

By Senator Harrell

31-00694-24

2024798__

1 A bill to be entitled
2 An act relating to health care patient protection;
3 amending s. 408.809, F.S.; adding additional
4 disqualifying offenses to background screening
5 requirements for certain persons in health care
6 practice settings; amending s. 429.02, F.S.; defining
7 the term "memory care provider"; creating s. 429.179,
8 F.S.; requiring memory care providers to employ
9 specified practices in the provision of memory care
10 services; prohibiting certain facilities from
11 advertising, representing, or holding themselves out
12 as memory care providers unless they meet specified
13 criteria; amending s. 435.04, F.S.; adding additional
14 disqualifying offenses to level 2 background screening
15 standards; providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Subsection (4) of section 408.809, Florida
20 Statutes, is amended to read:

21 408.809 Background screening; prohibited offenses.—

22 (4) In addition to the offenses listed in s. 435.04, all
23 persons required to undergo background screening pursuant to
24 this part or authorizing statutes must not have an arrest
25 awaiting final disposition for, must not have been found guilty
26 of, regardless of adjudication, or entered a plea of nolo
27 contendere or guilty to, and must not have been adjudicated
28 delinquent and the record not have been sealed or expunged for
29 any of the following offenses or any similar offense of another

31-00694-24

2024798__

30 jurisdiction:

31 (a) Any authorizing statutes, if the offense was a felony.

32 (b) This chapter, if the offense was a felony.

33 (c) Section 409.920, relating to Medicaid provider fraud.

34 (d) Section 409.9201, relating to Medicaid fraud.

35 (e) Section 414.39, relating to fraud, if the offense was a
36 felony.

37 (f) Section 741.28, relating to domestic violence.

38 (g) ~~(f)~~ Section 777.04, relating to attempts, solicitation,
39 and conspiracy to commit an offense listed in this subsection.

40 (h) ~~(g)~~ Section 784.03, relating to battery, if the victim
41 is a vulnerable adult as defined in s. 415.102 or a patient or
42 resident of a facility licensed under chapter 395, chapter 400,
43 or chapter 429.

44 (i) Section 815.04, relating to offenses against
45 intellectual property.

46 (j) Section 815.06, relating to offenses against users of
47 computers, computer systems, computer networks, and electronic
48 devices.

49 (k) ~~(h)~~ Section 817.034, relating to fraudulent acts through
50 mail, wire, radio, electromagnetic, photoelectronic, or
51 photooptical systems.

52 (l) ~~(i)~~ Section 817.234, relating to false and fraudulent
53 insurance claims.

54 (m) ~~(j)~~ Section 817.481, relating to obtaining goods by
55 using a false or expired credit card or other credit device, if
56 the offense was a felony.

57 (n) ~~(k)~~ Section 817.50, relating to fraudulently obtaining
58 goods or services from a health care provider.

31-00694-24

2024798__

- 59 (o)~~(l)~~ Section 817.505, relating to patient brokering.
- 60 (p)~~(m)~~ Section 817.568, relating to criminal use of
- 61 personal identification information.
- 62 (q)~~(n)~~ Section 817.60, relating to obtaining a credit card
- 63 through fraudulent means.
- 64 (r)~~(o)~~ Section 817.61, relating to fraudulent use of credit
- 65 cards, if the offense was a felony.
- 66 (s)~~(p)~~ Section 831.01, relating to forgery.
- 67 (t)~~(q)~~ Section 831.02, relating to uttering forged
- 68 instruments.
- 69 (u)~~(r)~~ Section 831.07, relating to forging bank bills,
- 70 checks, drafts, or promissory notes.
- 71 (v)~~(s)~~ Section 831.09, relating to uttering forged bank
- 72 bills, checks, drafts, or promissory notes.
- 73 (w) Section 831.29, relating to making or having
- 74 instruments and material for counterfeiting driver licenses or
- 75 identification cards.
- 76 (x)~~(t)~~ Section 831.30, relating to fraud in obtaining
- 77 medicinal drugs.
- 78 (y)~~(u)~~ Section 831.31, relating to the sale, manufacture,
- 79 delivery, or possession with the intent to sell, manufacture, or
- 80 deliver any counterfeit controlled substance, if the offense was
- 81 a felony.
- 82 (z) Section 831.311, relating to unlawful sale,
- 83 manufacture, alteration, delivery, uttering, or possession of
- 84 counterfeit-resistant prescription blanks for controlled
- 85 substances.
- 86 (aa) Section 836.05, relating to threats and extortion.
- 87 (bb) Section 836.10, relating to written or electronic

