

BILL

ORIGINAL

YEAR

1 A bill to be entitled
 2 An act relating to background screening; amending s.
 3 215.5586, F.S.; removing reference to chapter 435, F.S.,
 4 for background screening of hurricane mitigation
 5 inspectors; amending s. 393.0655, F.S.; adding additional
 6 disqualifying offenses for the screening of direct service
 7 providers for persons with developmental disabilities;
 8 amending s. 394.4572, F.S.; revising background screening
 9 requirements for mental health personnel; amending s.
 10 400.215, F.S.; revising background screening requirements
 11 for nursing homes; amending s. 400.512, F.S.; revising
 12 background screening requirements for home health agency
 13 personnel, nurse registry personnel, and companions and
 14 homemakers; amending s. 400.6065, F.S.; revising
 15 background screening requirements for hospices; amending
 16 s. 400.801, F.S.; revising background screening
 17 requirements for homes for special services; amending s.
 18 400.805, F.S.; revising background screening requirements
 19 for transitional living facilities; creating s. 400.9065,
 20 F.S.; providing background screening requirements for
 21 prescribed pediatric extended care centers; amending s.
 22 400.934, F.S.; revising minimum standards for home medical
 23 equipment providers; amending s. 400.953, F.S.; revising
 24 background screening requirements for home medical
 25 equipment providers; repealing s. 400.955, F.S., relating
 26 to the procedures for screening of home medical equipment
 27 provider personnel; amending s. 400.964, F.S.; revising
 28 background screening requirements for intermediate care

BILL

ORIGINAL

YEAR

29 facilities for developmentally disabled persons; amending
 30 s. 400.980, F.S.; revising background screening
 31 requirements for health care services pools; amending s.
 32 400.991, F.S.; revising background screening requirements
 33 for health care clinics; amending s. 408.806, F.S.; adding
 34 a requirement for an affidavit relating to background
 35 screening to the license application process under the
 36 Agency for Health Care Administration; amending s.
 37 408.809, F.S.; revising background screening requirements
 38 under the Agency for Health Care Administration; requiring
 39 electronic submission of fingerprints; amending s.
 40 409.175, F.S.; revising background screening requirements
 41 for employees and volunteers in summer day camps and
 42 summer 24-hour camps; amending s. 409.221, F.S.; revising
 43 background screening requirements for persons who render
 44 consumer directed care; amending s. 409.907, F.S.;
 45 revising background screening requirements for Medicaid
 46 providers; amending s. 429.14, F.S.; revising
 47 administrative penalty provisions relating to assisted
 48 living facilities; amending s. 429.174, F.S.; revising
 49 background screening requirements for assisted living
 50 facilities; amending s. 429.67, F.S.; revising licensure
 51 requirements for adult family-care homes; amending s.
 52 429.69, F.S.; revising background screening requirements
 53 for adult family-care homes; amending s. 429.911, F.S.;
 54 revising administrative penalty provisions relating to
 55 adult day care centers; amending s. 429.919, F.S.;
 56 revising background screening requirements for adult day

BILL

ORIGINAL

YEAR

57 | care centers; creating s. 430.60, F.S.; providing
 58 | background screening requirements under the Department of
 59 | Elder Affairs; amending s. 435.01, F.S.; revising
 60 | provisions related to the applicability of the chapter;
 61 | amending s. 435.02, F.S.; revising and adding definitions;
 62 | amending s. 435.03, F.S.; revising level 1 screening
 63 | standards; adding disqualifying offenses; amending s.
 64 | 435.04, F.S.; revising level 2 screening standards;
 65 | requiring electronic submission of fingerprints after a
 66 | certain date; authorizing agencies to contract for
 67 | electronic fingerprinting; adding disqualifying offenses;
 68 | amending s. 435.05, F.S.; revising requirements for
 69 | covered employees and employers; amending s. 435.06, F.S.;
 70 | revising provisions relating to exclusion from employment;
 71 | providing that an employer may not hire, select, or
 72 | otherwise allow an employee contact with any vulnerable
 73 | person until the screening process is completed; amending
 74 | s. 435.07, F.S.; revising provisions relating to
 75 | exemptions from disqualification; amending s. 435.08,
 76 | F.S.; revising provisions relating to the payment for
 77 | processing of fingerprints and criminal records checks;
 78 | amending s. 489.115, F.S.; removing reference to chapter
 79 | 435, F.S., for background screening of construction
 80 | contractors; amending s. 943.05, F.S.; revising provisions
 81 | relating to the Criminal Justice Information Program under
 82 | the Florida Department of Law Enforcement; authorizing
 83 | agencies to request the retention by the department of
 84 | certain fingerprints; amending s. 943.053, F.S.; removing

BILL

ORIGINAL

YEAR

85 | obsolete references relating to the dissemination of
 86 | criminal justice information; amending s. 985.644, F.S.;
 87 | revising background screening requirements for the
 88 | Department of Juvenile Justice; providing for prospective
 89 | application of the act; providing an effective date.

