



463154

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2022	.	
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The Committee on Criminal Justice (Brodeur) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present subsections (2) through (6) of section 435.02, Florida Statutes, are redesignated as subsections (3) through (7), respectively, and a new subsection (2) is added to that section, to read:

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



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11 (2) "Educational entities" means the Department of
12 Education, each district unit under s. 1001.30, special district
13 units under s. 1011.24, the Florida School for the Deaf and the
14 Blind under s. 1002.36, the Florida Virtual School under s.
15 1002.37, virtual instruction programs under s. 1002.45, charter
16 schools under s. 1002.33, hope operators under s. 1002.333, and
17 alternative schools under s. 1008.341.

18 Section 2. Paragraphs (b) and (d) of subsection (1) of
19 section 435.04, Florida Statutes, are amended to read:

20 435.04 Level 2 screening standards.—

21 (1)

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

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

29 Section 3. Section 435.12, Florida Statutes, is amended to
30 read:

31 435.12 Care Provider Background Screening Clearinghouse.—

32 (1) The Agency for Health Care Administration in
33 consultation with the Department of Law Enforcement shall create
34 a secure web-based system, which shall be known as the "Care
35 Provider Background Screening Clearinghouse" or
36 "clearinghouse_{.r}" ~~and which shall be implemented to the full~~
37 ~~extent practicable no later than September 30, 2013, subject to~~
38 ~~the specified agencies being funded and equipped to participate~~
39 ~~in such program.~~ The clearinghouse shall allow the results of



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40 criminal history checks provided to ~~the~~:

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

46 (b) Educational entities for screening of instructional and
47 noninstructional personnel under ss. 1012.32, 1012.465, and
48 1012.56 to be shared among educational entities when a person
49 has applied to be employed, be licensed, or enter into a
50 contract that requires a state and national fingerprint-based
51 criminal history check.

52 (c) Educational entities for screening of persons under s.
53 1012.467 to be shared among educational entities when a person
54 has applied to be employed or enter into a contract that
55 requires a state and national fingerprint-based criminal history
56 check.

57 (d) Qualified entities for screening of persons qualified
58 as care providers under s. 943.0542 to be shared among the
59 qualified entities when a person has applied to volunteer, be
60 employed, or enter into a contract that requires a state and
61 national fingerprint-based criminal history check.

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

67
68 The Agency for Health Care Administration and the Department of



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69 Law Enforcement may adopt rules to create forms or implement
70 procedures needed to carry out this section.

71 (2) (a) To ensure that the information in the clearinghouse
72 is current, the fingerprints of a person ~~an employee required to~~
73 ~~be screened by a specified agency and~~ included in the
74 clearinghouse must be:

75 1. Retained by the Department of Law Enforcement pursuant
76 to s. 943.05(2)(g) and (h) and (3), and the Department of Law
77 Enforcement must report the results of searching those
78 fingerprints against state incoming arrest fingerprint
79 submissions to the Agency for Health Care Administration for
80 inclusion in the clearinghouse.

81 2. Retained by the Federal Bureau of Investigation in the
82 national retained print arrest notification program as soon as
83 the Department of Law Enforcement begins participation in such
84 program. Arrest prints will be searched against retained prints
85 at the Federal Bureau of Investigation and notification of
86 arrests will be forwarded to the Florida Department of Law
87 Enforcement and reported to the Agency for Health Care
88 Administration for inclusion in the clearinghouse.

89 3. Resubmitted for a Federal Bureau of Investigation
90 national criminal history check every 5 years until such time as
91 the fingerprints are retained by the Federal Bureau of
92 Investigation.

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

96 5. Submitted with a photograph of the person taken at the
97 time the fingerprints are submitted.



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98 (b) Until such time as the fingerprints are enrolled in the
99 national retained print arrest notification program at the
100 Federal Bureau of Investigation, a person included in the
101 clearinghouse ~~an employee~~ with a break in service of more than
102 90 days from a position that requires screening ~~by a specified~~
103 ~~agency~~ must submit to a national screening if the person returns
104 to a position that requires screening ~~by a specified agency~~.

105 (c) An employer of persons subject to screening ~~by a~~
106 ~~specified agency~~ must register with the clearinghouse and
107 maintain the employment status of all employees within the
108 clearinghouse. Initial employment status and any changes in
109 status must be reported within 10 business days.

110 (d) An employer must register with and initiate all
111 criminal history checks through the clearinghouse before
112 referring an employee or potential employee for electronic
113 fingerprint submission to the Department of Law Enforcement. The
114 registration must include the employee's full first name, middle
115 initial, and last name; social security number; date of birth;
116 mailing address; sex; and race. Individuals, persons,
117 applicants, and controlling interests that cannot legally obtain
118 a social security number must provide an individual taxpayer
119 identification number.

