

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Health Policy

BILL: CS/SB 1168

INTRODUCER: Health Policy Committee and Senator Grall

SUBJECT: Background Screenings

DATE: January 28, 2026

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	Fav/CS
2.			AHS	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1168 amends multiple sections of the Florida statutes related to background screening in general and one section specific to the background screening of athletic coaches. The bill:

- Adds several offenses to the list of disqualifying offenses in s. 435.04, F.S.
- Makes the Agency for Health Care Administration (AHCA) the agency in charge of determining eligibility for all specified agencies.
- Requires qualified entities to designate a user administrator to act as the primary point of contact to manage compliance with state and federal laws regarding the security and privacy of criminal history information.
- Prohibits persons screened through the Care Provider Background Screening Clearinghouse by certain entities from denying or failing to acknowledge arrests, whether or not their records have been sealed or expunged.
- Specifies that independent sanctioning authorities, in charge of approving athletic coaches, be considered qualified entities for the purpose of background screening and removes obsolete dates related to requiring athletic coaches to be background screened.

The bill provides an effective date of July 1, 2026.

II. Present Situation:

Background Screening

Florida provides standard procedures for screening a prospective employee¹ where the Legislature has determined it is necessary to conduct a criminal history background check to protect vulnerable persons.² Chapter 435, F.S., establishes procedures for criminal history background screening of prospective employees and outlines the screening requirements. There are two levels of background screening: Level 1 and Level 2.

- Level 1 screening includes, at a minimum, employment history checks, statewide criminal correspondence checks through the Florida Department of Law Enforcement (FDLE), and a check of the Dru Sjodin National Sex Offender Public Website,³ and may include criminal records checks through local law enforcement agencies. A Level 1 screening may be paid for and conducted through FDLE's website, which provides immediate results.⁴
- Level 2 screening includes, at a minimum, fingerprinting for statewide criminal history records checks through FDLE and national criminal history checks through the Federal Bureau of Investigation (FBI), and may include local criminal records checks through local law enforcement agencies.⁵

Florida law authorizes and outlines specific elements required for Level 1 and Level 2 background screening and establishes requirements for determining whether an individual passes a screening regarding an individual's criminal history. All individuals subject to background screening must be confirmed to have not been arrested for and waiting final disposition of, been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent, and the record has not been sealed or expunged for, any of 52 offenses prohibited under Florida law, or similar law of another jurisdiction:⁶

- Section 393.135, F.S., relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.
- Section 394.4593, F.S., relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.
- Section 415.111, F.S., relating to adult abuse, neglect, or exploitation of aged persons or disabled adults.
- Section 777.04, F.S., relating to attempts, solicitation, and conspiracy to commit an offense listed in s. 435.04(2), F.S.
- Section 782.04, F.S., relating to murder.
- Section 782.07, F.S., relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child.
- Section 782.071, F.S., relating to vehicular homicide.

¹ Section 435.02(2), F.S., defines "employee" to mean any person required by law to be screened pursuant to this chapter, including, but not limited to, persons who are contractors, licensees, or volunteers.

² Chapter 435, F.S.

³ The Dru Sjodin National Sex Offender Public Website is a U.S. government website that links public state, territorial, and tribal sex offender registries in one national search site. available at www.nsopw.gov (last visited Jan. 22, 2026).

⁴ Florida Department of Law Enforcement, State of Florida Criminal History Records Check. available at <http://www.fdle.state.fl.us/Criminal-History-Records/Florida-Checks.aspx> (last visited Jan. 22, 2026).

⁵ Section 435.04, F.S.

⁶ Section 435.04(2), F.S.