90

91 | Be It Enacted by the Legislature of the State of Florida:

92

93 | Section 1. Paragraph (b) of subsection (1) of section
 94 | 215.5586, Florida Statutes, is amended to read:

95 | 215.5586 My Safe Florida Home Program.—There is
 96 | established within the Department of Financial Services the My
 97 | Safe Florida Home Program. The department shall provide fiscal
 98 | accountability, contract management, and strategic leadership
 99 | for the program, consistent with this section. This section does
 100 | not create an entitlement for property owners or obligate the
 101 | state in any way to fund the inspection or retrofitting of
 102 | residential property in this state. Implementation of this
 103 | program is subject to annual legislative appropriations. It is
 104 | the intent of the Legislature that the My Safe Florida Home
 105 | Program provide trained and certified inspectors to perform
 106 | inspections for owners of site-built, single-family, residential
 107 | properties and grants to eligible applicants as funding allows.
 108 | The program shall develop and implement a comprehensive and
 109 | coordinated approach for hurricane damage mitigation that may
 110 | include the following:

111 | (1) HURRICANE MITIGATION INSPECTIONS.—

112 | (b) To qualify for selection by the department as a wind

BILL

ORIGINAL

YEAR

113 certification entity to provide hurricane mitigation
 114 inspections, the entity shall, at a minimum, meet the following
 115 requirements:

- 116 1. Use hurricane mitigation inspectors who:
 - 117 a. Are certified as a building inspector under s. 468.607;
 - 118 b. Are licensed as a general or residential contractor
 119 under s. 489.111;
 - 120 c. Are licensed as a professional engineer under s.
 121 471.015 and who have passed the appropriate equivalency test of
 122 the building code training program as required by s. 553.841;
 - 123 d. Are licensed as a professional architect under s.
 124 481.213; or
 - 125 e. Have at least 2 years of experience in residential
 126 construction or residential building inspection and have
 127 received specialized training in hurricane mitigation
 128 procedures. Such training may be provided by a class offered
 129 online or in person.

- 130 2. Use hurricane mitigation inspectors who also:
 - 131 a. Have undergone drug testing and ~~level 2~~ background
 132 screening checks pursuant to ~~s. 435.04~~. The department may
 133 conduct criminal record checks of inspectors used by wind
 134 certification entities. Inspectors must submit a set of the
 135 fingerprints to the department for state and national criminal
 136 history checks and must pay the fingerprint processing fee set
 137 forth in s. 624.501. The fingerprints shall be sent by the
 138 department to the Department of Law Enforcement and forwarded to
 139 the Federal Bureau of Investigation for processing. The results
 140 shall be returned to the department for screening. The

BILL

ORIGINAL

YEAR

141 fingerprints shall be taken by a law enforcement agency,
 142 designated examination center, or other department-approved
 143 entity; and

144 b. Have been certified, in a manner satisfactory to the
 145 department, to conduct the inspections.

146 3. Provide a quality assurance program including a
 147 reinspection component.

148 Section 2. Subsection (5) is added to section 393.0655,
 149 Florida Statutes, to read:

150 393.0655 Screening of direct service providers.—

151 (5) The background screening conducted under this section
 152 must ensure that, in addition to the disqualifying offenses
 153 listed in s. 435.04, no persons subject to the provisions of
 154 this section have been found guilty of, regardless of
 155 adjudication, or entered a plea of nolo contendere or guilty to,
 156 any offense prohibited under any of the following provisions of
 157 the Florida Statutes or under any similar statute of another
 158 jurisdiction:

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

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

161 (c) Section 409.920, relating to Medicaid provider fraud,
 162 if the offense was a felony.

163 (d) Section 409.9201, relating to Medicaid fraud, if the
 164 offense was a felony.

165 (e) Section 817.034, relating to fraudulent acts through
 166 mail, wire, radio, electromagnetic, photoelectronic, or
 167 photooptical systems.

168 (f) Section 817.234, relating to false and fraudulent

BILL ORIGINAL YEAR

- 169 insurance claims.
- 170 (g) Section 817.505, relating to patient brokering.
- 171 (h) Section 817.568, relating to criminal use of personal
- 172 identification information.
- 173 (i) Section 817.60, relating to obtaining a credit card
- 174 through fraudulent means.
- 175 (j) Section 817.61, relating to fraudulent use of credit
- 176 cards, if the offense was a felony.
- 177 (k) Section 831.01, relating to forgery.
- 178 (l) Section 831.02, relating to uttering forged
- 179 instruments.
- 180 (m) Section 831.07, relating to forging bank bills,
- 181 checks, drafts, or promissory notes.
- 182 (n) Section 831.09, relating to uttering forged bank
- 183 bills, checks, drafts, or promissory notes.

184 Section 3. Section 394.4572, Florida Statutes, is amended
 185 to read:

186 394.4572 Screening of mental health personnel.—

187 (1) (a) The department and the Agency for Health Care
 188 Administration shall require level 2 background employment
 189 screening pursuant to ch. 435 for mental health personnel ~~using~~
 190 ~~the standards for level 2 screening set forth in chapter 435.~~

191 "Mental health personnel" includes all program directors,
 192 professional clinicians, staff members, and volunteers working
 193 in public or private mental health programs and facilities who
 194 have direct contact with ~~unmarried~~ patients ~~under the age of 18~~
 195 ~~years~~. For purposes of this chapter, employment screening of
 196 mental health personnel shall also include, but is not limited

BILL

ORIGINAL

YEAR

197 to, employment screening as provided under chapter 435 and s.
 198 408.809.

199 (b) Students in the health care professions who are
 200 interning in a mental health facility licensed under chapter
 201 395, where the primary purpose of the facility is not the
 202 treatment of minors, are exempt from the fingerprinting and
 203 screening requirements, provided they are under direct
 204 supervision in the actual physical presence of a licensed health
 205 care professional.

206 (c) Mental health personnel working in a facility licensed
 207 under chapter 395 who have less than 15 hours per week of direct
 208 contact with patients ~~or who are health care professionals~~
 209 ~~licensed by the Agency for Health Care Administration or a board~~
 210 ~~thereunder~~ are exempt from the fingerprinting and screening
 211 requirements, except for persons working in mental health
 212 facilities where the primary purpose of the facility is the
 213 treatment of minors.

214 (d) A volunteer who assists on an intermittent basis for
 215 less than 40 hours per month is exempt from the fingerprinting
 216 and screening requirements, provided the volunteer is under
 217 direct and constant supervision by persons who meet the
 218 screening requirements of paragraph (a).

