

1 A bill to be entitled  
2 An act relating to background screenings; amending s.  
3 435.02, F.S.; providing a definition for "educational  
4 entities"; amending s. 435.04, F.S.; removing obsolete  
5 language; amending s. 435.12, F.S.; authorizing  
6 criminal history results to be provided to and shared  
7 between certain parties; providing that existing  
8 retention provisions apply to persons included in the  
9 Care Provider Background Screening Clearinghouse;  
10 removing obsolete language; amending s. 943.0438,  
11 F.S.; requiring certain athletic coaches to receive  
12 level 2 background screenings; requiring specified  
13 entities to participate in a certain criminal history  
14 system; amending s. 943.05, F.S.; deleting provisions  
15 concerning conditions precedent to the retention of  
16 certain fingerprints; requiring the Criminal Justice  
17 Information Program to develop a certain  
18 identification method; amending s. 943.0542, F.S.;  
19 requiring specified entities initiate criminal history  
20 checks through the clearinghouse; requiring the  
21 Department of Law Enforcement to audit certain  
22 entities; requiring certain fingerprints be entered  
23 into the clearinghouse; requiring a waiver to include  
24 specified information; prohibiting providers of child  
25 care from specified associations with certain persons;

26 deleting a requirement that the Department of Law  
 27 Enforcement establish a certain database; amending s.  
 28 1002.33, F.S.; prohibiting a charter school from  
 29 employing specified persons; amending s. 1012.32,  
 30 F.S.; revising the procedure for background  
 31 screenings; expanding the types of background  
 32 screenings used by certain schools; deleting the right  
 33 to appeal certain terminations; deleting provisions  
 34 specifying financial responsibility and reimbursement  
 35 for background screenings; providing requirements of  
 36 and procedures for background screenings; providing  
 37 responsibility for background screening costs;  
 38 amending s. 1012.465, 1012.467, and 1012.56, F.S.;  
 39 conforming provisions to changes made by the act;  
 40 providing an effective date.

41

42 Be It Enacted by the Legislature of the State of Florida:

43

44 Section 1. Subsections (2) through (6) of section 435.02,  
 45 Florida Statutes, are renumbered as subsections (3) through (7),  
 46 respectively, and a new subsection (2) is added to that section,  
 47 to read:

48 435.02 Definitions.—For the purposes of this chapter, the  
 49 term:

50 (2) "Educational entities" means the Department of

51 Education, each district unit under s. 1001.30, special district  
 52 units under s. 1011.24, the Florida School for the Deaf and the  
 53 Blind under s. 1002.36, the Florida Virtual School under s.  
 54 1002.37, virtual instruction programs under s. 1002.45, charter  
 55 schools under s. 1002.33, hope operators under s. 1002.333, and  
 56 alternative schools under s. 1008.341.

57 Section 2. Paragraph (e) of paragraph (1) of section  
 58 435.04, Florida Statutes, is redesignated as paragraph (d), and  
 59 paragraph (b) and present paragraph (d) of that subsection are  
 60 amended to read:

61 435.04 Level 2 screening standards.—

62 (1)

63 (b) Fingerprints submitted pursuant to this section ~~on or~~  
 64 ~~after July 1, 2012,~~ must be submitted electronically to the  
 65 Department of Law Enforcement.

66 ~~(d) An agency may require by rule that fingerprints~~  
 67 ~~submitted pursuant to this section must be submitted~~  
 68 ~~electronically to the Department of Law Enforcement on a date~~  
 69 ~~earlier than July 1, 2012.~~

70 Section 3. Section 435.12, Florida Statutes, is amended to  
 71 read:

72 435.12 Care Provider Background Screening Clearinghouse.—

73 (1) The Agency for Health Care Administration in  
 74 consultation with the Department of Law Enforcement shall create  
 75 a secure web-based system, which shall be known as the "Care

76 Provider Background Screening Clearinghouse" or  
77 "clearinghouse~~.~~" and which shall be implemented to the full  
78 extent practicable no later than September 30, 2013, subject to  
79 the specified agencies being funded and equipped to participate  
80 in such program. The clearinghouse shall allow the results of  
81 criminal history checks provided to ~~the~~:

82 (a) Specified agencies for screening of persons qualified  
83 as care providers under s. 943.0542 to be shared among the  
84 specified agencies when a person has applied to volunteer, be  
85 employed, be licensed, or enter into a contract that requires a  
86 state and national fingerprint-based criminal history check.

87 (b) Educational entities for screening of instructional  
88 and noninstructional personnel under ss. 1012.32, 1012.465, and  
89 1012.56 to be shared among educational entities when a person  
90 has applied to be employed, be licensed, or enter into a  
91 contract that requires a state and national fingerprint-based  
92 criminal history check.

93 (c) Educational entities for screening of persons under s.  
94 1012.467 to be shared among educational entities when a person  
95 has applied to be employed or enter into a contract that  
96 requires a state and national fingerprint-based criminal history  
97 check.

98 (d) Qualified entities for screening of persons qualified  
99 as care providers under s. 943.0542 to be shared among the  
100 qualified entities when a person has applied to volunteer, be

101 employed, or enter into a contract that requires a state and  
102 national fingerprint-based criminal history check.

103 (e) Early learning coalitions for screening of persons  
104 under s. 1002.55 to be shared among early learning coalitions  
105 when a person has applied to be employed or enter into a  
106 contract that requires a state and national fingerprint-based  
107 criminal history check.