120 ~~(3) An employee who has undergone a fingerprint-based~~
121 ~~criminal history check by a specified agency before the~~
122 ~~clearinghouse is operational is not required to be checked again~~
123 ~~solely for the purpose of entry in the clearinghouse. Every~~
124 ~~employee who is or will become subject to fingerprint-based~~
125 ~~criminal history checks to be eligible to be licensed, have~~
126 ~~their license renewed, or meet screening or rescreening~~



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127 ~~requirements by a specified agency once the specified agency~~
128 ~~participates in the clearinghouse shall be subject to the~~
129 ~~requirements of this section with respect to entry of records in~~
130 ~~the clearinghouse and retention of fingerprints for reporting~~
131 ~~the results of searching against state incoming arrest~~
132 ~~fingerprint submissions.~~

133 Section 4. Paragraphs (a) and (b) of subsection (2) and
134 subsection (4) of section 943.0438, Florida Statutes, are
135 amended to read:

136 943.0438 Athletic coaches for independent sanctioning
137 authorities.-

138 (2) An independent sanctioning authority shall:

139 (a) ~~1.~~ Conduct a level 2 ~~1~~ background screening pursuant to
140 s. 435.04 ~~s. 435.03~~ of each current and prospective athletic
141 coach. The authority may not delegate this responsibility to an
142 individual team and may not authorize any person to act as an
143 athletic coach unless a level 2 ~~1~~ background screening has been
144 ~~is~~ conducted and has ~~does~~ not resulted ~~result~~ in
145 disqualification under paragraph (b). ~~Level 1 background~~
146 ~~screenings shall be conducted annually for each athletic coach.~~
147 ~~For purposes of this section, a background screening shall~~
148 ~~include a search of the athletic coach's name or other~~
149 ~~identifying information against state and federal registries of~~
150 ~~sexual predators and sexual offenders, which are available to~~
151 ~~the public on Internet sites provided by:~~

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

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

155 ~~2. For purposes of this section, a background screening~~



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156 ~~conducted by a commercial consumer reporting agency in~~
157 ~~compliance with the federal Fair Credit Reporting Act using the~~
158 ~~identifying information referenced in subparagraph 1. that~~
159 ~~includes a level 1 background screening and a search of that~~
160 ~~information against the sexual predator and sexual offender~~
161 ~~Internet sites listed in sub-subparagraphs 1.a. and b. shall be~~
162 ~~deemed to satisfy the requirements of this paragraph.~~

163 (b) Disqualify any person from acting as an athletic coach
164 as provided in s. 435.04 ~~s. 435.03~~ or if he or she is identified
165 ~~on a registry described in paragraph (a)~~. The authority may
166 allow a person disqualified under this paragraph to act as an
167 athletic coach if it determines that the person meets the
168 requirements for an exemption from disqualification under s.
169 435.07; however, an exemption may not be granted for an offense
170 listed under s. 435.07(4)(c).

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

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

178 943.05 Criminal Justice Information Program; duties; crime
179 reports.—

180 (2) The program shall:

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



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185 ~~entities participating in the volunteer and employee criminal~~
186 ~~history screening system under s. 943.0542, or as otherwise~~
187 ~~required by law,~~ Retain fingerprints submitted by criminal and
188 noncriminal justice agencies to the department for a criminal
189 history background screening as provided by rule and enter the
190 fingerprints in the statewide automated biometric identification
191 system authorized by paragraph (b). Such fingerprints shall
192 thereafter be available for all purposes and uses authorized for
193 arrest fingerprint submissions entered into the statewide
194 automated biometric identification system pursuant to s.
195 943.051.

196 (h) ~~For each agency or qualified entity that officially~~
197 ~~requests retention of fingerprints or for which retention is~~
198 ~~otherwise required by law,~~ Search all arrest fingerprint
199 submissions received under s. 943.051 against the fingerprints
200 retained in the statewide automated biometric identification
201 system under paragraph (g).

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

206 2. To participate in this search process, agencies or
207 qualified entities must notify each person fingerprinted that
208 his or her fingerprints will be retained, pay an annual fee to
209 the department unless otherwise provided by law, and inform the
210 department of any change in the affiliation, employment, or
211 contractual status of each person whose fingerprints are
212 retained under paragraph (g) if such change removes or
213 eliminates the agency or qualified entity's basis or need for



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214 receiving reports of any arrest of that person, so that the
215 agency or qualified entity is not obligated to pay the upcoming
216 annual fee for the retention and searching of that person's
217 fingerprints to the department. The department shall adopt a
218 rule setting the amount of the annual fee to be imposed upon
219 each participating agency or qualified entity for performing
220 these searches and establishing the procedures for the retention
221 of fingerprints and the dissemination of search results. The fee
222 may be borne by the agency, qualified entity, or person subject
223 to fingerprint retention or as otherwise provided by law.

