures for applying for such membership. Such forms shall~~
150 ~~require disclosure of the existence and nature of all current~~
151 ~~and past employments by or contracts with, and direct or~~
152 ~~indirect affiliations or interests in, any entity or business~~
153 ~~that at any time was licensed by the board or by the former~~
154 ~~Board of Funeral and Cemetery Services or the former Board of~~
155 ~~Funeral Directors and Embalmers or that is or was otherwise~~
156 ~~involved in the death care industry, as specified by department~~
157 ~~rule.~~

158 Section 3. Section 497.1411, Florida Statutes, is created
159 to read:

160 497.1411 Disqualification of applicants and licensees;
161 penalties against licensees; rulemaking.-

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

163 (a) "Applicant" means an individual applying for licensure
164 or relicensure under this chapter, and an officer, a director, a
165 majority owner, a partner, a manager, or other person who
166 manages or controls an entity applying for licensure or
167 relicensure under this chapter.

168 (b) "Felony of the first degree" and "capital felony"
169 include all felonies designated as such in this state at the
170 time of the commission of the offense, as well as any offense in
171 another jurisdiction that is substantially similar to an offense
172 so designated in this state.

173 (c) "Financial services business" means any financial
174 activity regulated by the department, the Office of Insurance

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175 Regulation, or the Office of Financial Regulation.

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

180 (a) A felony of the first degree.

181 (b) A capital felony.

182 (c) A felony money laundering offense.

183 (d) A felony embezzlement.

184 (3) An applicant who has been found guilty of or has
185 pleaded guilty or nolo contendere to a crime not included in
186 subsection (2), regardless of adjudication, is subject to:

187 (a) A 10-year disqualifying period for all felonies
188 involving moral turpitude that are not specifically included in
189 the permanent bar contained in subsection (2).

190 (b) A 5-year disqualifying period for all felonies to which
191 neither the permanent bar in subsection (2) nor the 10-year
192 disqualifying period in paragraph (a) applies.

193 (c) A 5-year disqualifying period for all misdemeanors
194 directly related to the financial services business.

195 (4) The department shall adopt rules to administer this
196 section. The rules must provide for additional disqualifying
197 periods due to the commitment of multiple crimes and may include
198 other factors reasonably related to the applicant's criminal
199 history. The rules shall provide for mitigating and aggravating
200 factors. However, mitigation may not result in a period of
201 disqualification of less than 5 years and may not mitigate the
202 disqualifying periods in paragraphs (3) (b) and (c).

203 (5) For purposes of this section, a disqualifying period

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204 begins upon the applicant's final release from supervision or
205 upon completion of the applicant's criminal sentence. The
206 department may not issue a license to an applicant unless all
207 related fines, court costs and fees, and court-ordered
208 restitution have been paid.

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

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

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

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

232 2. At least 5 years have elapsed since the applicant

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233 completed or has been lawfully released from confinement,
234 supervision, or nonmonetary condition imposed by the court for a
235 disqualifying offense.

236 (b) For the board to grant an exemption under this
237 subsection, the applicant must clearly and convincingly
238 demonstrate that he or she would not pose a risk to persons or
239 property if licensed under this chapter, evidence of which must
240 include, but need not be limited to, facts and circumstances
241 surrounding the disqualifying offense, the time that has elapsed
242 since the offense, the nature of the offense and harm caused to
243 the victim, the applicant's history before and after the
244 offense, and any other evidence or circumstances indicating that
245 the applicant will not present a danger if licensed or
246 certified.

247 (c) The board has discretion whether to grant or deny an
248 exemption under this subsection. The board's decision is subject
249 to chapter 120, except that a formal proceeding under s.
250 120.57(1) is available only if there are disputed issues of
251 material fact that the department relied upon in reaching its
252 decision.

253 Section 4. Present subsections (2) through (5) of section
254 497.157, Florida Statutes, are redesignated as subsections (4)
255 through (7), respectively, new subsections (2) and (3) and
256 subsection (8) are added to that section, and present subsection
257 (3) of that section is amended, to read:

258 497.157 Unlicensed practice; remedies concerning violations
259 by unlicensed persons.—

260 (2) A person may not be, act as, or advertise or hold
261 himself or herself out to be a funeral director, embalmer, or

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262 direct disposer unless he or she is currently licensed by the
263 department.

264 (3) A person may not be, act as, or advertise or hold
265 himself or herself out to be a preneed sales agent unless he or
266 she is currently licensed by the department and appointed by a
267 preneed main licensee for which they are executing preneed
268 contracts.

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

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

289 (b) After serving an immediate final order to cease and
290 desist upon any person or entity, the department shall within 10

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291 days issue and serve upon the same person or entity an
 292 administrative complaint as set forth in subsection (4) ~~(2)~~,
 293 except that, absent order of a court to the contrary, the
 294 immediate final order shall be effective throughout the pendency
 295 of proceedings under subsection (4) ~~(2)~~.