219 (2) The department or the Agency for Health Care
 220 Administration may grant exemptions from disqualification as
 221 provided in ch. 435 s. 435.06.

222 ~~(3) Prospective mental health personnel who have~~
 223 ~~previously been fingerprinted or screened pursuant to this~~
 224 ~~chapter, chapter 393, chapter 397, chapter 402, or chapter 409,~~

BILL

ORIGINAL

YEAR

225 ~~or teachers who have been fingerprinted pursuant to chapter~~
 226 ~~1012, who have not been unemployed for more than 90 days~~
 227 ~~thereafter, and who under the penalty of perjury attest to the~~
 228 ~~completion of such fingerprinting or screening and to compliance~~
 229 ~~with the provisions of this section and the standards for level~~
 230 ~~1 screening contained in chapter 435, shall not be required to~~
 231 ~~be refingerprinted or rescreened in order to comply with any~~
 232 ~~screening requirements of this part.~~

233 Section 4. Section 400.215, Florida Statutes, is amended
 234 to read:

235 400.215 Personnel screening requirement.—

236 (1) The agency shall require level 2 background screening
 237 for personnel as required in s. 408.809(1)(e) pursuant to as
 238 ~~provided in chapter 435 and s. 408.809 for all employees or~~
 239 ~~prospective employees of facilities licensed under this part who~~
 240 ~~are expected to, or whose responsibilities may require them to:~~

- 241 ~~(a) Provide personal care or services to residents;~~
- 242 ~~(b) Have access to resident living areas; or~~
- 243 ~~(c) Have access to resident funds or other personal~~
 244 ~~property.~~

245 (2) ~~Employers and employees shall comply with the~~
 246 ~~requirements of s. 435.05.~~

247 ~~(a) Notwithstanding the provisions of s. 435.05(1),~~
 248 ~~facilities must have in their possession evidence that level 1~~
 249 ~~screening has been completed before allowing an employee to~~
 250 ~~begin working with patients as provided in subsection (1). All~~
 251 ~~information necessary for conducting background screening using~~
 252 ~~level 1 standards as specified in s. 435.03 shall be submitted~~

BILL

ORIGINAL

YEAR

253 ~~by the nursing facility to the agency. Results of the background~~
 254 ~~screening shall be provided by the agency to the requesting~~
 255 ~~nursing facility.~~

256 ~~(b) Employees qualified under the provisions of paragraph~~
 257 ~~(a) who have not maintained continuous residency within the~~
 258 ~~state for the 5 years immediately preceding the date of request~~
 259 ~~for background screening must complete level 2 screening, as~~
 260 ~~provided in chapter 435. Such employees may work in a~~
 261 ~~conditional status up to 180 days pending the receipt of written~~
 262 ~~findings evidencing the completion of level 2 screening. Level 2~~
 263 ~~screening shall not be required of employees or prospective~~
 264 ~~employees who attest in writing under penalty of perjury that~~
 265 ~~they meet the residency requirement. Completion of level 2~~
 266 ~~screening shall require the employee or prospective employee to~~
 267 ~~furnish to the nursing facility a full set of fingerprints to~~
 268 ~~enable a criminal background investigation to be conducted. The~~
 269 ~~nursing facility shall submit the completed fingerprint card to~~
 270 ~~the agency. The agency shall establish a record of the request~~
 271 ~~in the database provided for in paragraph (c) and forward the~~
 272 ~~request to the Department of Law Enforcement, which is~~
 273 ~~authorized to submit the fingerprints to the Federal Bureau of~~
 274 ~~Investigation for a national criminal history records check. The~~
 275 ~~results of the national criminal history records check shall be~~
 276 ~~returned to the agency, which shall maintain the results in the~~
 277 ~~database provided for in paragraph (c). The agency shall notify~~
 278 ~~the administrator of the requesting nursing facility or the~~
 279 ~~administrator of any other facility licensed under chapter 393,~~
 280 ~~chapter 394, chapter 395, chapter 397, chapter 429, or this~~

BILL ORIGINAL YEAR

281 ~~chapter, as requested by such facility, as to whether or not the~~
 282 ~~employee has qualified under level 1 or level 2 screening. An~~
 283 ~~employee or prospective employee who has qualified under level 2~~
 284 ~~screening and has maintained such continuous residency within~~
 285 ~~the state shall not be required to complete a subsequent level 2~~
 286 ~~screening as a condition of employment at another facility.~~

287 ~~(c) The agency shall establish and maintain a database of~~
 288 ~~background screening information which shall include the results~~
 289 ~~of both level 1 and level 2 screening. The Department of Law~~
 290 ~~Enforcement shall timely provide to the agency, electronically,~~
 291 ~~the results of each statewide screening for incorporation into~~
 292 ~~the database. The agency shall, upon request from any facility,~~
 293 ~~agency, or program required by or authorized by law to screen~~
 294 ~~its employees or applicants, notify the administrator of the~~
 295 ~~facility, agency, or program of the qualifying or disqualifying~~
 296 ~~status of the employee or applicant named in the request.~~

297 ~~(d) Applicants and employees shall be excluded from~~
 298 ~~employment pursuant to s. 435.06.~~

299 ~~(3) The applicant is responsible for paying the fees~~
 300 ~~associated with obtaining the required screening. Payment for~~
 301 ~~the screening shall be submitted to the agency. The agency shall~~
 302 ~~establish a schedule of fees to cover the costs of level 1 and~~
 303 ~~level 2 screening. Facilities may reimburse employees for these~~
 304 ~~costs. The Department of Law Enforcement shall charge the agency~~
 305 ~~for a level 1 or level 2 screening a rate sufficient to cover~~
 306 ~~the costs of such screening pursuant to s. 943.053(3). The~~
 307 ~~agency shall, as allowable, reimburse nursing facilities for the~~
 308 ~~cost of conducting background screening as required by this~~

BILL

ORIGINAL

YEAR

309 section. This reimbursement will not be subject to any rate
 310 ceilings or payment targets in the Medicaid Reimbursement plan.