224 Consistent with the recognition of criminal justice agencies
225 expressed in s. 943.053(3), these services shall be provided to
226 criminal justice agencies for criminal justice purposes free of
227 charge. Qualified entities that elect to participate in the
228 fingerprint retention and search process are required to timely
229 remit the fee to the department by a payment mechanism approved
230 by the department. If requested by the qualified entity, and
231 with the approval of the department, such fees may be timely
232 remitted to the department by a qualified entity upon receipt of
233 an invoice for such fees from the department. Failure of a
234 qualified entity to pay the amount due on a timely basis or as
235 invoiced by the department may result in the refusal by the
236 department to permit the qualified entity to continue to
237 participate in the fingerprint retention and search process
238 until all fees due and owing are paid.

239 3. Agencies that participate in the fingerprint retention
240 and search process may adopt rules pursuant to ss. 120.536(1)
241 and 120.54 to require employers to keep the agency informed of
242 any change in the affiliation, employment, or contractual status



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243 of each person whose fingerprints are retained under paragraph
244 (g) if such change removes or eliminates the agency's basis or
245 need for receiving reports of any arrest of that person, so that
246 the agency is not obligated to pay the upcoming annual fee for
247 the retention and searching of that person's fingerprints to the
248 department.

249 (i) Develop a method for establishing identification
250 through automated biometrics, which may include, but is not
251 limited to, the use of latent fingerprints, palm prints, facial
252 recognition, or retina scans.

253 Section 6. Subsections (2) through (5) and (7) of section
254 943.0542, Florida Statutes, are amended to read:

255 943.0542 Access to criminal history information provided by
256 the department to qualified entities.-

257 (2) (a) A qualified entity must register and initiate all
258 criminal history checks through the Care Provider Background
259 Screening Clearinghouse created under s. 435.12 ~~with the~~
260 ~~department before submitting a request for screening under this~~
261 ~~section.~~ Each such request must be voluntary and conform to the
262 requirements established in the National Child Protection Act of
263 1993, as amended. As a part of the registration, the qualified
264 entity must agree to comply with state and federal law and must
265 so indicate by signing an agreement approved by the department.
266 The department shall ~~may~~ periodically audit qualified entities
267 to ensure compliance with federal law and this section.

268 (b) All fingerprints received under this section shall be
269 entered into the clearinghouse as provided in s. 435.12 A
270 ~~qualified entity shall submit to the department a request for~~
271 ~~screening an employee or volunteer or person applying to be an~~



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272 ~~employee or volunteer by submitting fingerprints, or the request~~
273 ~~may be submitted electronically.~~ The qualified entity must
274 maintain a signed waiver allowing the release of the state and
275 national criminal history record information to the qualified
276 entity. The waiver must include a statement that the department
277 shall retain the fingerprints of the criminal history background
278 screening of each employee or volunteer as provided by rule and
279 enter the fingerprints in the statewide automated biometric
280 identification method under s. 943.05(2)(i).

281 (c) Each such request must be accompanied by payment of a
282 fee for a statewide criminal history check by the department
283 established by s. 943.053, plus the amount currently prescribed
284 by the Federal Bureau of Investigation for the national criminal
285 history check in compliance with the National Child Protection
286 Act of 1993, as amended. Payments must be made in the manner
287 prescribed by the department by rule.

288 ~~(d) Any current or prospective employee or volunteer who is~~
289 ~~subject to a request for screening must indicate to the~~
290 ~~qualified entity submitting the request the name and address of~~
291 ~~each qualified entity that has submitted a previous request for~~
292 ~~screening regarding that employee or volunteer.~~

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

299 (4) The national criminal history data is available to
300 qualified entities to use only for the purpose of screening



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301 employees and volunteers or persons applying to be an employee
302 or volunteer with a qualified entity. The Care Provider
303 Background Screening Clearinghouse ~~department~~ shall provide this
304 national criminal history record information directly to the
305 qualified entity as authorized by the written waiver required
306 for submission of a request to the department.

307 (5) The determination whether the criminal history record
308 shows that the employee or volunteer has been convicted of or is
309 under pending indictment for any crime that bears upon the
310 fitness of the employee or volunteer to have responsibility for
311 the safety and well-being of ~~children,~~ the elderly, or disabled
312 persons shall solely be made by the qualified entity. A
313 qualified entity that provides care to children may not employ
314 or allow a volunteer who is ineligible for an exemption under s.
315 435.07(4)(c). This section does not require the department to
316 make such a determination on behalf of any qualified entity.