108

109 The Agency for Health Care Administration and the Department of  
110 Law Enforcement may adopt rules to create forms or implement  
111 procedures needed to carry out this section.

112 (2)(a) To ensure that the information in the clearinghouse  
113 is current, the fingerprints of a person ~~an employee required to~~  
114 ~~be screened by a specified agency and~~ included in the  
115 clearinghouse must be:

116 1. Retained by the Department of Law Enforcement pursuant  
117 to s. 943.05(2)(g) and (h) and (3), and the Department of Law  
118 Enforcement must report the results of searching those  
119 fingerprints against state incoming arrest fingerprint  
120 submissions to the Agency for Health Care Administration for  
121 inclusion in the clearinghouse.

122 2. Retained by the Federal Bureau of Investigation in the  
123 national retained print arrest notification program as soon as  
124 the Department of Law Enforcement begins participation in such  
125 program. Arrest prints will be searched against retained prints

126 at the Federal Bureau of Investigation and notification of  
127 arrests will be forwarded to the Florida Department of Law  
128 Enforcement and reported to the Agency for Health Care  
129 Administration for inclusion in the clearinghouse.

130 3. Resubmitted for a Federal Bureau of Investigation  
131 national criminal history check every 5 years until such time as  
132 the fingerprints are retained by the Federal Bureau of  
133 Investigation.

134 4. Subject to retention on a 5-year renewal basis with  
135 fees collected at the time of initial submission or resubmission  
136 of fingerprints.

137 5. Submitted with a photograph of the person taken at the  
138 time the fingerprints are submitted.

139 (b) Until such time as the fingerprints are enrolled in  
140 the national retained print arrest notification program at the  
141 Federal Bureau of Investigation, a person included in the  
142 clearinghouse ~~an employee~~ with a break in service of more than  
143 90 days from a position that requires screening ~~by a specified~~  
144 ~~agency~~ must submit to a national screening if the person returns  
145 to a position that requires screening ~~by a specified agency~~.

146 (c) An employer of persons subject to screening ~~by a~~  
147 ~~specified agency~~ must register with the clearinghouse and  
148 maintain the employment status of all employees within the  
149 clearinghouse. Initial employment status and any changes in  
150 status must be reported within 10 business days.

151 (d) An employer must register with and initiate all  
152 criminal history checks through the clearinghouse before  
153 referring an employee or potential employee for electronic  
154 fingerprint submission to the Department of Law Enforcement. The  
155 registration must include the employee's full first name, middle  
156 initial, and last name; social security number; date of birth;  
157 mailing address; sex; and race. Individuals, persons,  
158 applicants, and controlling interests that cannot legally obtain  
159 a social security number must provide an individual taxpayer  
160 identification number.

161 ~~(3) An employee who has undergone a fingerprint-based~~  
162 ~~criminal history check by a specified agency before the~~  
163 ~~clearinghouse is operational is not required to be checked again~~  
164 ~~solely for the purpose of entry in the clearinghouse. Every~~  
165 ~~employee who is or will become subject to fingerprint-based~~  
166 ~~criminal history checks to be eligible to be licensed, have~~  
167 ~~their license renewed, or meet screening or rescreening~~  
168 ~~requirements by a specified agency once the specified agency~~  
169 ~~participates in the clearinghouse shall be subject to the~~  
170 ~~requirements of this section with respect to entry of records in~~  
171 ~~the clearinghouse and retention of fingerprints for reporting~~  
172 ~~the results of searching against state incoming arrest~~  
173 ~~fingerprint submissions.~~

174 Section 4. Paragraphs (a) and (b) of subsection (2) and  
175 subsection (4) of section 943.0438, Florida Statutes, are

176 amended to read:

177 943.0438 Athletic coaches for independent sanctioning  
178 authorities.-

179 (2) An independent sanctioning authority shall:

180 (a)~~1.~~ Conduct a level 2 ~~1~~ background screening pursuant to  
181 s. 435.04 ~~s. 435.03~~ of each current and prospective athletic  
182 coach. The authority may not delegate this responsibility to an  
183 individual team and may not authorize any person to act as an  
184 athletic coach unless a level 2 ~~1~~ background screening has been  
185 ~~is~~ conducted and has ~~does~~ not resulted ~~result~~ in  
186 disqualification under paragraph (b). ~~Level 1 background~~  
187 ~~screenings shall be conducted annually for each athletic coach.~~  
188 ~~For purposes of this section, a background screening shall~~  
189 ~~include a search of the athletic coach's name or other~~  
190 ~~identifying information against state and federal registries of~~  
191 ~~sexual predators and sexual offenders, which are available to~~  
192 ~~the public on Internet sites provided by:~~

193 ~~a. The Department of Law Enforcement under s. 943.043; and~~

194 ~~b. The Attorney General of the United States under 42~~  
195 ~~U.S.C. s. 16920.~~

196 ~~2. For purposes of this section, a background screening~~  
197 ~~conducted by a commercial consumer reporting agency in~~  
198 ~~compliance with the federal Fair Credit Reporting Act using the~~  
199 ~~identifying information referenced in subparagraph 1. that~~  
200 ~~includes a level 1 background screening and a search of that~~



201 ~~information against the sexual predator and sexual offender~~  
 202 ~~Internet sites listed in sub-subparagraphs 1.a. and b. shall be~~  
 203 ~~deemed to satisfy the requirements of this paragraph.~~

204 (b) Disqualify any person from acting as an athletic coach  
 205 as provided in s. 435.04 ~~s. 435.03~~ or if he or she is identified  
 206 ~~on a registry described in paragraph (a)~~. The authority may  
 207 allow a person disqualified under this paragraph to act as an  
 208 athletic coach if it determines that the person meets the  
 209 requirements for an exemption from disqualification under s.  
 210 435.07; however, an exemption may not be granted for an offense  
 211 listed under s. 435.07(4)(c).