311 ~~(4) (a) As provided in s. 435.07, the agency may grant an~~
 312 ~~exemption from disqualification to an employee or prospective~~
 313 ~~employee who is subject to this section and who has not received~~
 314 ~~a professional license or certification from the Department of~~
 315 ~~Health.~~

316 ~~(b) As provided in s. 435.07, the appropriate regulatory~~
 317 ~~board within the Department of Health, or that department itself~~
 318 ~~when there is no board, may grant an exemption from~~
 319 ~~disqualification to an employee or prospective employee who is~~
 320 ~~subject to this section and who has received a professional~~
 321 ~~license or certification from the Department of Health or a~~
 322 ~~regulatory board within that department.~~

323 ~~(5) Any provision of law to the contrary notwithstanding,~~
 324 ~~persons who have been screened and qualified as required by this~~
 325 ~~section and who have not been unemployed for more than 180 days~~
 326 ~~thereafter, and who under penalty of perjury attest to not~~
 327 ~~having been convicted of a disqualifying offense since the~~
 328 ~~completion of such screening, shall not be required to be~~
 329 ~~rescreened. An employer may obtain, pursuant to s. 435.10,~~
 330 ~~written verification of qualifying screening results from the~~
 331 ~~previous employer or other entity which caused such screening to~~
 332 ~~be performed.~~

333 ~~(6) The agency and the Department of Health shall have~~
 334 ~~authority to adopt rules pursuant to the Administrative~~
 335 ~~Procedure Act to implement this section.~~

336 ~~(7) All employees shall comply with the requirements of~~

BILL

ORIGINAL

YEAR

337 ~~this section by October 1, 1998. No current employee of a~~
 338 ~~nursing facility as of the effective date of this act shall be~~
 339 ~~required to submit to rescreening if the nursing facility has in~~
 340 ~~its possession written evidence that the person has been~~
 341 ~~screened and qualified according to level 1 standards as~~
 342 ~~specified in s. 435.03(1). Any current employee who meets the~~
 343 ~~level 1 requirement but does not meet the 5-year residency~~
 344 ~~requirement as specified in this section must provide to the~~
 345 ~~employing nursing facility written attestation under penalty of~~
 346 ~~perjury that the employee has not been convicted of a~~
 347 ~~disqualifying offense in another state or jurisdiction. All~~
 348 ~~applicants hired on or after October 1, 1998, shall comply with~~
 349 ~~the requirements of this section.~~

350 ~~(8) There is no monetary or unemployment liability on the~~
 351 ~~part of, and no cause of action for damages arising against an~~
 352 ~~employer that, upon notice of a disqualifying offense listed~~
 353 ~~under chapter 435 or an act of domestic violence, terminates the~~
 354 ~~employee against whom the report was issued, whether or not the~~
 355 ~~employee has filed for an exemption with the Department of~~
 356 ~~Health or the Agency for Health Care Administration.~~

357 Section 5. Section 400.512, Florida Statutes, is amended
 358 to read:

359 400.512 Screening of home health agency personnel; nurse
 360 registry personnel; and companions and homemakers.—The agency
 361 shall require level 2 background screening for personnel as
 362 required in s. 408.809(1)(e) pursuant to ch. 435 and s. 408.809
 363 ~~employment or contractor screening as provided in chapter 435,~~
 364 ~~using the level 1 standards for screening set forth in that~~

BILL

ORIGINAL

YEAR

365 ~~chapter, for home health agency personnel; persons referred for~~
 366 ~~employment by nurse registries; and persons employed by~~
 367 ~~companion or homemaker services registered under s. 400.509.~~

368 ~~(1)(a) The Agency for Health Care Administration may, upon~~
 369 ~~request, grant exemptions from disqualification from employment~~
 370 ~~or contracting under this section as provided in s. 435.07,~~
 371 ~~except for health care practitioners licensed by the Department~~
 372 ~~of Health or a regulatory board within that department.~~

373 ~~(b) The appropriate regulatory board within the Department~~
 374 ~~of Health, or that department itself when there is no board,~~
 375 ~~may, upon request of the licensed health care practitioner,~~
 376 ~~grant exemptions from disqualification from employment or~~
 377 ~~contracting under this section as provided in s. 435.07.~~

378 ~~(2) The administrator of each home health agency, the~~
 379 ~~managing employee of each nurse registry, and the managing~~
 380 ~~employee of each companion or homemaker service registered under~~
 381 ~~s. 400.509 must sign an affidavit annually, under penalty of~~
 382 ~~perjury, stating that all personnel hired or contracted with or~~
 383 ~~registered on or after October 1, 2000, who enter the home of a~~
 384 ~~patient or client in their service capacity have been screened.~~

385 ~~(3) As a prerequisite to operating as a home health~~
 386 ~~agency, nurse registry, or companion or homemaker service under~~
 387 ~~s. 400.509, the administrator or managing employee,~~
 388 ~~respectively, must submit to the agency his or her name and any~~
 389 ~~other information necessary to conduct a complete screening~~
 390 ~~according to this section. The agency shall submit the~~
 391 ~~information to the Department of Law Enforcement for state~~
 392 ~~processing. The agency shall review the record of the~~

