

By the Committee on Criminal Justice; and Senators Brodeur and Book

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1                                   A bill to be entitled  
2       An act relating to background screenings; amending s.  
3       435.02, F.S.; defining the term "educational  
4       entities"; amending s. 435.04, F.S.; deleting 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 an independent sanctioning authority  
12      to conduct level 2 background screenings of current  
13      and prospective athletic coaches; requiring specified  
14      entities to participate in a certain criminal history  
15      system; amending s. 943.05, F.S.; deleting provisions  
16      concerning conditions precedent to the retention of  
17      certain fingerprints; requiring the Criminal Justice  
18      Information Program to develop a certain  
19      identification method; amending s. 943.0542, F.S.;  
20      requiring specified entities to initiate criminal  
21      history checks through the clearinghouse; requiring  
22      the Department of Law Enforcement to audit certain  
23      entities; requiring certain fingerprints to be entered  
24      into the clearinghouse; requiring a waiver to include  
25      specified information; prohibiting providers of child  
26      care from specified associations with certain persons;  
27      deleting a requirement that the Department of Law  
28      Enforcement establish a certain database; amending s.  
29      1002.33, F.S.; prohibiting a charter school from

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30 employing specified persons; amending s. 1012.32,  
31 F.S.; revising the procedure for background  
32 screenings; expanding the types of background  
33 screenings used by certain schools; deleting the right  
34 to appeal certain terminations; deleting provisions  
35 specifying financial responsibility and reimbursement  
36 for background screenings; providing requirements of  
37 and procedures for background screenings; providing  
38 responsibility for background screening costs;  
39 amending ss. 1012.465, 1012.467, and 1012.56, F.S.;  
40 conforming provisions to changes made by the act;  
41 providing an effective date.

42  
43 Be It Enacted by the Legislature of the State of Florida:  
44

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

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

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

58 Section 2. Paragraphs (b) and (d) of subsection (1) of

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59 section 435.04, Florida Statutes, are amended to read:

60 435.04 Level 2 screening standards.—

61 (1)

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

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

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

71 435.12 Care Provider Background Screening Clearinghouse.—

72 (1) The Agency for Health Care Administration in  
73 consultation with the Department of Law Enforcement shall create  
74 a secure web-based system, which shall be known as the "Care  
75 Provider Background Screening Clearinghouse" or  
76 "clearinghouse.7" ~~and which shall be implemented to the full~~  
77 ~~extent practicable no later than September 30, 2013, subject to~~  
78 ~~the specified agencies being funded and equipped to participate~~  
79 ~~in such program.~~ The clearinghouse shall allow the results of  
80 criminal history checks provided to ~~the~~the:

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

86 (b) Educational entities for screening of instructional and  
87 noninstructional personnel under ss. 1012.32, 1012.465, and

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88 1012.56 to be shared among educational entities when a person  
89 has applied to be employed, be licensed, or enter into a  
90 contract that requires a state and national fingerprint-based  
91 criminal history check.

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

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

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

107

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

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

115 1. Retained by the Department of Law Enforcement pursuant  
116 to s. 943.05(2)(g) and (h) and (3), and the Department of Law

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117 Enforcement must report the results of searching those  
118 fingerprints against state incoming arrest fingerprint  
119 submissions to the Agency for Health Care Administration for  
120 inclusion in the clearinghouse.

121 2. Retained by the Federal Bureau of Investigation in the  
122 national retained print arrest notification program as soon as  
123 the Department of Law Enforcement begins participation in such  
124 program. Arrest prints will be searched against retained prints  
125 at the Federal Bureau of Investigation and notification of  
126 arrests will be forwarded to the Florida Department of Law  
127 Enforcement and reported to the Agency for Health Care  
128 Administration for inclusion in the clearinghouse.

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

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

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

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

145 (c) An employer of persons subject to screening ~~by a~~

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146 ~~specified agency~~ must register with the clearinghouse and  
147 maintain the employment status of all employees within the  
148 clearinghouse. Initial employment status and any changes in  
149 status must be reported within 10 business days.

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

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

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

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175 amended to read:

176 943.0438 Athletic coaches for independent sanctioning  
177 authorities.-

178 (2) An independent sanctioning authority shall:

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

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

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

195 ~~2. For purposes of this section, a background screening~~  
196 ~~conducted by a commercial consumer reporting agency in~~  
197 ~~compliance with the federal Fair Credit Reporting Act using the~~  
198 ~~identifying information referenced in subparagraph 1. that~~  
199 ~~includes a level 1 background screening and a search of that~~  
200 ~~information against the sexual predator and sexual offender~~  
201 ~~Internet sites listed in sub-subparagraphs 1.a. and b. shall be~~  
202 ~~deemed to satisfy the requirements of this paragraph.~~