317 ~~(7) The department may establish a database of registered~~
318 ~~qualified entities and make this data available free of charge~~
319 ~~to all registered qualified entities. The database must include,~~
320 ~~at a minimum, the name, address, and phone number of each~~
321 ~~qualified entity.~~

322 Section 7. Paragraph (g) of subsection (12) of section
323 1002.33, Florida Statutes, is amended to read:

324 1002.33 Charter schools.—

325 (12) EMPLOYEES OF CHARTER SCHOOLS.—

326 (g)1. A charter school shall employ or contract with
327 employees who have undergone background screening as provided in
328 s. 1012.32. Members of the governing board of the charter school
329 shall also undergo background screening in a manner similar to



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330 that provided in s. 1012.32. An individual may not be employed
331 as an employee or contract personnel of a charter school or
332 serve as a member of a charter school governing board if the
333 individual is on the disqualification list maintained by the
334 department pursuant to s. 1001.10(4)(b).

335 2. A charter school shall prohibit educational support
336 employees, instructional personnel, and school administrators,
337 as defined in s. 1012.01, from employment in any position that
338 requires direct contact with students if the employees,
339 personnel, or administrators are ineligible for such employment
340 under s. 435.04(2) or (3) or s. 1012.315 or have been terminated
341 or have resigned in lieu of termination for sexual misconduct
342 with a student. If the prohibited conduct occurs while employed,
343 a charter school must report the individual and the
344 disqualifying circumstances to the department for inclusion on
345 the disqualification list maintained pursuant to s.
346 1001.10(4)(b).

347 3. The governing board of a charter school shall adopt
348 policies establishing standards of ethical conduct for
349 educational support employees, instructional personnel, and
350 school administrators. The policies must require all educational
351 support employees, instructional personnel, and school
352 administrators, as defined in s. 1012.01, to complete training
353 on the standards; establish the duty of educational support
354 employees, instructional personnel, and school administrators to
355 report, and procedures for reporting, alleged misconduct that
356 affects the health, safety, or welfare of a student; and include
357 an explanation of the liability protections provided under ss.
358 39.203 and 768.095. A charter school, or any of its employees,



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359 may not enter into a confidentiality agreement regarding
360 terminated or dismissed educational support employees,
361 instructional personnel, or school administrators, or employees,
362 personnel, or administrators who resign in lieu of termination,
363 based in whole or in part on misconduct that affects the health,
364 safety, or welfare of a student, and may not provide employees,
365 personnel, or administrators with employment references or
366 discuss the employees', personnel's, or administrators'
367 performance with prospective employers in another educational
368 setting, without disclosing the employees', personnel's, or
369 administrators' misconduct. Any part of an agreement or contract
370 that has the purpose or effect of concealing misconduct by
371 educational support employees, instructional personnel, or
372 school administrators which affects the health, safety, or
373 welfare of a student is void, is contrary to public policy, and
374 may not be enforced.

375 4. Before employing an individual in any position that
376 requires direct contact with students, a charter school shall
377 conduct employment history checks of each individual through use
378 of the educator screening tools described in s. 1001.10(5), and
379 document the findings. If unable to contact a previous employer,
380 the charter school must document efforts to contact the
381 employer.

382 5. The sponsor of a charter school that knowingly fails to
383 comply with this paragraph shall terminate the charter under
384 subsection (8).

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

387 1012.32 Qualifications of personnel.—



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388 (2) (a) Instructional and noninstructional personnel who are
389 hired or contracted to fill positions that require direct
390 contact with students in any district school system or
391 university lab school must, upon employment or engagement to
392 provide services, undergo background screening as required under
393 s. 1012.465 or s. 1012.56, whichever is applicable.

394 (b)1. Instructional and noninstructional personnel who are
395 hired or contracted to fill positions in a charter school other
396 than a school of hope as defined in s. 1002.333, and members of
397 the governing board of such charter school, in compliance with
398 s. 1002.33(12)(g), upon employment, engagement of services, or
399 appointment, shall undergo background screening as required
400 under s. 1012.465 or s. 1012.56, whichever is applicable, ~~by~~
401 ~~filing with the district school board for the school district in~~
402 ~~which the charter school is located a complete set of~~
403 ~~fingerprints taken by an authorized law enforcement agency or an~~
404 ~~employee of the school or school district who is trained to take~~
405 ~~fingerprints.~~

406 2. Instructional and noninstructional personnel who are
407 hired or contracted to fill positions in a school of hope as
408 defined in s. 1002.333, and members of the governing board of
409 such school of hope, upon employment, engagement of services, or
410 appointment, shall undergo background screening as required
411 under s. 1012.465 or s. 1012.56, whichever is applicable ~~file~~
412 ~~with the school of hope a complete set of fingerprints taken by~~
413 ~~an authorized law enforcement agency, by an employee of the~~
414 ~~school of hope or school district who is trained to take~~
415 ~~fingerprints, or by any other entity recognized by the~~
416 ~~Department of Law Enforcement to take fingerprints.~~