BILL ORIGINAL YEAR

393 ~~administrator or manager with respect to the offenses specified~~
 394 ~~in this section and shall notify the owner of its findings. If~~
 395 ~~disposition information is missing on a criminal record, the~~
 396 ~~administrator or manager, upon request of the agency, must~~
 397 ~~obtain and supply within 30 days the missing disposition~~
 398 ~~information to the agency. Failure to supply missing information~~
 399 ~~within 30 days or to show reasonable efforts to obtain such~~
 400 ~~information will result in automatic disqualification.~~

401 ~~(4) Proof of compliance with the screening requirements of~~
 402 ~~chapter 435 shall be accepted in lieu of the requirements of~~
 403 ~~this section if the person has been continuously employed or~~
 404 ~~registered without a breach in service that exceeds 180 days,~~
 405 ~~the proof of compliance is not more than 2 years old, and the~~
 406 ~~person has been screened by the Department of Law Enforcement. A~~
 407 ~~home health agency, nurse registry, or companion or homemaker~~
 408 ~~service registered under s. 400.509 shall directly provide proof~~
 409 ~~of compliance to another home health agency, nurse registry, or~~
 410 ~~companion or homemaker service registered under s. 400.509. The~~
 411 ~~recipient home health agency, nurse registry, or companion or~~
 412 ~~homemaker service registered under s. 400.509 may not accept any~~
 413 ~~proof of compliance directly from the person who requires~~
 414 ~~screening. Proof of compliance with the screening requirements~~
 415 ~~of this section shall be provided upon request to the person~~
 416 ~~screened by the home health agencies; nurse registries; or~~
 417 ~~companion or homemaker services registered under s. 400.509.~~

418 ~~(5) There is no monetary liability on the part of, and no~~
 419 ~~cause of action for damages arises against, a licensed home~~
 420 ~~health agency, licensed nurse registry, or companion or~~

BILL

ORIGINAL

YEAR

421 ~~homemaker service registered under s. 400.509, that, upon notice~~
 422 ~~that the employee or contractor has been found guilty of,~~
 423 ~~regardless of adjudication, or entered a plea of nolo contendere~~
 424 ~~or guilty to, any offense prohibited under s. 435.03 or under~~
 425 ~~any similar statute of another jurisdiction, terminates the~~
 426 ~~employee or contractor, whether or not the employee or~~
 427 ~~contractor has filed for an exemption with the agency in~~
 428 ~~accordance with chapter 435 and whether or not the time for~~
 429 ~~filing has expired.~~

430 ~~(6) The costs of processing the statewide correspondence~~
 431 ~~criminal records checks must be borne by the home health agency;~~
 432 ~~the nurse registry; or the companion or homemaker service~~
 433 ~~registered under s. 400.509, or by the person being screened, at~~
 434 ~~the discretion of the home health agency, nurse registry, or s.~~
 435 ~~400.509 registrant.~~

436 Section 6. Section 400.6065, Florida Statutes, is amended
 437 to read:

438 400.6065 Background screening.—The agency shall require
 439 level 2 background employment or contractor screening for
 440 personnel as required in s. 408.809(1)(e) pursuant to ch. 435
 441 and s. 408.809 as provided in chapter 435, using the level 1
 442 standards for screening set forth in that chapter, for hospice
 443 personnel.

444 Section 7. Subsection (2) of section 400.801, Florida
 445 Statutes, is amended to read:

446 400.801 Homes for special services.—

447 (2) (a) The requirements of part II of chapter 408 apply to
 448 the provision of services that require licensure pursuant to

BILL

ORIGINAL

YEAR

449 | this section and part II of chapter 408 and entities licensed by
 450 | or applying for such licensure from the agency pursuant to this
 451 | section. A license issued by the agency is required in order to
 452 | operate a home for special services in this state.

453 | (b) The agency shall require level 2 background screening
 454 | for personnel as required in s. 408.809(1)(e) pursuant to ch.
 455 | 435 and s. 408.809.

456 | Section 8. Paragraph (d) is added to subsection (2) of
 457 | section 400.805, Florida Statutes, to read:

458 | 400.805 Transitional living facilities.—

459 | (2)(d) The agency shall require level 2 background
 460 | screening for personnel as required in s. 408.809(1)(e) pursuant
 461 | to ch. 435 and s. 408.809.

462 | Section 9. Section 400.9065, Florida Statutes, is created
 463 | to read:

464 | 400.9065 Background screening.—The agency shall require
 465 | level 2 background screening for personnel as required in s.
 466 | 408.809(1)(e) pursuant to ch. 435 and s. 408.809.

467 | Section 10. Subsection (16) of section 400.934, Florida
 468 | Statutes, is amended to read:

469 | 400.934 Minimum standards.—As a requirement of licensure,
 470 | home medical equipment providers shall:

471 | (16) Establish procedures for maintaining a record of the
 472 | employment history, including background screening as required
 473 | by s. 400.953, pt. II of ch. 408, and ch. 435, of all home
 474 | medical equipment provider personnel. A home medical equipment
 475 | provider must require its personnel to submit an employment
 476 | history to the home medical equipment provider and must verify

BILL

ORIGINAL

YEAR

477 the employment history for at least the previous 5 years, unless
 478 through diligent efforts such verification is not possible.
 479 There is no monetary liability on the part of, and no cause of
 480 action for damages arising against a former employer, a
 481 prospective employee, or a prospective independent contractor
 482 with a licensed home medical equipment provider, who reasonably
 483 and in good faith communicates his or her honest opinions about
 484 a former employee's job performance. This subsection does not
 485 affect the official immunity of an officer or employee of a
 486 public corporation.

487 Section 11. Section 400.953, Florida Statutes, is amended
 488 to read:

489 400.953 Background screening of home medical equipment
 490 provider personnel.—The agency shall require level 2 background
 491 screening for personnel as required in s. 408.809(1)(e) pursuant
 492 to ch. 435 and s. 408.809 employment screening as provided in
 493 chapter 435, using the level 1 standards for screening set forth
 494 in that chapter, for home medical equipment provider personnel.