- Section 782.09, F.S., relating to killing of an unborn child by injury to the mother.
- Chapter 784, F.S., relating to assault, battery, and culpable negligence, if the offense was a felony.
- Section 784.011, F.S., relating to assault, if the victim of the offense was a minor.
- Section 784.03, F.S., relating to battery, if the victim of the offense was a minor.
- Section 787.01, F.S., relating to kidnapping.
- Section 787.02, F.S., relating to false imprisonment.
- Section 787.025, F.S., relating to luring or enticing a child.
- Section 787.04(2), F.S., relating to taking, enticing, or removing a child beyond the state limits with criminal intent pending custody proceedings.
- Section 787.04(3), F.S., relating to carrying a child beyond the state lines with criminal intent to avoid producing a child at a custody hearing or delivering the child to the designated person.
- Section 790.115(1), F.S., relating to exhibiting firearms or weapons within 1,000 feet of a school.
- Section 790.115(2)(b), F.S., relating to possessing an electric weapon or device, destructive device, or other weapon on school property.
- Section 794.011, F.S., relating to sexual battery.
- Former s. 794.041, F.S., relating to prohibited acts of persons in familial or custodial authority.
- Section 794.05, F.S., relating to unlawful sexual activity with certain minors.
- Chapter 796, F.S., relating to prostitution.
- Section 798.02, F.S., relating to lewd and lascivious behavior.
- Chapter 800, F.S., relating to lewdness and indecent exposure.
- Section 806.01, F.S., relating to arson.
- Section 810.02, F.S., relating to burglary.
- Section 810.14, F.S., relating to voyeurism, if the offense is a felony.
- Section 810.145, F.S., relating to video voyeurism, if the offense is a felony.
- Chapter 812, F.S., relating to theft, robbery, and related crimes, if the offense is a felony.
- Section 817.563, F.S., relating to fraudulent sale of controlled substances, only if the offense was a felony.
- Section 825.102, F.S., relating to abuse, aggravated abuse, or neglect of an elderly person or disabled adult.
- Section 825.1025, F.S., relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult.
- Section 825.103, F.S., relating to exploitation of an elderly person or disabled adult, if the offense was a felony.
- Section 826.04, F.S., relating to incest.
- Section 827.03, F.S., relating to child abuse, aggravated child abuse, or neglect of a child.
- Section 827.04, F.S., relating to contributing to the delinquency or dependency of a child.
- Former s. 827.05, F.S., relating to negligent treatment of children.
- Section 827.071, F.S., relating to sexual performance by a child.
- Section 843.01, F.S., relating to resisting arrest with violence.
- Section 843.025, F.S., relating to depriving a law enforcement, correctional, or correctional probation officer of means of protection or communication.

- Section 843.12, F.S., relating to aiding in an escape.
- Section 843.13, F.S., relating to aiding in the escape of juvenile inmates in correctional institutions.
- Chapter 847, F.S., relating to obscene literature.
- Section 874.05, F.S., relating to encouraging or recruiting another to join a criminal gang.
- Chapter 893, F.S., relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.
- Section 916.1075, F.S., relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.
- Section 944.35(3), F.S., relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.
- Section 944.40, F.S., relating to escape.
- Section 944.46, F.S., relating to harboring, concealing, or aiding an escaped prisoner.
- Section 944.47, F.S., relating to introduction of contraband into a correctional facility.
- Section 985.701, F.S., relating to sexual misconduct in juvenile justice programs.
- Section 985.711, F.S., relating to contraband introduced into detention facilities.

Exemptions

Should a person be disqualified from employment due to failing a background screening, he or she may apply to the secretary of the appropriate agency for an exemption. Current law allows the secretary to exempt applicants from disqualification under certain circumstances, including:⁷

- Felonies for which at least three years have elapsed since the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court for the disqualifying felony;
- Misdemeanors prohibited under any of the cited statutes or under similar statutes of other jurisdictions for which the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court;
- Offenses that were felonies when committed but that are now misdemeanors and for which the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court; or
- Findings of delinquency. For offenses that would be felonies if committed by an adult and the record has not been sealed or expunged, this exemption may not be granted until at least three years have elapsed since the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court for the disqualifying offense.

An individual who receives an exemption may be employed in a profession or workplace where background screening is statutorily required despite the disqualifying offense in that person's past. Certain criminal backgrounds, however, render a person ineligible for an exemption. A

⁷ Section 435.07, F.S.

person who is considered a sexual predator,⁸ career offender,⁹ or registered sexual offender¹⁰ is not eligible for exemption.¹¹

Care Provider Background Screening Clearinghouse

Florida has established different programs for the facilitation of background screenings. The Care Provider Background Screening Clearinghouse (Clearinghouse) is used by state agencies for statutorily-required screenings, including screenings required as part of the licensure process for specified health care professionals.