212 (4) ~~The Legislature encourages~~ Independent sanctioning  
 213 authorities for youth athletic teams shall ~~to~~ participate in the  
 214 Volunteer and Employee Criminal History System, as authorized by  
 215 the National Child Protection Act of 1993 and s. 943.0542.

216 Section 5. Paragraphs (g) and (h) of subsection (2) of  
 217 section 943.05, Florida Statutes, are amended, and paragraph (i)  
 218 is added to that subsection, to read:

219 943.05 Criminal Justice Information Program; duties; crime  
 220 reports.—

221 (2) The program shall:

222 (g) ~~Upon official written request, and subject to the~~  
 223 ~~department having sufficient funds and equipment to participate~~  
 224 ~~in such a request, from the agency executive director or~~  
 225 ~~secretary or from his or her designee, or from qualified~~

226 ~~entities participating in the volunteer and employee criminal~~  
227 ~~history screening system under s. 943.0542, or as otherwise~~  
228 ~~required by law,~~ Retain fingerprints submitted by criminal and  
229 noncriminal justice agencies to the department for a criminal  
230 history background screening as provided by rule and enter the  
231 fingerprints in the statewide automated biometric identification  
232 system authorized by paragraph (b). Such fingerprints shall  
233 thereafter be available for all purposes and uses authorized for  
234 arrest fingerprint submissions entered into the statewide  
235 automated biometric identification system pursuant to s.  
236 943.051.

237 (h) ~~For each agency or qualified entity that officially~~  
238 ~~requests retention of fingerprints or for which retention is~~  
239 ~~otherwise required by law,~~ Search all arrest fingerprint  
240 submissions received under s. 943.051 against the fingerprints  
241 retained in the statewide automated biometric identification  
242 system under paragraph (g).

243 1. Any arrest record that is identified with the retained  
244 fingerprints of a person subject to background screening as  
245 provided in paragraph (g) shall be reported to the appropriate  
246 agency or qualified entity.

247 2. To participate in this search process, agencies or  
248 qualified entities must notify each person fingerprinted that  
249 his or her fingerprints will be retained, pay an annual fee to  
250 the department unless otherwise provided by law, and inform the

251 department of any change in the affiliation, employment, or  
252 contractual status of each person whose fingerprints are  
253 retained under paragraph (g) if such change removes or  
254 eliminates the agency or qualified entity's basis or need for  
255 receiving reports of any arrest of that person, so that the  
256 agency or qualified entity is not obligated to pay the upcoming  
257 annual fee for the retention and searching of that person's  
258 fingerprints to the department. The department shall adopt a  
259 rule setting the amount of the annual fee to be imposed upon  
260 each participating agency or qualified entity for performing  
261 these searches and establishing the procedures for the retention  
262 of fingerprints and the dissemination of search results. The fee  
263 may be borne by the agency, qualified entity, or person subject  
264 to fingerprint retention or as otherwise provided by law.  
265 Consistent with the recognition of criminal justice agencies  
266 expressed in s. 943.053(3), these services shall be provided to  
267 criminal justice agencies for criminal justice purposes free of  
268 charge. Qualified entities that elect to participate in the  
269 fingerprint retention and search process are required to timely  
270 remit the fee to the department by a payment mechanism approved  
271 by the department. If requested by the qualified entity, and  
272 with the approval of the department, such fees may be timely  
273 remitted to the department by a qualified entity upon receipt of  
274 an invoice for such fees from the department. Failure of a  
275 qualified entity to pay the amount due on a timely basis or as

276 | invoiced by the department may result in the refusal by the  
277 | department to permit the qualified entity to continue to  
278 | participate in the fingerprint retention and search process  
279 | until all fees due and owing are paid.

280 |         3. Agencies that participate in the fingerprint retention  
281 | and search process may adopt rules pursuant to ss. 120.536(1)  
282 | and 120.54 to require employers to keep the agency informed of  
283 | any change in the affiliation, employment, or contractual status  
284 | of each person whose fingerprints are retained under paragraph  
285 | (g) if such change removes or eliminates the agency's basis or  
286 | need for receiving reports of any arrest of that person, so that  
287 | the agency is not obligated to pay the upcoming annual fee for  
288 | the retention and searching of that person's fingerprints to the  
289 | department.

290 |         (i) Develop a method for establishing identification  
291 | through automated biometrics, which may include, but is not  
292 | limited to, the use of latent fingerprints, palm prints, facial  
293 | recognition, or retina scans.

294 |         Section 6. Subsections (8) and (9) of section 943.0542,  
295 | Florida Statutes, are renumbered as subsections (7) and (8),  
296 | respectively, and subsections (2), (3), (4), (5), and present  
297 | subsection (7) are amended, to read:

298 |         943.0542 Access to criminal history information provided  
299 | by the department to qualified entities.—

300 |         (2) (a) A qualified entity must register and initiate all

301 criminal history checks through the Care Provider Background  
302 Screening Clearinghouse created under s. 435.12 ~~with the~~  
303 ~~department before submitting a request for screening under this~~  
304 ~~section.~~ Each such request must be voluntary and conform to the  
305 requirements established in the National Child Protection Act of  
306 1993, as amended. As a part of the registration, the qualified  
307 entity must agree to comply with state and federal law and must  
308 so indicate by signing an agreement approved by the department.  
309 The department shall ~~may~~ periodically audit qualified entities  
310 to ensure compliance with federal law and this section.