203 (b) Disqualify any person from acting as an athletic coach

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

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

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

218 943.05 Criminal Justice Information Program; duties; crime  
219 reports.—

220 (2) The program shall:

221 (g) ~~Upon official written request, and subject to the~~  
222 ~~department having sufficient funds and equipment to participate~~  
223 ~~in such a request, from the agency executive director or~~  
224 ~~secretary or from his or her designee, or from qualified~~  
225 ~~entities participating in the volunteer and employee criminal~~  
226 ~~history screening system under s. 943.0542, or as otherwise~~  
227 ~~required by law,~~ Retain fingerprints submitted by criminal and  
228 noncriminal justice agencies to the department for a criminal  
229 history background screening as provided by rule and enter the  
230 fingerprints in the statewide automated biometric identification  
231 system authorized by paragraph (b). Such fingerprints shall  
232 thereafter be available for all purposes and uses authorized for



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233 arrest fingerprint submissions entered into the statewide  
234 automated biometric identification system pursuant to s.  
235 943.051.

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

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

246 2. To participate in this search process, agencies or  
247 qualified entities must notify each person fingerprinted that  
248 his or her fingerprints will be retained, pay an annual fee to  
249 the department unless otherwise provided by law, and inform the  
250 department of any change in the affiliation, employment, or  
251 contractual status of each person whose fingerprints are  
252 retained under paragraph (g) if such change removes or  
253 eliminates the agency or qualified entity's basis or need for  
254 receiving reports of any arrest of that person, so that the  
255 agency or qualified entity is not obligated to pay the upcoming  
256 annual fee for the retention and searching of that person's  
257 fingerprints to the department. The department shall adopt a  
258 rule setting the amount of the annual fee to be imposed upon  
259 each participating agency or qualified entity for performing  
260 these searches and establishing the procedures for the retention  
261 of fingerprints and the dissemination of search results. The fee

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262 may be borne by the agency, qualified entity, or person subject  
263 to fingerprint retention or as otherwise provided by law.  
264 Consistent with the recognition of criminal justice agencies  
265 expressed in s. 943.053(3), these services shall be provided to  
266 criminal justice agencies for criminal justice purposes free of  
267 charge. Qualified entities that elect to participate in the  
268 fingerprint retention and search process are required to timely  
269 remit the fee to the department by a payment mechanism approved  
270 by the department. If requested by the qualified entity, and  
271 with the approval of the department, such fees may be timely  
272 remitted to the department by a qualified entity upon receipt of  
273 an invoice for such fees from the department. Failure of a  
274 qualified entity to pay the amount due on a timely basis or as  
275 invoiced by the department may result in the refusal by the  
276 department to permit the qualified entity to continue to  
277 participate in the fingerprint retention and search process  
278 until all fees due and owing are paid.

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

289 (i) Develop a method for establishing identification  
290 through automated biometrics, which may include, but is not

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291 limited to, the use of latent fingerprints, palm prints, facial  
292 recognition, or retina scans.

293 Section 6. Subsections (2) through (5) and (7) of section  
294 943.0542, Florida Statutes, are amended to read:

295 943.0542 Access to criminal history information provided by  
296 the department to qualified entities.—

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

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

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320 identification method under s. 943.05(2)(i).

321 (c) Each such request must be accompanied by payment of a  
322 fee for a statewide criminal history check by the department  
323 established by s. 943.053, plus the amount currently prescribed  
324 by the Federal Bureau of Investigation for the national criminal  
325 history check in compliance with the National Child Protection  
326 Act of 1993, as amended. Payments must be made in the manner  
327 prescribed by the department by rule.

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

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

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

347 (5) The determination whether the criminal history record  
348 shows that the employee or volunteer has been convicted of or is

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

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

362 Section 7. Paragraph (g) of subsection (12) of section  
363 1002.33, Florida Statutes, is amended to read:

364 1002.33 Charter schools.—

365 (12) EMPLOYEES OF CHARTER SCHOOLS.—

366 (g)1. A charter school shall employ or contract with  
367 employees who have undergone background screening as provided in  
368 s. 1012.32. Members of the governing board of the charter school  
369 shall also undergo background screening in a manner similar to  
370 that provided in s. 1012.32. An individual may not be employed  
371 as an employee or contract personnel of a charter school or  
372 serve as a member of a charter school governing board if the  
373 individual is on the disqualification list maintained by the  
374 department pursuant to s. 1001.10(4)(b).