In 2012, the Legislature created the Clearinghouse to create a single program of screening individuals and allow for the results of criminal history checks of persons acting as covered care providers to be shared among the specified agencies.¹² Current designated agencies participating in the Clearinghouse include:¹³

- The Agency for Health Care Administration (AHCA);
- The Department of Health (DOH);
- The Department of Children and Families (DCF);
- The Department of Elder Affairs (DOEA);
- The Agency for Persons with Disabilities (APD);
- The Department of Education (DOE);
- Regional workforce boards providing services as defined in s. 445.002(3), F.S.; and
- Local licensing agencies approved pursuant to s. 402.307, F.S., when these agencies are conducting state and national criminal history background screening on persons who work with children or persons who are elderly or disabled.

Employers whose employees are screened through an agency participating in the Clearinghouse must maintain the status of individuals being screened and update the Clearinghouse regarding any employment changes within 10 business days of the change.¹⁴

The Clearinghouse allows for constant review of new criminal history information through the federal Rap Back Service¹⁵ which continually matches fingerprints against new arrests or convictions that occur after the individual was originally screened. Once a person's screening

⁸ Section 775.21, F.S.

⁹ Section 775.261, F.S.

¹⁰ Section 943.0435, F.S.

¹¹ Section 435.07(4)(b), F.S.

¹² Chapter 2012-73, L.O.F.

¹³ Section 435.02(5), F.S. Additional entities were added to the list of designated entities beginning in 2023; these entities include district units, special district units, the Florida School for the Deaf and Blind, the Florida Virtual School, virtual instruction programs, charter schools, hope operators, private schools participating in certain scholarship programs, and alternative schools. *See also*, Ch. 2022-154, L.O.F.

¹⁴ Section 435.12(2)(c), F.S.; Beginning January 1, 2024, employers must report changes in an employee's status within five business days for employees screened after January 1, 2024.

¹⁵ The Rap Back Service is managed by the FBI's Criminal Justice Information Services Division. For more information, see the Federal Bureau of Investigation, Privacy Impact Assessment for the Next Generation Identification (NGI) Rap Back Service. available at <https://www.fbi.gov/file-repository/pia-ngi-rap-back-service.pdf/view> (last visited January 22, 2026).

record is in the Clearinghouse, that person may avoid the need for any future state screenings and related fees for screenings, depending on the screening agencies or organizations.¹⁶

Sealed and Expunged Criminal Records

Sections 943.0585 and 943.059, F.S., allow a person to petition a court to expunge or seal his or her criminal record, respectively. Among other effects of expunging or sealing a criminal record, those statutes allow the person to lawfully deny or fail to acknowledge the arrests covered by the expunged or sealed record except in certain specified circumstances. One such circumstance is when the person is seeking to be employed or licensed to contract with a list of state agencies that largely matches with the agencies included as specified agencies under s. 435.02(7), F.S.¹⁷ Current law, however, does not prohibit a person from denying or failing to acknowledge arrests when seeking to be employed by a qualified entity.

Background Screening of Youth Athletic Team Coaches

An independent sanctioning authority is a private, non-governmental entity that organizes, operates, or coordinates a youth athletic team in Florida which includes one or more minors and is not affiliated with a private school.¹⁸ Beginning January 1, 2026, an independent sanctioning authority is required to conduct a Level 2 background screening of each current and prospective athletic coach. The authority is not authorized to delegate the responsibility to conduct the required screening to an individual team and may not authorize any person to serve as an athletic coach¹⁹ unless a Level 2 screening has been conducted, and the screening does not result in his or her disqualification.

Before January 1, 2026, or a later date as determined by the AHCA, the authority must disqualify any person who does not pass the background screening qualifications established in s. 435.04, F.S., from acting as an athletic coach except that the authority may authorize such person to serve as an athletic coach if the person meets the requirements for an exemption in s. 435.07, F.S. Additionally, on or after January 1, 2026, or a later date as determined by the AHCA, an authority may not allow any person to act as an athletic coach if he or she does not pass the required background screening except that the authority may allow such a person to serve if he or she successfully completes the exemption process under s. 435.07, F.S.

¹⁶ Agency for Health Care Administration, *Clearinghouse Renewals*. available at https://ahca.myflorida.com/MCHQ/Central_Services/Background_Screening/Renewals.shtml (last visited January 22, 2026). Fingerprints are retained for five years. Employers have an option to renew screenings at the end of the five-year period through a “Clearinghouse Renewal” process which allows employee’s fingerprints to be retained without being re-fingerprinted.