311 (b) All fingerprints received under this section shall be  
312 entered into the clearinghouse as provided in s. 435.12. A  
313 ~~qualified entity shall submit to the department a request for~~  
314 ~~screening an employee or volunteer or person applying to be an~~  
315 ~~employee or volunteer by submitting fingerprints, or the request~~  
316 ~~may be submitted electronically.~~ The qualified entity must  
317 maintain a signed waiver allowing the release of the state and  
318 national criminal history record information to the qualified  
319 entity. The waiver must include a statement that the department  
320 shall retain the fingerprints of the criminal history background  
321 screening of each employee or volunteer as provided by rule and  
322 enter the fingerprints in the statewide automated biometric  
323 identification method under s. 943.05(2)(i).

324 (c) Each such request must be accompanied by payment of a  
325 fee for a statewide criminal history check by the department

326 established by s. 943.053, plus the amount currently prescribed  
327 by the Federal Bureau of Investigation for the national criminal  
328 history check in compliance with the National Child Protection  
329 Act of 1993, as amended. Payments must be made in the manner  
330 prescribed by the department by rule.

331 ~~(d) Any current or prospective employee or volunteer who~~  
332 ~~is subject to a request for screening must indicate to the~~  
333 ~~qualified entity submitting the request the name and address of~~  
334 ~~each qualified entity that has submitted a previous request for~~  
335 ~~screening regarding that employee or volunteer.~~

336 (3) The Care Provider Background Screening Clearinghouse  
337 ~~department~~ shall provide directly to the qualified entity the  
338 state criminal history records that are not exempt from  
339 disclosure under chapter 119 or otherwise confidential under  
340 law. A person who is the subject of a state criminal history  
341 record may challenge the record only as provided in s. 943.056.

342 (4) The national criminal history data is available to  
343 qualified entities to use only for the purpose of screening  
344 employees and volunteers or persons applying to be an employee  
345 or volunteer with a qualified entity. The Care Provider  
346 Background Screening Clearinghouse ~~department~~ shall provide this  
347 national criminal history record information directly to the  
348 qualified entity as authorized by the written waiver required  
349 for submission of a request to the department.

350 (5) The determination whether the criminal history record

351 shows that the employee or volunteer has been convicted of or is  
352 under pending indictment for any crime that bears upon the  
353 fitness of the employee or volunteer to have responsibility for  
354 the safety and well-being of ~~children,~~ the elderly, or disabled  
355 persons shall solely be made by the qualified entity. A  
356 qualified entity that provides care to children may not employ  
357 or allow a volunteer who is ineligible for an exemption under s.  
358 435.07(4)(c). This section does not require the department to  
359 make such a determination on behalf of any qualified entity.

360 ~~(7) The department may establish a database of registered~~  
361 ~~qualified entities and make this data available free of charge~~  
362 ~~to all registered qualified entities. The database must include,~~  
363 ~~at a minimum, the name, address, and phone number of each~~  
364 ~~qualified entity.~~

365 Section 7. Paragraph (g) of subsection (12) of section  
366 1002.33, Florida Statutes, is amended to read:

367 1002.33 Charter schools.—

368 (12) EMPLOYEES OF CHARTER SCHOOLS.—

369 (g)1. A charter school shall employ or contract with  
370 employees who have undergone background screening as provided in  
371 s. 1012.32. Members of the governing board of the charter school  
372 shall also undergo background screening in a manner similar to  
373 that provided in s. 1012.32. An individual may not be employed  
374 as an employee or contract personnel of a charter school or  
375 serve as a member of a charter school governing board if the

376 individual is on the disqualification list maintained by the  
377 department pursuant to s. 1001.10(4)(b).

378 2. A charter school shall prohibit educational support  
379 employees, instructional personnel, and school administrators,  
380 as defined in s. 1012.01, from employment in any position that  
381 requires direct contact with students if the employees,  
382 personnel, or administrators are ineligible for such employment  
383 under s. 435.04(2) or (3) or s. 1012.315 or have been terminated  
384 or have resigned in lieu of termination for sexual misconduct  
385 with a student. If the prohibited conduct occurs while employed,  
386 a charter school must report the individual and the  
387 disqualifying circumstances to the department for inclusion on  
388 the disqualification list maintained pursuant to s.  
389 1001.10(4)(b).

390 3. The governing board of a charter school shall adopt  
391 policies establishing standards of ethical conduct for  
392 educational support employees, instructional personnel, and  
393 school administrators. The policies must require all educational  
394 support employees, instructional personnel, and school  
395 administrators, as defined in s. 1012.01, to complete training  
396 on the standards; establish the duty of educational support  
397 employees, instructional personnel, and school administrators to  
398 report, and procedures for reporting, alleged misconduct that  
399 affects the health, safety, or welfare of a student; and include  
400 an explanation of the liability protections provided under ss.