375 2. A charter school shall prohibit educational support  
376 employees, instructional personnel, and school administrators,  
377 as defined in s. 1012.01, from employment in any position that

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

387 3. The governing board of a charter school shall adopt  
388 policies establishing standards of ethical conduct for  
389 educational support employees, instructional personnel, and  
390 school administrators. The policies must require all educational  
391 support employees, instructional personnel, and school  
392 administrators, as defined in s. 1012.01, to complete training  
393 on the standards; establish the duty of educational support  
394 employees, instructional personnel, and school administrators to  
395 report, and procedures for reporting, alleged misconduct that  
396 affects the health, safety, or welfare of a student; and include  
397 an explanation of the liability protections provided under ss.  
398 39.203 and 768.095. A charter school, or any of its employees,  
399 may not enter into a confidentiality agreement regarding  
400 terminated or dismissed educational support employees,  
401 instructional personnel, or school administrators, or employees,  
402 personnel, or administrators who resign in lieu of termination,  
403 based in whole or in part on misconduct that affects the health,  
404 safety, or welfare of a student, and may not provide employees,  
405 personnel, or administrators with employment references or  
406 discuss the employees', personnel's, or administrators'

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407 performance with prospective employers in another educational  
408 setting, without disclosing the employees', personnel's, or  
409 administrators' misconduct. Any part of an agreement or contract  
410 that has the purpose or effect of concealing misconduct by  
411 educational support employees, instructional personnel, or  
412 school administrators which affects the health, safety, or  
413 welfare of a student is void, is contrary to public policy, and  
414 may not be enforced.

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

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

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

427 1012.32 Qualifications of personnel.—

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

434 (b) 1. Instructional and noninstructional personnel who are  
435 hired or contracted to fill positions in a charter school other

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

446 2. Instructional and noninstructional personnel who are  
447 hired or contracted to fill positions in a school of hope as  
448 defined in s. 1002.333, and members of the governing board of  
449 such school of hope, upon employment, engagement of services, or  
450 appointment, shall undergo background screening as required  
451 under s. 1012.465 or s. 1012.56, whichever is applicable ~~file~~  
452 ~~with the school of hope a complete set of fingerprints taken by~~  
453 ~~an authorized law enforcement agency, by an employee of the~~  
454 ~~school of hope or school district who is trained to take~~  
455 ~~fingerprints, or by any other entity recognized by the~~  
456 ~~Department of Law Enforcement to take fingerprints.~~

457 (c) Instructional and noninstructional personnel who are  
458 hired or contracted to fill positions that require direct  
459 contact with students in an alternative school that operates  
460 under contract with a district school system must, upon  
461 employment or engagement to provide services, undergo background  
462 screening as required under s. 1012.465 or s. 1012.56, whichever  
463 is applicable, ~~by filing with the district school board for the~~  
464 ~~school district to which the alternative school is under~~



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465 ~~contract a complete set of fingerprints taken by an authorized~~  
466 ~~law enforcement agency or an employee of the school or school~~  
467 ~~district who is trained to take fingerprints.~~

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

473

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

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494 ~~Enforcement or 30 days of submission of fingerprints by the~~  
495 ~~governing board member or instructional or noninstructional~~  
496 ~~personnel.~~

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

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

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

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

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

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

559 1012.465 Background screening requirements for certain  
560 noninstructional school district employees and contractors.—

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

570 ~~(2) Every 5 years following employment or entry into a~~  
571 ~~contract in a capacity described in subsection (1), each person~~  
572 ~~who is so employed or under contract with the school district~~  
573 ~~must meet level 2 screening requirements as described in s.~~  
574 ~~1012.32, at which time the school district shall request the~~  
575 ~~Department of Law Enforcement to forward the fingerprints to the~~  
576 ~~Federal Bureau of Investigation for the level 2 screening. If,~~  
577 ~~for any reason following employment or entry into a contract in~~  
578 ~~a capacity described in subsection (1), the fingerprints of a~~  
579 ~~person who is so employed or under contract with the school~~  
580 ~~district are not retained by the Department of Law Enforcement~~

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581 ~~under s. 1012.32(3)(a) and (b), the person must file a complete~~  
582 ~~set of fingerprints with the district school superintendent of~~  
583 ~~the employing or contracting school district. Upon submission of~~  
584 ~~fingerprints for this purpose, the school district shall request~~  
585 ~~the Department of Law Enforcement to forward the fingerprints to~~  
586 ~~the Federal Bureau of Investigation for the level 2 screening,~~  
587 ~~and the fingerprints shall be retained by the Department of Law~~  
588 ~~Enforcement under s. 1012.32(3)(a) and (b).~~ The cost of the  
589 state and federal criminal history check required by level 2  
590 screening may be borne by the district school board, the  
591 contractor, or the person fingerprinted. Under penalty of  
592 perjury, each person who is employed or under contract in a  
593 capacity described in subsection (1) must agree to inform his or  
594 her employer or the party with whom he or she is under contract  
595 within 48 hours if convicted of any disqualifying offense while  
596 he or she is employed or under contract in that capacity.