31-00694-24

2024798__

88 threats to kill, do bodily injury, or conduct a mass shooting or
89 an act of terrorism.

90 (cc) Section 873.01, relating to prohibited purchase or
91 sale of human organs and tissue.

92 (dd) ~~(v)~~ Section 895.03, relating to racketeering and
93 collection of unlawful debts.

94 (ee) ~~(w)~~ Section 896.101, relating to the Florida Money
95 Laundering Act.

96

97 If, upon rescreening, a person who is currently employed or
98 contracted with a licensee and was screened and qualified under
99 s. 435.04 has a disqualifying offense that was not a
100 disqualifying offense at the time of the last screening, but is
101 a current disqualifying offense and was committed before the
102 last screening, he or she may apply for an exemption from the
103 appropriate licensing agency and, if agreed to by the employer,
104 may continue to perform his or her duties until the licensing
105 agency renders a decision on the application for exemption if
106 the person is eligible to apply for an exemption and the
107 exemption request is received by the agency no later than 30
108 days after receipt of the rescreening results by the person.

109 Section 2. Present subsections (16) through (28) of section
110 429.02, Florida Statutes, are redesignated as subsections (17)
111 through (29), respectively, a new subsection (16) is added to
112 that section, and subsection (12) of that section is amended, to
113 read:

114 429.02 Definitions.—When used in this part, the term:

115 (12) "Extended congregate care" means acts beyond those
116 authorized in subsection (19) ~~(18)~~ which may be performed

31-00694-24

2024798__

117 pursuant to part I of chapter 464 by persons licensed thereunder
118 while carrying out their professional duties, and other
119 supportive services that may be specified by rule. The purpose
120 of such services is to enable residents to age in place in a
121 residential environment despite mental or physical limitations
122 that might otherwise disqualify them from residency in a
123 facility licensed under this part.

124 (16) "Memory care provider" means either a designated unit
125 within an assisted living facility or a facility as a whole
126 which provides care and services specific to the needs of
127 residents who exhibit symptoms consistent with dementia.

128 Section 3. Section 429.179, Florida Statutes, is created to
129 read:

130 429.179 Memory care providers.-

131 (1) Memory care providers must employ the following
132 practices in the provision of such care:

133 (a) Residents who upon admission exhibit symptoms
134 consistent with dementia must be admitted under memory care
135 protocols that require an assessment by a physician, an advanced
136 practice registered nurse, a physician's assistant, or a
137 psychologist trained in dementia care.

138 (b) Policies for memory care service plans must require a
139 resident assessment to be completed within 10 days after
140 admission. The assessment must be based on the resident's past,
141 including consideration of such factors as family or other
142 important relationships, religious or spiritual preferences,
143 communication capabilities, behavioral concerns, and activity
144 preferences.

145 (c) Minimum staffing requirements must require that at

31-00694-24

2024798__

146 least one qualified staff member who is trained in both
147 cardiopulmonary resuscitation and first aid be in a designated
148 memory care unit at all times. Staff administering medication or
149 providing assistance with medication administration may not
150 count toward this minimum staffing requirement while they are
151 engaged in such medication administration tasks. Staffing ratios
152 beyond the minimum of one staff member must consider resident
153 acuity and may not fall below the ratio of one staff person per
154 five residents.

155 (d) Providers must maintain a current and accurate log of
156 residents admitted as memory care residents. Resident contracts
157 shall outline the memory care services to be provided and any
158 related costs, should those exceed standard room and board.

159 (2) A facility may not advertise, represent, or hold itself
160 out as a memory care provider unless it meets the requirements
161 of this section.