401 39.203 and 768.095. A charter school, or any of its employees,  
402 may not enter into a confidentiality agreement regarding  
403 terminated or dismissed educational support employees,  
404 instructional personnel, or school administrators, or employees,  
405 personnel, or administrators who resign in lieu of termination,  
406 based in whole or in part on misconduct that affects the health,  
407 safety, or welfare of a student, and may not provide employees,  
408 personnel, or administrators with employment references or  
409 discuss the employees', personnel's, or administrators'  
410 performance with prospective employers in another educational  
411 setting, without disclosing the employees', personnel's, or  
412 administrators' misconduct. Any part of an agreement or contract  
413 that has the purpose or effect of concealing misconduct by  
414 educational support employees, instructional personnel, or  
415 school administrators which affects the health, safety, or  
416 welfare of a student is void, is contrary to public policy, and  
417 may not be enforced.

418 4. Before employing an individual in any position that  
419 requires direct contact with students, a charter school shall  
420 conduct employment history checks of each individual through use  
421 of the educator screening tools described in s. 1001.10(5), and  
422 document the findings. If unable to contact a previous employer,  
423 the charter school must document efforts to contact the  
424 employer.

425 5. The sponsor of a charter school that knowingly fails to

426 | comply with this paragraph shall terminate the charter under  
 427 | subsection (8).

428 |       Section 8. Subsections (2) and (3) of section 1012.32,  
 429 | Florida Statutes, are amended to read:

430 |       1012.32 Qualifications of personnel.—

431 |       (2)(a) Instructional and noninstructional personnel who  
 432 | are hired or contracted to fill positions that require direct  
 433 | contact with students in any district school system or  
 434 | university lab school must, upon employment or engagement to  
 435 | provide services, undergo background screening as required under  
 436 | s. 1012.465 or s. 1012.56, whichever is applicable.

437 |       (b)1. Instructional and noninstructional personnel who are  
 438 | hired or contracted to fill positions in a charter school other  
 439 | than a school of hope as defined in s. 1002.333, and members of  
 440 | the governing board of such charter school, in compliance with  
 441 | s. 1002.33(12)(g), upon employment, engagement of services, or  
 442 | appointment, shall undergo background screening as required  
 443 | under s. 1012.465 or s. 1012.56, whichever is applicable, ~~by~~  
 444 | ~~filing with the district school board for the school district in~~  
 445 | ~~which the charter school is located a complete set of~~  
 446 | ~~fingerprints taken by an authorized law enforcement agency or an~~  
 447 | ~~employee of the school or school district who is trained to take~~  
 448 | ~~fingerprints.~~

449 |       2. Instructional and noninstructional personnel who are  
 450 | hired or contracted to fill positions in a school of hope as

451 defined in s. 1002.333, and members of the governing board of  
452 such school of hope, upon employment, engagement of services, or  
453 appointment, shall undergo background screening as required  
454 under s. 1012.465 or s. 1012.56, whichever is applicable ~~file~~  
455 ~~with the school of hope a complete set of fingerprints taken by~~  
456 ~~an authorized law enforcement agency, by an employee of the~~  
457 ~~school of hope or school district who is trained to take~~  
458 ~~fingerprints, or by any other entity recognized by the~~  
459 ~~Department of Law Enforcement to take fingerprints.~~

460 (c) Instructional and noninstructional personnel who are  
461 hired or contracted to fill positions that require direct  
462 contact with students in an alternative school that operates  
463 under contract with a district school system must, upon  
464 employment or engagement to provide services, undergo background  
465 screening as required under s. 1012.465 or s. 1012.56, whichever  
466 is applicable, ~~by filing with the district school board for the~~  
467 ~~school district to which the alternative school is under~~  
468 ~~contract a complete set of fingerprints taken by an authorized~~  
469 ~~law enforcement agency or an employee of the school or school~~  
470 ~~district who is trained to take fingerprints.~~

471 (d) Student teachers and persons participating in a field  
472 experience pursuant to s. 1004.04(5) or s. 1004.85 in any  
473 district school system, lab school, or charter school must, upon  
474 engagement to provide services, undergo background screening as  
475 required under s. 1012.56.

476  
477 ~~Required fingerprints must be submitted to the Department of Law~~  
478 ~~Enforcement for statewide criminal and juvenile records checks~~  
479 ~~and to the Federal Bureau of Investigation for federal criminal~~  
480 ~~records checks.~~ A person subject to this subsection who is found  
481 ineligible for employment under s. 435.04(2) or (3) or s.  
482 1012.315, or otherwise found through background screening to  
483 have been convicted of any crime involving moral turpitude as  
484 defined by rule of the State Board of Education, shall not be  
485 employed, engaged to provide services, or serve in any position  
486 that requires direct contact with students. ~~Probationary persons~~  
487 ~~subject to this subsection terminated because of their criminal~~  
488 ~~record have the right to appeal such decisions. The cost of the~~  
489 ~~background screening may be borne by the district school board,~~  
490 ~~the charter school, the employee, the contractor, or a person~~  
491 ~~subject to this subsection. A district school board shall~~  
492 ~~reimburse a charter school the cost of background screening if~~  
493 ~~it does not notify the charter school of the eligibility of a~~  
494 ~~governing board member or instructional or noninstructional~~  
495 ~~personnel within the earlier of 14 days after receipt of the~~  
496 ~~background screening results from the Florida Department of Law~~  
497 ~~Enforcement or 30 days of submission of fingerprints by the~~  
498 ~~governing board member or instructional or noninstructional~~  
499 ~~personnel.~~