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417 (c) Instructional and noninstructional personnel who are
418 hired or contracted to fill positions that require direct
419 contact with students in an alternative school that operates
420 under contract with a district school system must, upon
421 employment or engagement to provide services, undergo background
422 screening as required under s. 1012.465 or s. 1012.56, whichever
423 is applicable, ~~by filing with the district school board for the~~
424 ~~school district to which the alternative school is under~~
425 ~~contract a complete set of fingerprints taken by an authorized~~
426 ~~law enforcement agency or an employee of the school or school~~
427 ~~district who is trained to take fingerprints.~~

428 (d) Student teachers and persons participating in a field
429 experience pursuant to s. 1004.04(5) or s. 1004.85 in any
430 district school system, lab school, or charter school must, upon
431 engagement to provide services, undergo background screening as
432 required under s. 1012.56.

433
434 ~~Required fingerprints must be submitted to the Department of Law~~
435 ~~Enforcement for statewide criminal and juvenile records checks~~
436 ~~and to the Federal Bureau of Investigation for federal criminal~~
437 ~~records checks.~~ A person subject to this subsection who is found
438 ineligible for employment under s. 435.04(2) or (3) or s.
439 1012.315, or otherwise found through background screening to
440 have been convicted of any crime involving moral turpitude as
441 defined by rule of the State Board of Education, shall not be
442 employed, engaged to provide services, or serve in any position
443 that requires direct contact with students. ~~Probationary persons~~
444 ~~subject to this subsection terminated because of their criminal~~
445 ~~record have the right to appeal such decisions. The cost of the~~



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446 ~~background screening may be borne by the district school board,~~
447 ~~the charter school, the employee, the contractor, or a person~~
448 ~~subject to this subsection. A district school board shall~~
449 ~~reimburse a charter school the cost of background screening if~~
450 ~~it does not notify the charter school of the eligibility of a~~
451 ~~governing board member or instructional or noninstructional~~
452 ~~personnel within the earlier of 14 days after receipt of the~~
453 ~~background screening results from the Florida Department of Law~~
454 ~~Enforcement or 30 days of submission of fingerprints by the~~
455 ~~governing board member or instructional or noninstructional~~
456 ~~personnel.~~

457 (3) A background screening required under this chapter must
458 comply with the requirements of s. 435.12. Each educational
459 entity as defined in s. 435.02 shall register with, and initiate
460 criminal history checks through, the Care Provider Background
461 Screening Clearinghouse as provided in s. 435.12. All
462 fingerprints must be submitted through an educational entity or
463 a vendor approved by the Department of Law Enforcement. All
464 fingerprints must be submitted electronically to the Department
465 of Law Enforcement for state processing, and the Department of
466 Law Enforcement shall forward the fingerprints to the Federal
467 Bureau of Investigation for national processing. For any
468 subsequent background screening that requires a national
469 criminal history check, the Department of Law Enforcement must
470 forward the retained fingerprints of the individual to the
471 Federal Bureau of Investigation unless the fingerprints are
472 enrolled in the national retained print arrest notification
473 program. All fingerprints submitted to the Department of Law
474 Enforcement shall be retained by the Department of Law



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475 Enforcement as provided under s. 943.05(2)(g) and (h) and (3)
476 and enrolled in the national retained print arrest notification
477 program at the Federal Bureau of Investigation when the
478 Department of Law Enforcement begins participation in the
479 program. The cost of the background screening may be borne by
480 the educational entity, the employee, the contractor, or a
481 person subject to background screening

482 ~~(a) All fingerprints submitted to the Department of Law~~
483 ~~Enforcement as required by subsection (2) shall be retained by~~
484 ~~the Department of Law Enforcement in a manner provided by rule~~
485 ~~and entered in the statewide automated biometric identification~~
486 ~~system authorized by s. 943.05(2)(b). Such fingerprints shall~~
487 ~~thereafter be available for all purposes and uses authorized for~~
488 ~~arrest fingerprints entered in the statewide automated biometric~~
489 ~~identification system pursuant to s. 943.051.~~

490 ~~(b) The Department of Law Enforcement shall search all~~
491 ~~arrest fingerprints received under s. 943.051 against the~~
492 ~~fingerprints retained in the statewide automated biometric~~
493 ~~identification system under paragraph (a). Any arrest record~~
494 ~~that is identified with the retained fingerprints of a person~~
495 ~~subject to the background screening under this section shall be~~
496 ~~reported to the employing or contracting school district or the~~
497 ~~school district with which the person is affiliated. Each school~~
498 ~~district is required to participate in this search process by~~
499 ~~payment of an annual fee to the Department of Law Enforcement~~
500 ~~and by informing the Department of Law Enforcement of any change~~
501 ~~in the affiliation, employment, or contractual status or place~~
502 ~~of affiliation, employment, or contracting of its instructional~~
503 ~~and noninstructional personnel whose fingerprints are retained~~