495 ~~(1) The agency may grant exemptions from disqualification~~
 496 ~~from employment under this section as provided in s. 435.07.~~

497 ~~(2) The general manager of each home medical equipment~~
 498 ~~provider must sign an affidavit annually, under penalty of~~
 499 ~~perjury, stating that all home medical equipment provider~~
 500 ~~personnel hired on or after July 1, 1999, who enter the home of~~
 501 ~~a patient in the capacity of their employment have been screened~~
 502 ~~and that its remaining personnel have worked for the home~~
 503 ~~medical equipment provider continuously since before July 1,~~
 504 ~~1999.~~

BILL

ORIGINAL

YEAR

505 ~~(3) Proof of compliance with the screening requirements of~~
 506 ~~s. 110.1127, s. 393.0655, s. 394.4572, s. 397.451, s. 402.305,~~
 507 ~~s. 402.313, s. 409.175, s. 464.008, or s. 985.644 or this part~~
 508 ~~must be accepted in lieu of the requirements of this section if~~
 509 ~~the person has been continuously employed in the same type of~~
 510 ~~occupation for which he or she is seeking employment without a~~
 511 ~~breach in service that exceeds 180 days, the proof of compliance~~
 512 ~~is not more than 2 years old, and the person has been screened~~
 513 ~~by the Department of Law Enforcement. An employer or contractor~~
 514 ~~shall directly provide proof of compliance to another employer~~
 515 ~~or contractor, and a potential employer or contractor may not~~
 516 ~~accept any proof of compliance directly from the person~~
 517 ~~requiring screening. Proof of compliance with the screening~~
 518 ~~requirements of this section shall be provided, upon request, to~~
 519 ~~the person screened by the home medical equipment provider.~~

520 ~~(4) There is no monetary liability on the part of, and no~~
 521 ~~cause of action for damages arising against, a licensed home~~
 522 ~~medical equipment provider that, upon notice that an employee~~
 523 ~~has been found guilty of, regardless of adjudication, or entered~~
 524 ~~a plea of nolo contendere or guilty to, any offense prohibited~~
 525 ~~under s. 435.03 or under any similar statute of another~~
 526 ~~jurisdiction, terminates the employee, whether or not the~~
 527 ~~employee has filed for an exemption with the agency and whether~~
 528 ~~or not the time for filing has expired.~~

529 ~~(5) The costs of processing the statewide correspondence~~
 530 ~~criminal records checks must be borne by the home medical~~
 531 ~~equipment provider or by the person being screened, at the~~
 532 ~~discretion of the home medical equipment provider.~~

BILL

ORIGINAL

YEAR

533 ~~(6) Neither the agency nor the home medical equipment~~
 534 ~~provider may use the criminal records or juvenile records of a~~
 535 ~~person for any purpose other than determining whether that~~
 536 ~~person meets minimum standards of good moral character for home~~
 537 ~~medical equipment provider personnel.~~

538 ~~(7)(a) It is a misdemeanor of the first degree, punishable~~
 539 ~~as provided in s. 775.082 or s. 775.083, for any person~~
 540 ~~willfully, knowingly, or intentionally to:~~

541 ~~1. Fail, by false statement, misrepresentation,~~
 542 ~~impersonation, or other fraudulent means, to disclose in any~~
 543 ~~application for paid employment a material fact used in making a~~
 544 ~~determination as to the person's qualifications to be an~~
 545 ~~employee under this section;~~

546 ~~2. Operate or attempt to operate an entity licensed under~~
 547 ~~this part with persons who do not meet the minimum standards for~~
 548 ~~good moral character as contained in this section; or~~

549 ~~3. Use information from the criminal records obtained~~
 550 ~~under this section for any purpose other than screening that~~
 551 ~~person for employment as specified in this section, or release~~
 552 ~~such information to any other person for any purpose other than~~
 553 ~~screening for employment under this section.~~

554 ~~(b) It is a felony of the third degree, punishable as~~
 555 ~~provided in s. 775.082, s. 775.083, or s. 775.084, for any~~
 556 ~~person willfully, knowingly, or intentionally to use information~~
 557 ~~from the juvenile records of a person obtained under this~~
 558 ~~section for any purpose other than screening for employment~~
 559 ~~under this section.~~

560 Section 12. Section 400.955, Florida Statutes, is

BILL

ORIGINAL

YEAR

561 repealed.

562 Section 13. Section 400.964, Florida Statutes, is amended
563 to read:

564 400.964 Personnel screening requirement.—

565 ~~(1) The agency shall require level 2 background screening~~
566 ~~for personnel as required in s. 408.809(1)(e) pursuant to ch.~~
567 ~~435 and s. 408.809 as provided in chapter 435 for all employees~~
568 ~~or prospective employees of facilities licensed under this part~~
569 ~~who are expected to be, or whose responsibilities are such that~~
570 ~~they would be considered to be, a direct service provider.~~

571 ~~(2) Employers and employees shall comply with the~~
572 ~~requirements of chapter 435.~~

573 ~~(3) Applicants and employees shall be excluded from~~
574 ~~employment pursuant to s. 435.06.~~

575 ~~(4) The applicant is responsible for paying the fees~~
576 ~~associated with obtaining the required screening. Payment for~~
577 ~~the screening must be submitted to the agency as prescribed by~~
578 ~~the agency.~~

579 ~~(5) Notwithstanding any other provision of law, persons~~
580 ~~who have been screened and qualified as required by this section~~
581 ~~and who have not been unemployed for more than 180 days~~
582 ~~thereafter, and who under penalty of perjury attest to not~~
583 ~~having been convicted of a disqualifying offense since the~~
584 ~~completion of such screening are not required to be rescreened.~~
585 ~~An employer may obtain, pursuant to s. 435.10, written~~
586 ~~verification of qualifying screening results from the previous~~
587 ~~employer or other entity that caused such screening to be~~
588 ~~performed.~~