500 (3) A background screening required under this chapter

501 must comply with the requirements of s. 435.12. Each educational  
502 entity as defined in s. 435.02 shall register with, and initiate  
503 criminal history checks through, the Care Provider Background  
504 Screening Clearinghouse as provided in s. 435.12. All  
505 fingerprints must be submitted through an educational entity or  
506 a vendor approved by the Department of Law Enforcement. All  
507 fingerprints must be submitted electronically to the Department  
508 of Law Enforcement for state processing, and the Department of  
509 Law Enforcement shall forward the fingerprints to the Federal  
510 Bureau of Investigation for national processing. For any  
511 subsequent background screening that requires a national  
512 criminal history check, the Department of Law Enforcement must  
513 forward the retained fingerprints of the individual to the  
514 Federal Bureau of Investigation unless the fingerprints are  
515 enrolled in the national retained print arrest notification  
516 program. All fingerprints submitted to the Department of Law  
517 Enforcement shall be retained by the Department of Law  
518 Enforcement as provided under s. 943.05(2) (g) and (h) and (3)  
519 and enrolled in the national retained print arrest notification  
520 program at the Federal Bureau of Investigation when the  
521 Department of Law Enforcement begins participation in the  
522 program. The cost of the background screening may be borne by  
523 the educational entity, the employee, the contractor, or a  
524 person subject to background screening.

525 ~~(a) All fingerprints submitted to the Department of Law~~

526 ~~Enforcement as required by subsection (2) shall be retained by~~  
527 ~~the Department of Law Enforcement in a manner provided by rule~~  
528 ~~and entered in the statewide automated biometric identification~~  
529 ~~system authorized by s. 943.05(2)(b). Such fingerprints shall~~  
530 ~~thereafter be available for all purposes and uses authorized for~~  
531 ~~arrest fingerprints entered in the statewide automated biometric~~  
532 ~~identification system pursuant to s. 943.051.~~

533 ~~(b) The Department of Law Enforcement shall search all~~  
534 ~~arrest fingerprints received under s. 943.051 against the~~  
535 ~~fingerprints retained in the statewide automated biometric~~  
536 ~~identification system under paragraph (a). Any arrest record~~  
537 ~~that is identified with the retained fingerprints of a person~~  
538 ~~subject to the background screening under this section shall be~~  
539 ~~reported to the employing or contracting school district or the~~  
540 ~~school district with which the person is affiliated. Each school~~  
541 ~~district is required to participate in this search process by~~  
542 ~~payment of an annual fee to the Department of Law Enforcement~~  
543 ~~and by informing the Department of Law Enforcement of any change~~  
544 ~~in the affiliation, employment, or contractual status or place~~  
545 ~~of affiliation, employment, or contracting of its instructional~~  
546 ~~and noninstructional personnel whose fingerprints are retained~~  
547 ~~under paragraph (a). The Department of Law Enforcement shall~~  
548 ~~adopt a rule setting the amount of the annual fee to be imposed~~  
549 ~~upon each school district for performing these searches and~~  
550 ~~establishing the procedures for the retention of instructional~~

551 ~~and noninstructional personnel fingerprints and the~~  
 552 ~~dissemination of search results. The fee may be borne by the~~  
 553 ~~district school board, the contractor, or the person~~  
 554 ~~fingerprinted.~~

555 ~~(c) Personnel whose fingerprints are not retained by the~~  
 556 ~~Department of Law Enforcement under paragraphs (a) and (b) must~~  
 557 ~~be reprinted and rescreened in accordance with subsection~~  
 558 ~~(2) upon reemployment or reengagement to provide services in~~  
 559 ~~order to comply with the requirements of this subsection.~~

560 Section 9. Subsections (1) and (2) of section 1012.465,  
 561 Florida Statutes, are amended to read:

562 1012.465 Background screening requirements for certain  
 563 noninstructional school district employees and contractors.—

564 (1) Except as provided in s. 1012.467 or s. 1012.468,  
 565 noninstructional school district employees or contractual  
 566 personnel who are permitted access on school grounds when  
 567 students are present, who have direct contact with students or  
 568 who have access to or control of school funds must meet level 2  
 569 screening requirements of chapter 435 using the process as  
 570 described in s. 1012.32(3) ~~s. 1012.32~~. Contractual personnel  
 571 shall include any vendor, individual, or entity under contract  
 572 with a school or the school board.

573 (2) ~~Every 5 years following employment or entry into a~~  
 574 ~~contract in a capacity described in subsection (1), each person~~  
 575 ~~who is so employed or under contract with the school district~~

576 ~~must meet level 2 screening requirements as described in s.~~  
577 ~~1012.32, at which time the school district shall request the~~  
578 ~~Department of Law Enforcement to forward the fingerprints to the~~  
579 ~~Federal Bureau of Investigation for the level 2 screening. If,~~  
580 ~~for any reason following employment or entry into a contract in~~  
581 ~~a capacity described in subsection (1), the fingerprints of a~~  
582 ~~person who is so employed or under contract with the school~~  
583 ~~district are not retained by the Department of Law Enforcement~~  
584 ~~under s. 1012.32(3)(a) and (b), the person must file a complete~~  
585 ~~set of fingerprints with the district school superintendent of~~  
586 ~~the employing or contracting school district. Upon submission of~~  
587 ~~fingerprints for this purpose, the school district shall request~~  
588 ~~the Department of Law Enforcement to forward the fingerprints to~~  
589 ~~the Federal Bureau of Investigation for the level 2 screening,~~  
590 ~~and the fingerprints shall be retained by the Department of Law~~  
591 ~~Enforcement under s. 1012.32(3)(a) and (b). The cost of the~~  
592 ~~state and federal criminal history check required by level 2~~  
593 ~~screening may be borne by the district school board, the~~  
594 ~~contractor, or the person fingerprinted. Under penalty of~~  
595 ~~perjury, each person who is employed or under contract in a~~  
596 ~~capacity described in subsection (1) must agree to inform his or~~  
597 ~~her employer or the party with whom he or she is under contract~~  
598 ~~within 48 hours if convicted of any disqualifying offense while~~  
599 ~~he or she is employed or under contract in that capacity.~~