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

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

302 552.081 Definitions.—As used in this chapter:

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

307 Section 6. Present subsection (2) of section 553.7921,
 308 Florida Statutes, is redesignated as subsection (3), a new
 309 subsection (2) is added to that section, and subsection (1) of
 310 that section is amended, to read:

311 553.7921 Fire alarm permit application to local enforcement
 312 agency.—

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

317 ~~(a)~~ installing or replacing a fire alarm, if the local
 318 enforcement agency requires a plan review for the installation
 319 or replacement; ~~or~~

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

323 (2) If the local enforcement agency requires a fire alarm
324 permit to repair an existing alarm system that was previously
325 permitted by the local enforcement agency, a contractor may
326 begin work after filing a Uniform Fire Alarm Permit Application
327 as provided in subsection (3). A fire alarm repaired pursuant to
328 this subsection may not be considered compliant until the
329 required permit is issued and the local enforcement agency
330 approves the repair.

331 Section 7. Section 633.217, Florida Statutes, is created to
332 read:

333 633.217 Influencing a firesafety inspector; prohibited
334 acts.—

335 (1) A person may not influence a firesafety inspector by:

336 (a) Threatening, coercing, tricking, or attempting to
337 threaten, coerce, or trick, the firesafety inspector into
338 violating any provision of the Florida Fire Prevention Code, any
339 rule adopted by the State Fire Marshal, or any provision of this
340 chapter.

341 (b) Offering any compensation to the firesafety inspector
342 to induce a violation of the Florida Fire Prevention Code, any
343 rule adopted by the State Fire Marshal, or any provision of this
344 chapter.

345 (2) A firesafety inspector may not knowingly and willfully
346 accept an attempt by a person to influence the firesafety
347 inspector into violating any provision of the Florida Fire
348 Prevention Code, any rule adopted by the State Fire Marshal, or

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349 any provision of this chapter.

350 Section 8. Subsection (1) of section 633.416, Florida
351 Statutes, is amended to read:

352 633.416 Firefighter employment and volunteer firefighter
353 service; saving clause.—

354 (1) A fire service provider may not employ an individual
355 to:

356 (a) Extinguish fires for the protection of life or property
357 or to supervise individuals who perform such services unless the
358 individual holds a current and valid Firefighter Certificate of
359 Compliance. However, a person who is currently serving as a
360 volunteer firefighter and holds a volunteer firefighter
361 certificate of completion with a fire service provider, who is
362 then employed as a regular or permanent firefighter by such fire
363 service provider, may function, for a period of 1 year under the
364 direct supervision of an individual holding a valid firefighter
365 certificate of compliance, in the same capacity in which he or
366 she acted as a volunteer firefighter, provided that he or she
367 has completed all training required by the volunteer
368 organization. Under no circumstance can this period extend
369 beyond 1 year either collectively or consecutively from the
370 start of employment to obtain a Firefighter Certificate of
371 Compliance; or

372 (b) Serve as the administrative and command head of a fire
373 service provider for a period in excess of 1 year unless the
374 individual holds a current and valid Firefighter Certificate of
375 Compliance or Special Certificate of Compliance.

376 Section 9. Section 843.08, Florida Statutes, is amended to
377 read:

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378 843.08 False personation.—A person who falsely assumes or
379 pretends to be a firefighter, a sheriff, an officer of the
380 Florida Highway Patrol, an officer of the Fish and Wildlife
381 Conservation Commission, an officer of the Department of
382 Environmental Protection, ~~a fire or arson investigator of the~~
383 ~~Department of Financial Services~~, an officer of the Department
384 of Financial Services, any personnel or representative of the
385 Division of Investigative and Forensic Services, an officer of
386 the Department of Corrections, a correctional probation officer,
387 a deputy sheriff, a state attorney or an assistant state
388 attorney, a statewide prosecutor or an assistant statewide
389 prosecutor, a state attorney investigator, a coroner, a police
390 officer, a lottery special agent or lottery investigator, a
391 beverage enforcement agent, a school guardian as described in s.
392 30.15(1)(k), a security officer licensed under chapter 493, any
393 member of the Florida Commission on Offender Review or any
394 administrative aide or supervisor employed by the commission,
395 any personnel or representative of the Department of Law
396 Enforcement, or a federal law enforcement officer as defined in
397 s. 901.1505, and takes upon himself or herself to act as such,
398 or to require any other person to aid or assist him or her in a
399 matter pertaining to the duty of any such officer, commits a
400 felony of the third degree, punishable as provided in s.
401 775.082, s. 775.083, or s. 775.084. However, a person who
402 falsely personates any such officer during the course of the
403 commission of a felony commits a felony of the second degree,
404 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
405 If the commission of the felony results in the death or personal
406 injury of another human being, the person commits a felony of

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407 the first degree, punishable as provided in s. 775.082, s.
408 775.083, or s. 775.084.

409 Section 10. Paragraph (f) is added to subsection (11) of
410 section 943.045, Florida Statutes, to read:

411 943.045 Definitions; ss. 943.045-943.08.—The following
412 words and phrases as used in ss. 943.045-943.08 shall have the
413 following meanings:

414 (11) "Criminal justice agency" means:

415 (f) The investigations component of the Department of
416 Financial Services which investigates the crimes of fraud and
417 official misconduct in all public assistance given to residents
418 of the state or provided to others by the state.

419 Section 11. This act shall take effect July 1, 2020.