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504 ~~under paragraph (a). The Department of Law Enforcement shall~~
505 ~~adopt a rule setting the amount of the annual fee to be imposed~~
506 ~~upon each school district for performing these searches and~~
507 ~~establishing the procedures for the retention of instructional~~
508 ~~and noninstructional personnel fingerprints and the~~
509 ~~dissemination of search results. The fee may be borne by the~~
510 ~~district school board, the contractor, or the person~~
511 ~~fingerprinted.~~

512 ~~(c) Personnel whose fingerprints are not retained by the~~
513 ~~Department of Law Enforcement under paragraphs (a) and (b) must~~
514 ~~be refingerprinted and rescreened in accordance with subsection~~
515 ~~(2) upon reemployment or reengagement to provide services in~~
516 ~~order to comply with the requirements of this subsection.~~

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

519 1012.465 Background screening requirements for certain
520 noninstructional school district employees and contractors.—

521 (1) Except as provided in s. 1012.467 or s. 1012.468,
522 noninstructional school district employees or contractual
523 personnel who are permitted access on school grounds when
524 students are present, who have direct contact with students or
525 who have access to or control of school funds must meet level 2
526 screening requirements of chapter 435 using the process as
527 described in s. 1012.32(3) ~~s. 1012.32~~. Contractual personnel
528 shall include any vendor, individual, or entity under contract
529 with a school or the school board.

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



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533 ~~must meet level 2 screening requirements as described in s.~~
534 ~~1012.32, at which time the school district shall request the~~
535 ~~Department of Law Enforcement to forward the fingerprints to the~~
536 ~~Federal Bureau of Investigation for the level 2 screening. If,~~
537 ~~for any reason following employment or entry into a contract in~~
538 ~~a capacity described in subsection (1), the fingerprints of a~~
539 ~~person who is so employed or under contract with the school~~
540 ~~district are not retained by the Department of Law Enforcement~~
541 ~~under s. 1012.32(3)(a) and (b), the person must file a complete~~
542 ~~set of fingerprints with the district school superintendent of~~
543 ~~the employing or contracting school district. Upon submission of~~
544 ~~fingerprints for this purpose, the school district shall request~~
545 ~~the Department of Law Enforcement to forward the fingerprints to~~
546 ~~the Federal Bureau of Investigation for the level 2 screening,~~
547 ~~and the fingerprints shall be retained by the Department of Law~~
548 ~~Enforcement under s. 1012.32(3)(a) and (b). The cost of the~~
549 ~~state and federal criminal history check required by level 2~~
550 ~~screening may be borne by the district school board, the~~
551 ~~contractor, or the person fingerprinted. Under penalty of~~
552 ~~perjury, each person who is employed or under contract in a~~
553 ~~capacity described in subsection (1) must agree to inform his or~~
554 ~~her employer or the party with whom he or she is under contract~~
555 ~~within 48 hours if convicted of any disqualifying offense while~~
556 ~~he or she is employed or under contract in that capacity.~~

557 Section 10. Subsections (2) through (6) and paragraph (a)
558 of subsection (7) of section 1012.467, Florida Statutes, are
559 amended to read:

560 1012.467 Noninstructional contractors who are permitted
561 access to school grounds when students are present; background



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562 screening requirements.-

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

570 ~~Criminal history checks shall be performed at least once every 5~~
571 ~~years. For the initial criminal history check, each~~
572 ~~noninstructional contractor who is subject to the criminal~~
573 ~~history check shall file with the Department of Law Enforcement~~
574 ~~a complete set of fingerprints taken by an authorized law~~
575 ~~enforcement agency or an employee of a school district, a public~~
576 ~~school, or a private company who is trained to take~~
577 ~~fingerprints. The fingerprints shall be electronically submitted~~
578 ~~for state processing to the Department of Law Enforcement, which~~
579 ~~shall in turn submit the fingerprints to the Federal Bureau of~~
580 ~~Investigation for national processing.~~ The results of each
581 criminal history check shall be reported to the school district
582 in which the individual is seeking access and entered into the
583 shared system described in subsection (7). The school district
584 shall screen the results using the disqualifying offenses in
585 paragraph (b) ~~(g)~~. The cost of the criminal history check may be
586 borne by the district school board, the school, or the
587 contractor. ~~A fee that is charged by a district school board for~~
588 ~~such checks may not exceed 30 percent of the total amount~~
589 ~~charged by the Department of Law Enforcement and the Federal~~
590 ~~Bureau of Investigation.~~