600 Section 10. Subsections (2) through (6) and paragraph (a)



601 of subsection (7) of section 1012.467, Florida Statutes, are  
 602 amended to read:

603 1012.467 Noninstructional contractors who are permitted  
 604 access to school grounds when students are present; background  
 605 screening requirements.—

606 (2)(a) A fingerprint-based criminal history check shall be  
 607 performed on each noninstructional contractor who is permitted  
 608 access to school grounds when students are present, whose  
 609 performance of the contract with the school or school board is  
 610 not anticipated to result in direct contact with students, and  
 611 for whom any unanticipated contact would be infrequent and  
 612 incidental using the process described in s. 1012.32(3).

613 ~~Criminal history checks shall be performed at least once every 5~~  
 614 ~~years. For the initial criminal history check, each~~  
 615 ~~noninstructional contractor who is subject to the criminal~~  
 616 ~~history check shall file with the Department of Law Enforcement~~  
 617 ~~a complete set of fingerprints taken by an authorized law~~  
 618 ~~enforcement agency or an employee of a school district, a public~~  
 619 ~~school, or a private company who is trained to take~~  
 620 ~~fingerprints. The fingerprints shall be electronically submitted~~  
 621 ~~for state processing to the Department of Law Enforcement, which~~  
 622 ~~shall in turn submit the fingerprints to the Federal Bureau of~~  
 623 ~~Investigation for national processing.~~ The results of each  
 624 criminal history check shall be reported to the school district  
 625 in which the individual is seeking access and entered into the

626 shared system described in subsection (7). The school district  
627 shall screen the results using the disqualifying offenses in  
628 paragraph (b)~~(g)~~. The cost of the criminal history check may be  
629 borne by the district school board, the school, or the  
630 contractor. ~~A fee that is charged by a district school board for~~  
631 ~~such checks may not exceed 30 percent of the total amount~~  
632 ~~charged by the Department of Law Enforcement and the Federal~~  
633 ~~Bureau of Investigation.~~

634 ~~(b) As authorized by law, the Department of Law~~  
635 ~~Enforcement shall retain the fingerprints submitted by the~~  
636 ~~school districts pursuant to this subsection to the Department~~  
637 ~~of Law Enforcement for a criminal history background screening~~  
638 ~~in a manner provided by rule and enter the fingerprints in the~~  
639 ~~statewide automated biometric identification system authorized~~  
640 ~~by s. 943.05(2)(b). The fingerprints shall thereafter be~~  
641 ~~available for all purposes and uses authorized for arrest~~  
642 ~~fingerprints entered into the statewide automated biometric~~  
643 ~~identification system under s. 943.051.~~

644 ~~(c) As authorized by law, the Department of Law~~  
645 ~~Enforcement shall search all arrest fingerprints received under~~  
646 ~~s. 943.051 against the fingerprints retained in the statewide~~  
647 ~~automated biometric identification system under paragraph (b).~~

648 ~~(d) School districts may participate in the search process~~  
649 ~~described in this subsection by paying an annual fee to the~~  
650 ~~Department of Law Enforcement.~~

651 ~~(e) A fingerprint retained pursuant to this subsection~~  
652 ~~shall be purged from the automated biometric identification~~  
653 ~~system 5 years following the date the fingerprint was initially~~  
654 ~~submitted. The Department of Law Enforcement shall set the~~  
655 ~~amount of the annual fee to be imposed upon each participating~~  
656 ~~agency for performing these searches and establishing the~~  
657 ~~procedures for retaining fingerprints and disseminating search~~  
658 ~~results. The fee may be borne as provided by law. Fees may be~~  
659 ~~waived or reduced by the executive director of the Department of~~  
660 ~~Law Enforcement for good cause shown.~~

661 ~~(f) A noninstructional contractor who is subject to a~~  
662 ~~criminal history check under this section shall inform a school~~  
663 ~~district that he or she has completed a criminal history check~~  
664 ~~in another school district within the last 5 years. The school~~  
665 ~~district shall verify the results of the contractor's criminal~~  
666 ~~history check using the shared system described in subsection~~  
667 ~~(7). The school district may not charge the contractor a fee for~~  
668 ~~verifying the results of his or her criminal history check.~~

669 ~~(b)(9)~~ (b) A noninstructional contractor for whom a criminal  
670 history check is required under this section may not have been  
671 convicted of any of the following offenses designated in the  
672 Florida Statutes, any similar offense in another jurisdiction,  
673 or any similar offense committed in this state which has been  
674 redesignated from a former provision of the Florida Statutes to  
675 one of the following offenses:

676 1. Any offense listed in s. 943.0435(1)(h)1., relating to  
 677 the registration of an individual as a sexual offender.

678 2. Section 393.135, relating to sexual misconduct with  
 679 certain developmentally disabled clients and the reporting of  
 680 such sexual misconduct.

681 3. Section 394.4593, relating to sexual misconduct with  
 682 certain mental health patients and the reporting of such sexual  
 683 misconduct.

684 4. Section 775.30, relating to terrorism.