¹⁷ Sections 943.0585(6)(b)5. and 943.059(6)(b)5., F.S.

¹⁸ Sections 1002.01 and 943.0438(1)(b), F.S.

¹⁹ “Athletic coach” means a person who is authorized by an independent sanctioning authority to work as a coach, assistant coach, or referee for whether for compensation or as a volunteer, for a youth athletic team in this state; and has direct contact with one or more minors on the youth athletic team. Section 943.0438(1)(a), F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 435.04, F.S., to add the following offenses to the list of offenses that cause an individual to fail a Level 2 background screening:

- DUI manslaughter;
- Domestic violence;²⁰
- Offenses against intellectual property;
- Offenses against users of computers, computer systems, computer networks, and electronic devices;
- Animal cruelty;
- Making or having instruments and material for counterfeiting driver licenses or identification cards;
- Threats and extortion;
- Bribery; and
- Contraband articles in county detention facilities.

Section 2 amends s. 435.12, F.S., to, beginning July 1, 2028, require the AHCA to review and determine eligibility for all criminal history checks submitted by specified agencies.²¹ The bill also requires the Clearinghouse to share eligibility determinations with specified agencies and provides that specified agencies and qualified entities are responsible for processing exemptions for disqualification.

Section 3 specifies that the amendments in Section 2 of the bill must be implemented by July 1, 2028, or as soon as thereafter as determined by the AHCA.

Section 4 amends s. 943.0438, F.S., to specify that independent sanctioning authorities, in charge of approving athletic coaches, be considered qualified entities for the purpose of background screening and to remove obsolete dates related to requiring athletic coaches to be background screened. The bill also specifies that persons who have not undergone a background check may serve as an athletic coach if he or she is under the direct supervision of an athletic coach who has been background screened.

Section 5 amends s. 943.0542, F.S., to require qualified entities²² to designate a user administrator to act as a primary point of contact and to manage compliance with state and federal laws regarding the security and privacy of criminal history information. The bill allows qualified entities to designate additional authorized users with delegated authority to manage or access the system for the purpose of requesting and reviewing background screening information.

²⁰ Domestic violence is already a disqualifying offense under current law; however, it was partitioned out into subsection (3) of s. 435.04, F.S. The bill brings domestic violence into subsection (2) with the other qualifying offenses. This change has the effect of applying domestic violence as a disqualifying offense for positions regulated by the Department of Education. See AHCA analysis of SB 1168, Jan. 8, 2026, on file with Senate Health Policy Committee staff.

²¹ “Specified agencies” is defined in s. 435.02, F.S.

²² As defined in s. 943.0542(1)(b), F.S.

Sections 6 and 7 amend ss. 943.0585 and 943.059, F.S., related to the expunction and sealing of criminal histories, respectively, to prohibit a person from denying or failing to acknowledge an arrest if the person is screened through the Care Provider Background Screening Clearinghouse by a specified agency or qualified entity regardless of whether the person's criminal record has been expunged or sealed.

Sections 8 through 17 amend various sections of the Florida Statutes to conform cross-references and reenact statutes to comply with the changes made in the bill.

Section 18 provides an effective date of July 1, 2026.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/SB 1168 may have an indeterminate negative fiscal impact on persons who may be disqualified for employment under the additional offenses added by the bill.

C. Government Sector Impact:

The AHCA states that CS/SB 1168 will have an annual negative fiscal impact on the AHCA of approximately \$4.5 million.²³ However, this impact is due to the AHCA taking over responsibilities from other state agencies and, as such, the positive fiscal impacts to those agencies might offset the negative fiscal impact to the AHCA in the aggregate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 435.04, 435.12, 943.0438, 943.0542, 943.0585, 943.059, 44.407, 501.9741, 397.487, 397.4871, 409.913, 435.03, 1012.22, 1012.315, 1012.797, and 1012.799.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by health Policy on January 26, 2026:**

The committee substitute prohibits persons screened through the Care Provider Background Screening Clearinghouse by certain entities from denying or failing to acknowledge arrests regardless of whether their records have been expunged or sealed.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

²³ *Supra* n. 19.