162 Section 4. Subsection (2) of section 435.04, Florida
163 Statutes, as amended by section 2 of chapter 2023-220, Laws of
164 Florida, is amended to read:

165 435.04 Level 2 screening standards.—

166 (2) The security background investigations under this
167 section must ensure that persons subject to this section have
168 not been arrested for and are awaiting final disposition of,
169 have not been found guilty of, regardless of adjudication, or
170 entered a plea of nolo contendere or guilty to, or have not been
171 adjudicated delinquent and the record has not been sealed or
172 expunged for, any offense prohibited under any of the following
173 provisions of state law or similar law of another jurisdiction:

174 (a) Section 39.205, relating to failure to report child

31-00694-24

2024798__

175 abuse, abandonment, or neglect.

176 (b) Section 316.193(3)(c)3., relating to DUI manslaughter.

177 (c) Section 393.135, relating to sexual misconduct with
178 certain developmentally disabled clients and reporting of such
179 sexual misconduct.

180 (d)~~(b)~~ Section 394.4593, relating to sexual misconduct with
181 certain mental health patients and reporting of such sexual
182 misconduct.

183 (e)~~(e)~~ Section 415.111, relating to adult abuse, neglect,
184 or exploitation of aged persons or disabled adults.

185 (f)~~(d)~~ Section 777.04, relating to attempts, solicitation,
186 and conspiracy to commit an offense listed in this subsection.

187 (g)~~(e)~~ Section 782.04, relating to murder.

188 (h)~~(f)~~ Section 782.07, relating to manslaughter, aggravated
189 manslaughter of an elderly person or disabled adult, or
190 aggravated manslaughter of a child.

191 (i)~~(g)~~ Section 782.071, relating to vehicular homicide.

192 (j)~~(h)~~ Section 782.09, relating to killing of an unborn
193 child by injury to the mother.

194 (k)~~(i)~~ Chapter 784, relating to assault, battery, and
195 culpable negligence, if the offense was a felony.

196 (l)~~(j)~~ Section 784.011, relating to assault, if the victim
197 of the offense was a minor.

198 (m)~~(k)~~ Section 784.021, relating to aggravated assault.

199 (n)~~(l)~~ Section 784.03, relating to battery, if the victim
200 of the offense was a minor.

201 (o)~~(m)~~ Section 784.045, relating to aggravated battery.

202 (p)~~(n)~~ Section 784.075, relating to battery on staff of a
203 detention or commitment facility or on a juvenile probation

31-00694-24

2024798__

204 officer.

205 (q)~~(o)~~ Section 787.01, relating to kidnapping.

206 (r)~~(p)~~ Section 787.02, relating to false imprisonment.

207 (s)~~(q)~~ Section 787.025, relating to luring or enticing a

208 child.

209 (t)~~(r)~~ Section 787.04(2), relating to taking, enticing, or

210 removing a child beyond the state limits with criminal intent

211 pending custody proceedings.

212 (u)~~(s)~~ Section 787.04(3), relating to carrying a child

213 beyond the state lines with criminal intent to avoid producing a

214 child at a custody hearing or delivering the child to the

215 designated person.

216 (v) Section 787.06, relating to human trafficking.

217 (w) Section 787.07, relating to human smuggling.

218 (x)~~(t)~~ Section 790.115(1), relating to exhibiting firearms

219 or weapons within 1,000 feet of a school.

220 (y)~~(u)~~ Section 790.115(2)(b), relating to possessing an

221 electric weapon or device, destructive device, or other weapon

222 on school property.

223 (z) Section 790.166, relating to weapons of mass

224 destruction or hoax weapons of mass destruction.

225 (aa)~~(v)~~ Section 794.011, relating to sexual battery.

226 (bb)~~(w)~~ Former s. 794.041, relating to prohibited acts of

227 persons in familial or custodial authority.

228 (cc)~~(x)~~ Section 794.05, relating to unlawful sexual

229 activity with certain minors.

230 (dd)~~(y)~~ Section 794.08, relating to female genital

231 mutilation.

232 (ee)~~(z)~~ Chapter 796, relating to prostitution.