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591 ~~(b) As authorized by law, the Department of Law Enforcement~~
592 ~~shall retain the fingerprints submitted by the school districts~~
593 ~~pursuant to this subsection to the Department of Law Enforcement~~
594 ~~for a criminal history background screening in a manner provided~~
595 ~~by rule and enter the fingerprints in the statewide automated~~
596 ~~biometric identification system authorized by s. 943.05(2)(b).~~
597 ~~The fingerprints shall thereafter be available for all purposes~~
598 ~~and uses authorized for arrest fingerprints entered into the~~
599 ~~statewide automated biometric identification system under s.~~
600 ~~943.051.~~

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

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

608 ~~(e) A fingerprint retained pursuant to this subsection~~
609 ~~shall be purged from the automated biometric identification~~
610 ~~system 5 years following the date the fingerprint was initially~~
611 ~~submitted. The Department of Law Enforcement shall set the~~
612 ~~amount of the annual fee to be imposed upon each participating~~
613 ~~agency for performing these searches and establishing the~~
614 ~~procedures for retaining fingerprints and disseminating search~~
615 ~~results. The fee may be borne as provided by law. Fees may be~~
616 ~~waived or reduced by the executive director of the Department of~~
617 ~~Law Enforcement for good cause shown.~~

618 ~~(f) A noninstructional contractor who is subject to a~~
619 ~~criminal history check under this section shall inform a school~~



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620 ~~district that he or she has completed a criminal history check~~
621 ~~in another school district within the last 5 years. The school~~
622 ~~district shall verify the results of the contractor's criminal~~
623 ~~history check using the shared system described in subsection~~
624 ~~(7). The school district may not charge the contractor a fee for~~
625 ~~verifying the results of his or her criminal history check.~~

626 ~~(g)~~ A noninstructional contractor for whom a criminal
627 history check is required under this section may not have been
628 convicted of any of the following offenses designated in the
629 Florida Statutes, any similar offense in another jurisdiction,
630 or any similar offense committed in this state which has been
631 redesignated from a former provision of the Florida Statutes to
632 one of the following offenses:

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

635 2. Section 393.135, relating to sexual misconduct with
636 certain developmentally disabled clients and the reporting of
637 such sexual misconduct.

638 3. Section 394.4593, relating to sexual misconduct with
639 certain mental health patients and the reporting of such sexual
640 misconduct.

641 4. Section 775.30, relating to terrorism.

642 5. Section 782.04, relating to murder.

643 6. Section 787.01, relating to kidnapping.

644 7. Any offense under chapter 800, relating to lewdness and
645 indecent exposure.

646 8. Section 826.04, relating to incest.

647 9. Section 827.03, relating to child abuse, aggravated
648 child abuse, or neglect of a child.



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649 (3) If it is found that a noninstructional contractor has
650 been convicted of any of the offenses listed in paragraph (2) (b)
651 ~~(2) (g)~~, the individual shall be immediately suspended from
652 having access to school grounds and shall remain suspended
653 unless and until the conviction is set aside in any
654 postconviction proceeding.

655 (4) A noninstructional contractor who has been convicted of
656 any of the offenses listed in paragraph (2) (b) ~~(2) (g)~~ may not be
657 permitted on school grounds when students are present unless the
658 contractor has received a full pardon or has had his or her
659 civil rights restored. A noninstructional contractor who is
660 present on school grounds in violation of this subsection
661 commits a felony of the third degree, punishable as provided in
662 s. 775.082 or s. 775.083.

663 (5) If a school district has reasonable cause to believe
664 that grounds exist for the denial of a contractor's access to
665 school grounds when students are present, it shall notify the
666 contractor in writing, stating the specific record that
667 indicates noncompliance with the standards set forth in this
668 section. It is the responsibility of the affected contractor to
669 contest his or her denial. The only basis for contesting the
670 denial is proof of mistaken identity or that an offense from
671 another jurisdiction is not disqualifying under paragraph (2) (b)
672 ~~(2) (g)~~.

673 (6) Each contractor who is subject to the requirements of
674 this section shall agree to inform his or her employer or the
675 party to whom he or she is under contract and the school
676 district within 48 hours if he or she is arrested for any of the
677 disqualifying offenses in paragraph (2) (b) ~~(2) (g)~~. A contractor



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678 who willfully fails to comply with this subsection commits a
679 felony of the third degree, punishable as provided in s. 775.082
680 or s. 775.083. If the employer of a contractor or the party to
681 whom the contractor is under contract knows the contractor has
682 been arrested for any of the disqualifying offenses in paragraph
683 (2) (b) ~~(2) (g)~~ and authorizes the contractor to be present on
684 school grounds when students are present, such employer or such
685 party commits a felony of the third degree, punishable as
686 provided in s. 775.082 or s. 775.083.