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

600 1012.467 Noninstructional contractors who are permitted  
601 access to school grounds when students are present; background  
602 screening requirements.—

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

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610 ~~Criminal history checks shall be performed at least once every 5~~  
611 ~~years. For the initial criminal history check, each~~  
612 ~~noninstructional contractor who is subject to the criminal~~  
613 ~~history check shall file with the Department of Law Enforcement~~  
614 ~~a complete set of fingerprints taken by an authorized law~~  
615 ~~enforcement agency or an employee of a school district, a public~~  
616 ~~school, or a private company who is trained to take~~  
617 ~~fingerprints. The fingerprints shall be electronically submitted~~  
618 ~~for state processing to the Department of Law Enforcement, which~~  
619 ~~shall in turn submit the fingerprints to the Federal Bureau of~~  
620 ~~Investigation for national processing. The results of each~~  
621 ~~criminal history check shall be reported to the school district~~  
622 ~~in which the individual is seeking access and entered into the~~  
623 ~~shared system described in subsection (7). The school district~~  
624 ~~shall screen the results using the disqualifying offenses in~~  
625 ~~paragraph (b) ~~(g)~~. The cost of the criminal history check may be~~  
626 ~~borne by the district school board, the school, or the~~  
627 ~~contractor. A fee that is charged by a district school board for~~  
628 ~~such checks may not exceed 30 percent of the total amount~~  
629 ~~charged by the Department of Law Enforcement and the Federal~~  
630 ~~Bureau of Investigation.~~

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

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639 ~~statewide automated biometric identification system under s.~~  
640 ~~943.051.~~

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

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

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

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

666 ~~(g) A noninstructional contractor for whom a criminal~~  
667 ~~history check is required under this section may not have been~~

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668 convicted of any of the following offenses designated in the  
669 Florida Statutes, any similar offense in another jurisdiction,  
670 or any similar offense committed in this state which has been  
671 redesignated from a former provision of the Florida Statutes to  
672 one of the following offenses:

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

675 2. Section 393.135, relating to sexual misconduct with  
676 certain developmentally disabled clients and the reporting of  
677 such sexual misconduct.

678 3. Section 394.4593, relating to sexual misconduct with  
679 certain mental health patients and the reporting of such sexual  
680 misconduct.

681 4. Section 775.30, relating to terrorism.

682 5. Section 782.04, relating to murder.

683 6. Section 787.01, relating to kidnapping.

684 7. Any offense under chapter 800, relating to lewdness and  
685 indecent exposure.

686 8. Section 826.04, relating to incest.

687 9. Section 827.03, relating to child abuse, aggravated  
688 child abuse, or neglect of a child.

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

695 (4) A noninstructional contractor who has been convicted of  
696 any of the offenses listed in paragraph (2)(b) ~~(2)(g)~~ may not be



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697 permitted on school grounds when students are present unless the  
698 contractor has received a full pardon or has had his or her  
699 civil rights restored. A noninstructional contractor who is  
700 present on school grounds in violation of this subsection  
701 commits a felony of the third degree, punishable as provided in  
702 s. 775.082 or s. 775.083.

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

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

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726 provided in s. 775.082 or s. 775.083.

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

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

737 1012.56 Educator certification requirements.—

738 (10) BACKGROUND SCREENING REQUIRED, INITIALLY AND  
739 PERIODICALLY.—

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

750 (b) A person may not receive a certificate under this  
751 chapter until the person's screening under s. 1012.32 is  
752 completed and the results have been submitted to the Department  
753 of Education or to the district school superintendent of the  
754 school district that employs the person. Every 5 years after

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755 obtaining initial certification, each person who is required to  
756 be certified under this chapter must be rescreened in accordance  
757 with s. 435.12 ~~s. 1012.32~~, at which time the school district  
758 shall request the Department of Law Enforcement to forward the  
759 fingerprints to the Federal Bureau of Investigation for federal  
760 eriminal records checks. If, for any reason after obtaining  
761 initial certification, the fingerprints of a person who is  
762 required to be certified under this chapter are not retained by  
763 the Department of Law Enforcement under s. 1012.32(3)(a) and  
764 (b), the person must file a complete set of fingerprints with  
765 the district school superintendent of the employing school  
766 district. Upon submission of fingerprints for this purpose, the  
767 school district shall request the Department of Law Enforcement  
768 to forward the fingerprints to the Federal Bureau of  
769 Investigation for federal criminal records checks, and the  
770 fingerprints shall be retained by the Department of Law  
771 Enforcement under s. 1012.32(3)(a) and (b). The cost of the  
772 state and federal criminal history checks required by paragraph  
773 (a) and this paragraph may be borne by the district school board  
774 or the employee. Under penalty of perjury, each person who is  
775 certified under this chapter must agree to inform his or her  
776 employer within 48 hours if convicted of any disqualifying  
777 offense while he or she is employed in a position for which such  
778 certification is required.

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