685 5. Section 782.04, relating to murder.

686 6. Section 787.01, relating to kidnapping.

687 7. Any offense under chapter 800, relating to lewdness and  
 688 indecent exposure.

689 8. Section 826.04, relating to incest.

690 9. Section 827.03, relating to child abuse, aggravated  
 691 child abuse, or neglect of a child.

692 (3) If it is found that a noninstructional contractor has  
 693 been convicted of any of the offenses listed in paragraph (2)(b)  
 694 ~~(2)(g)~~, the individual shall be immediately suspended from  
 695 having access to school grounds and shall remain suspended  
 696 unless and until the conviction is set aside in any  
 697 postconviction proceeding.

698 (4) A noninstructional contractor who has been convicted  
 699 of any of the offenses listed in paragraph (2)(b) ~~(2)(g)~~ may not  
 700 be permitted on school grounds when students are present unless

701 the contractor has received a full pardon or has had his or her  
702 civil rights restored. A noninstructional contractor who is  
703 present on school grounds in violation of this subsection  
704 commits a felony of the third degree, punishable as provided in  
705 s. 775.082 or s. 775.083.

706 (5) If a school district has reasonable cause to believe  
707 that grounds exist for the denial of a contractor's access to  
708 school grounds when students are present, it shall notify the  
709 contractor in writing, stating the specific record that  
710 indicates noncompliance with the standards set forth in this  
711 section. It is the responsibility of the affected contractor to  
712 contest his or her denial. The only basis for contesting the  
713 denial is proof of mistaken identity or that an offense from  
714 another jurisdiction is not disqualifying under paragraph (2) (b)  
715 ~~(2) (g)~~.

716 (6) Each contractor who is subject to the requirements of  
717 this section shall agree to inform his or her employer or the  
718 party to whom he or she is under contract and the school  
719 district within 48 hours if he or she is arrested for any of the  
720 disqualifying offenses in paragraph (2) (b) ~~(2) (g)~~. A contractor  
721 who willfully fails to comply with this subsection commits a  
722 felony of the third degree, punishable as provided in s. 775.082  
723 or s. 775.083. If the employer of a contractor or the party to  
724 whom the contractor is under contract knows the contractor has  
725 been arrested for any of the disqualifying offenses in paragraph

726 (2) (b) ~~(2) (g)~~ and authorizes the contractor to be present on  
727 school grounds when students are present, such employer or such  
728 party commits a felony of the third degree, punishable as  
729 provided in s. 775.082 or s. 775.083.

730 (7) (a) ~~The Department of Law Enforcement shall implement a~~  
731 ~~system that allows for the results of a criminal history check~~  
732 shall ~~provided to a school district to be shared among~~  
733 educational entities under s. 435.12 with other school districts  
734 ~~through a secure Internet website or other secure electronic~~  
735 ~~means~~. School districts must accept reciprocity of level 2  
736 screenings for Florida High School Athletic Association  
737 officials.

738 Section 11. Paragraphs (a) and (b) of subsection (10) of  
739 section 1012.56, Florida Statutes, are amended to read:

740 1012.56 Educator certification requirements.—

741 (10) BACKGROUND SCREENING REQUIRED, INITIALLY AND  
742 PERIODICALLY.—

743 (a) Each person who seeks certification under this chapter  
744 must be fingerprinted and screened in accordance with s. 1012.32  
745 and must not be ineligible for such certification under s.  
746 435.04(2) or (3) or s. 1012.315. A person who has been screened  
747 in accordance with s. 1012.32 by a district school board or the  
748 Department of Education within 12 months before the date the  
749 person initially obtains certification under this chapter, the  
750 results of which are submitted to the district school board or

751 to the Department of Education, is not required to repeat the  
752 screening under this paragraph.

753 (b) A person may not receive a certificate under this  
754 chapter until the person's screening under s. 1012.32 is  
755 completed and the results have been submitted to the Department  
756 of Education or to the district school superintendent of the  
757 school district that employs the person. Every 5 years after  
758 obtaining initial certification, each person who is required to  
759 be certified under this chapter must be rescreened in accordance  
760 with s. 435.12. ~~s. 1012.32,~~ at which time the school district  
761 shall request the Department of Law Enforcement to forward the  
762 fingerprints to the Federal Bureau of Investigation for federal  
763 criminal records checks. ~~If, for any reason after obtaining~~  
764 ~~initial certification, the fingerprints of a person who is~~  
765 ~~required to be certified under this chapter are not retained by~~  
766 ~~the Department of Law Enforcement under s. 1012.32(3)(a) and~~  
767 ~~(b), the person must file a complete set of fingerprints with~~  
768 ~~the district school superintendent of the employing school~~  
769 ~~district. Upon submission of fingerprints for this purpose, the~~  
770 ~~school district shall request the Department of Law Enforcement~~  
771 ~~to forward the fingerprints to the Federal Bureau of~~  
772 ~~Investigation for federal criminal records checks, and the~~  
773 ~~fingerprints shall be retained by the Department of Law~~  
774 ~~Enforcement under s. 1012.32(3)(a) and (b).~~ The cost of the  
775 state and federal criminal history checks required by paragraph

776 (a) and this paragraph may be borne by the district school board  
777 or the employee. Under penalty of perjury, each person who is  
778 certified under this chapter must agree to inform his or her  
779 employer within 48 hours if convicted of any disqualifying  
780 offense while he or she is employed in a position for which such  
781 certification is required.

782 Section 12. This act shall take effect July 1, 2023.