687 (7) (a) ~~The Department of Law Enforcement shall implement a~~
688 ~~system that allows for the results of a criminal history check~~
689 ~~shall provided to a school district to be shared among~~
690 ~~educational entities under s. 435.12 with other school districts~~
691 ~~through a secure Internet website or other secure electronic~~
692 ~~means.~~ School districts must accept reciprocity of level 2
693 screenings for Florida High School Athletic Association
694 officials.

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

697 1012.56 Educator certification requirements.—

698 (10) BACKGROUND SCREENING REQUIRED, INITIALLY AND
699 PERIODICALLY.—

700 (a) Each person who seeks certification under this chapter
701 must be fingerprinted and screened in accordance with s. 1012.32
702 and must not be ineligible for such certification under s.
703 435.04(2) or (3) or s. 1012.315. A person who has been screened
704 in accordance with s. 1012.32 by a district school board or the
705 Department of Education within 12 months before the date the
706 person initially obtains certification under this chapter, the



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707 results of which are submitted to the district school board or
708 to the Department of Education, is not required to repeat the
709 screening under this paragraph.

710 (b) A person may not receive a certificate under this
711 chapter until the person's screening under s. 1012.32 is
712 completed and the results have been submitted to the Department
713 of Education or to the district school superintendent of the
714 school district that employs the person. Every 5 years after
715 obtaining initial certification, each person who is required to
716 be certified under this chapter must be rescreened in accordance
717 with s. 435.12 ~~s. 1012.32~~, at which time the school district
718 shall request the Department of Law Enforcement to forward the
719 fingerprints to the Federal Bureau of Investigation for federal
720 criminal records checks. If, for any reason after obtaining
721 initial certification, the fingerprints of a person who is
722 required to be certified under this chapter are not retained by
723 the Department of Law Enforcement under s. 1012.32(3)(a) and
724 (b), the person must file a complete set of fingerprints with
725 the district school superintendent of the employing school
726 district. Upon submission of fingerprints for this purpose, the
727 school district shall request the Department of Law Enforcement
728 to forward the fingerprints to the Federal Bureau of
729 Investigation for federal criminal records checks, and the
730 fingerprints shall be retained by the Department of Law
731 Enforcement under s. 1012.32(3)(a) and (b). The cost of the
732 state and federal criminal history checks required by paragraph
733 (a) and this paragraph may be borne by the district school board
734 or the employee. Under penalty of perjury, each person who is
735 certified under this chapter must agree to inform his or her



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736 employer within 48 hours if convicted of any disqualifying
737 offense while he or she is employed in a position for which such
738 certification is required.

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

740

741 ===== T I T L E A M E N D M E N T =====

742 And the title is amended as follows:

743 Delete everything before the enacting clause
744 and insert:

745 A bill to be entitled
746 An act relating to background screenings; amending s.
747 435.02, F.S.; defining the term "educational
748 entities"; amending s. 435.04, F.S.; deleting obsolete
749 language; amending s. 435.12, F.S.; authorizing
750 criminal history results to be provided to and shared
751 between certain parties; providing that existing
752 retention provisions apply to persons included in the
753 Care Provider Background Screening Clearinghouse;
754 removing obsolete language; amending s. 943.0438,
755 F.S.; requiring an independent sanctioning authority
756 to conduct level 2 background screenings of current
757 and prospective athletic coaches; requiring specified
758 entities to participate in a certain criminal history
759 system; amending s. 943.05, F.S.; deleting provisions
760 concerning conditions precedent to the retention of
761 certain fingerprints; requiring the Criminal Justice
762 Information Program to develop a certain
763 identification method; amending s. 943.0542, F.S.;
764 requiring specified entities to initiate criminal



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765 history checks through the clearinghouse; requiring
766 the Department of Law Enforcement to audit certain
767 entities; requiring certain fingerprints to be entered
768 into the clearinghouse; requiring a waiver to include
769 specified information; prohibiting providers of child
770 care from specified associations with certain persons;
771 deleting a requirement that the Department of Law
772 Enforcement establish a certain database; amending s.
773 1002.33, F.S.; prohibiting a charter school from
774 employing specified persons; amending s. 1012.32,
775 F.S.; revising the procedure for background
776 screenings; expanding the types of background
777 screenings used by certain schools; deleting the right
778 to appeal certain terminations; deleting provisions
779 specifying financial responsibility and reimbursement
780 for background screenings; providing requirements of
781 and procedures for background screenings; providing
782 responsibility for background screening costs;
783 amending ss. 1012.465, 1012.467, and 1012.56, F.S.;
784 conforming provisions to changes made by the act;
785 providing an effective date.