31-00694-24

2024798__

233 ~~(ff)~~(aa) Section 798.02, relating to lewd and lascivious
234 behavior.

235 ~~(gg)~~(bb) Chapter 800, relating to lewdness and indecent
236 exposure and offenses against students by authority figures.

237 ~~(hh)~~(cc) Section 806.01, relating to arson.

238 ~~(ii)~~(dd) Section 810.02, relating to burglary.

239 ~~(jj)~~(ee) Section 810.14, relating to voyeurism, if the
240 offense is a felony.

241 ~~(kk)~~(ff) Section 810.145, relating to video voyeurism, if
242 the offense is a felony.

243 ~~(ll)~~(gg) Chapter 812, relating to theft, robbery, and
244 related crimes, if the offense is a felony.

245 ~~(mm)~~(hh) Section 817.563, relating to fraudulent sale of
246 controlled substances, only if the offense was a felony.

247 ~~(nn)~~(ii) Section 825.102, relating to abuse, aggravated
248 abuse, or neglect of an elderly person or disabled adult.

249 ~~(oo)~~(jj) Section 825.1025, relating to lewd or lascivious
250 offenses committed upon or in the presence of an elderly person
251 or disabled adult.

252 ~~(pp)~~(kk) Section 825.103, relating to exploitation of an
253 elderly person or disabled adult, if the offense was a felony.

254 ~~(qq)~~(ll) Section 826.04, relating to incest.

255 ~~(rr)~~(mm) Section 827.03, relating to child abuse,
256 aggravated child abuse, or neglect of a child.

257 ~~(ss)~~(nn) Section 827.04, relating to contributing to the
258 delinquency or dependency of a child.

259 ~~(tt)~~(oo) Former s. 827.05, relating to negligent treatment
260 of children.

261 ~~(uu)~~(pp) Section 827.071, relating to sexual performance by

31-00694-24

2024798__

262 a child.

263 (vv) Section 838.015, relating to bribery.

264 (ww)~~(qq)~~ Section 843.01, relating to resisting arrest with
265 violence.

266 (xx)~~(rr)~~ Section 843.025, relating to depriving a law
267 enforcement, correctional, or correctional probation officer
268 means of protection or communication.

269 (yy)~~(ss)~~ Section 843.12, relating to aiding in an escape.

270 (zz)~~(tt)~~ Section 843.13, relating to aiding in the escape
271 of juvenile inmates in correctional institutions.

272 (aaa)~~(uu)~~ Chapter 847, relating to obscene literature.

273 (bbb) Section 859.01, relating to poisoning food or water.

274 (ccc) Section 873.01, relating to prohibited purchase or
275 sale of human organs and tissue.

276 (ddd)~~(vv)~~ Section 874.05, relating to encouraging or
277 recruiting another to join a criminal gang.

278 (eee) Section 876.32, relating to treason.

279 (fff)~~(ww)~~ Chapter 893, relating to drug abuse prevention
280 and control, only if the offense was a felony or if any other
281 person involved in the offense was a minor.

282 (ggg)~~(xx)~~ Section 916.1075, relating to sexual misconduct
283 with certain forensic clients and reporting of such sexual
284 misconduct.

285 (hhh)~~(yy)~~ Section 944.35(3), relating to inflicting cruel
286 or inhuman treatment on an inmate resulting in great bodily
287 harm.

288 (iii)~~(zz)~~ Section 944.40, relating to escape.

289 (jjj)~~(aaa)~~ Section 944.46, relating to harboring,
290 concealing, or aiding an escaped prisoner.

31-00694-24

2024798__

291 (kkk) ~~(bbb)~~ Section 944.47, relating to introduction of
292 contraband into a correctional facility.

293 (lll) Section 951.22, relating to county detention
294 facilities and contraband articles.

295 (mmm) ~~(ccc)~~ Section 985.701, relating to sexual misconduct
296 in juvenile justice programs.

297 (nnn) ~~(ddd)~~ Section 985.711, relating to contraband
298 introduced into detention facilities.

299 Section 5. This act shall take effect July 1, 2024.