BILL

ORIGINAL

YEAR

589 ~~(6) The agency may adopt rules to administer this section.~~

590 ~~(7) All employees must comply with the requirements of~~
 591 ~~this section by October 1, 2000. A person employed by a facility~~
 592 ~~licensed pursuant to this part as of the effective date of this~~
 593 ~~act is not required to submit to rescreening if the facility has~~
 594 ~~in its possession written evidence that the person has been~~
 595 ~~screened and qualified according to level 1 standards as~~
 596 ~~specified in s. 435.03. Any current employee who meets the level~~
 597 ~~1 requirement but does not meet the 5-year residency requirement~~
 598 ~~must provide to the employing facility written attestation under~~
 599 ~~penalty of perjury that the employee has not been convicted of a~~
 600 ~~disqualifying offense in another state or jurisdiction. All~~
 601 ~~applicants hired on or after October 1, 1999, must comply with~~
 602 ~~the requirements of this section.~~

603 ~~(8) There is no monetary or unemployment liability on the~~
 604 ~~part of, and no cause of action for damages arises against an~~
 605 ~~employer that, upon notice of a disqualifying offense listed~~
 606 ~~under chapter 435 or an act of domestic violence, terminates the~~
 607 ~~employee, whether or not the employee has filed for an exemption~~
 608 ~~with the Department of Health or the Agency for Health Care~~
 609 ~~Administration.~~

610 Section 14. Subsection (3) of section 400.980, Florida
 611 Statutes, is amended to read:

612 400.980 Health care services pools.—

613 (3) ~~Upon receipt of a completed, signed, and dated~~
 614 ~~application,~~ The agency shall require level 2 background
 615 screening for personnel as required in s. 408.809(1)(e) pursuant
 616 to ch. 435 and s. 408.809, ~~in accordance with the level 1~~

BILL

ORIGINAL

YEAR

617 ~~standards for screening set forth in chapter 435, of every~~
 618 ~~individual who will have contact with patients.~~

619 Section 15. Subsection (5) of section 400.991, Florida
 620 Statutes, is amended to read:

621 400.991 License requirements; background screenings;
 622 prohibitions.-

623 ~~(5) Each applicant for licensure shall comply with the~~
 624 ~~following requirements:~~

625 ~~(a)~~ As used in this subsection, the term "applicant" means
 626 individuals owning or controlling, directly or indirectly, 5
 627 percent or more of an interest in a clinic; the medical or
 628 clinic director, or a similarly titled person who is responsible
 629 for the day-to-day operation of the licensed clinic; the
 630 financial officer or similarly titled individual who is
 631 responsible for the financial operation of the clinic; and
 632 licensed health care practitioners at the clinic.

633 ~~(a)(b)~~ Upon receipt of a completed, signed, and dated
 634 ~~application,~~ The agency shall require level 2 background
 635 screening for applicants and personnel as required in s.
 636 408.809(1)(e) pursuant to ch. 435 and s. 408.809 of the
 637 ~~applicant, in accordance with the level 2 standards for~~
 638 ~~screening set forth in chapter 435. Proof of compliance with the~~
 639 ~~level 2 background screening requirements of chapter 435 which~~
 640 ~~has been submitted within the previous 5 years in compliance~~
 641 ~~with any other health care licensure requirements of this state~~
 642 ~~is acceptable in fulfillment of this paragraph. Applicants who~~
 643 ~~own less than 10 percent of a health care clinic are not~~
 644 ~~required to submit fingerprints under this section.~~

BILL

ORIGINAL

YEAR

645 (b)~~(e)~~ Each applicant must submit to the agency, with the
 646 application, a description and explanation of any exclusions,
 647 permanent suspensions, or terminations of an applicant from the
 648 Medicare or Medicaid programs. Proof of compliance with the
 649 requirements for disclosure of ownership and control interest
 650 under the Medicaid or Medicare programs may be accepted in lieu
 651 of this submission. The description and explanation may indicate
 652 whether such exclusions, suspensions, or terminations were
 653 voluntary or not voluntary on the part of the applicant.

654 ~~(d) A license may not be granted to a clinic if the
 655 applicant has been found guilty of, regardless of adjudication,
 656 or has entered a plea of nolo contendere or guilty to, any
 657 offense prohibited under the level 2 standards for screening set
 658 forth in chapter 435, or a violation of insurance fraud under s.
 659 817.234, within the past 5 years. If the applicant has been
 660 convicted of an offense prohibited under the level 2 standards
 661 or insurance fraud in any jurisdiction, the applicant must show
 662 that his or her civil rights have been restored prior to
 663 submitting an application.~~

664 Section 16. Paragraph (h) is added to subsection (1) of
 665 section 408.806, Florida Statutes, to read:

666 408.806 License application process.—

667 (1) An application for licensure must be made to the
 668 agency on forms furnished by the agency, submitted under oath,
 669 and accompanied by the appropriate fee in order to be accepted
 670 and considered timely. The application must contain information
 671 required by authorizing statutes and applicable rules and must
 672 include:

BILL

ORIGINAL

YEAR

673 (h) An affidavit, under penalty of perjury, stating that
 674 all persons subject to background screening as required by this
 675 part, authorizing statutes, and applicable rules, have been
 676 screened and are qualified.

677 Section 17. Section 408.809, Florida Statutes, is amended
 678 to read:

679 408.809 Background screening; prohibited offenses.—

680 (1) Level 2 background screening pursuant to chapter 435
 681 must be conducted through the agency on each of the following
 682 persons, who shall be considered an employee for the purposes of
 683 conducting screening under chapter 435:

684 (a) The licensee, if an individual.

685 (b) The administrator or a similarly titled person who is
 686 responsible for the day-to-day operation of the provider.

687 (c) The financial officer or similarly titled individual
 688 who is responsible for the financial operation of the licensee
 689 or provider.

690 (d) Any person who is a controlling interest if the agency
 691 has reason to believe that such person has been convicted of any
 692 offense prohibited by s. 435.04. For each controlling interest
 693 who has been convicted of any such offense, the licensee shall
 694 submit to the agency a description and explanation of the
 695 conviction at the time of license application.

696 (e) Any person, as required by authorizing statutes,
 697 seeking employment or contracting with a licensee or provider
 698 who is expected to, or whose responsibilities may require them
 699 to, provide personal care or services directly to clients.

700 However, the changes made by this act do not require a person

BILL

ORIGINAL

YEAR

701 who is employed or contracts with a licensee on or before June
 702 30, 2010, to submit to rescreening until such time as they are
 703 otherwise required to be rescreened pursuant to law if that
 704 licensee has in its possession written evidence that the person
 705 has been screened and qualified according to standards specified
 706 in s. 435.03 or s. 435.04.

707 (2) Proof of compliance with level 2 screening standards
 708 submitted within the previous 5 years to meet any provider or
 709 professional licensure requirements of the agency, the
 710 Department of Health, the Agency for Persons with Disabilities,
 711 or the Department of Children and Family Services satisfies the
 712 requirements of this section, provided the person subject to
 713 screening has not been unemployed for more than 90 days and that
 714 such proof is accompanied, under penalty of perjury, by an
 715 affidavit of compliance with the provisions of chapter 435 and
 716 this section using forms provided by the agency. Proof of
 717 compliance with the background screening requirements of the
 718 Department of Financial Services submitted within the previous 5
 719 years for an applicant for a certificate of authority to operate
 720 a continuing care retirement community under chapter 651
 721 satisfies the Department of Law Enforcement and Federal Bureau
 722 of Investigation portions of a level 2 background check.

723 (3) All fingerprints must be provided in electronic
 724 format. Screening results shall be reviewed by the agency with
 725 respect to the offenses specified in s. 435.04 and this section
 726 and maintained in a database. The qualifying or disqualifying
 727 status of the person named in the request will be posted on a
 728 secure website accessible to all licensees. A ~~provisional~~

BILL

ORIGINAL

YEAR

729 ~~license may be granted to an applicant when each individual~~
 730 ~~required by this section to undergo background screening has met~~
 731 ~~the standards for the Department of Law Enforcement background~~
 732 ~~check but the agency has not yet received background screening~~
 733 ~~results from the Federal Bureau of Investigation. A standard~~
 734 ~~license may be granted to the licensee upon the agency's receipt~~
 735 ~~of a report of the results of the Federal Bureau of~~
 736 ~~Investigation background screening for each individual required~~
 737 ~~by this section to undergo background screening that confirms~~
 738 ~~that all standards have been met or upon the granting of an~~
 739 ~~exemption from disqualification by the agency as set forth in~~
 740 ~~chapter 435.~~

741 (4) ~~When a person is newly employed in a capacity that~~
 742 ~~requires screening under this section, the licensee must notify~~
 743 ~~the agency of the change within the time period specified in the~~
 744 ~~authorizing statute or rules and must submit to the agency~~
 745 ~~information necessary to conduct level 2 screening or provide~~
 746 ~~evidence of compliance with background screening requirements of~~
 747 ~~this section. The person may serve in his or her capacity~~
 748 ~~pending the agency's receipt of the report from the Federal~~
 749 ~~Bureau of Investigation if he or she has met the standards for~~
 750 ~~the Department of Law Enforcement background check. However, the~~
 751 ~~person may not continue to serve in his or her capacity if the~~
 752 ~~report indicates any violation of background screening standards~~
 753 ~~unless an exemption from disqualification has been granted by~~
 754 ~~the agency as set forth in chapter 435.~~

755 (5) ~~Effective October 1, 2009, in addition to the offenses~~
 756 ~~listed in ss. 435.03 and 435.04, all persons required to undergo~~

BILL

ORIGINAL

YEAR

757 background screening pursuant to this part or authorizing
 758 statutes must not have been found guilty of, regardless of
 759 adjudication, or entered a plea of nolo contendere or guilty to,
 760 any of the following offenses or any similar offense of another
 761 jurisdiction:

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

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

764 (c) Section 409.920, relating to Medicaid provider fraud,
 765 if the offense was a felony.

766 (d) Section 409.9201, relating to Medicaid fraud, if the
 767 offense was a felony.

768 (e) Section 741.28, relating to domestic violence.

769 (f) Chapter 784, relating to assault, battery, and
 770 culpable negligence, if the offense was a felony.

771 (g) Section 810.02, relating to burglary.

772 (h) Section 817.034, relating to fraudulent acts through
 773 mail, wire, radio, electromagnetic, photoelectronic, or
 774 photooptical systems.

775 (i) Section 817.234, relating to false and fraudulent
 776 insurance claims.

777 (j) Section 817.505, relating to patient brokering.

778 (k) Section 817.568, relating to criminal use of personal
 779 identification information.

780 (l) Section 817.60, relating to obtaining a credit card
 781 through fraudulent means.

782 (m) Section 817.61, relating to fraudulent use of credit
 783 cards, if the offense was a felony.

784 (n) Section 831.01, relating to forgery.

BILL ORIGINAL YEAR

785 (o) Section 831.02, relating to uttering forged
 786 instruments.

787 (p) Section 831.07, relating to forging bank bills,
 788 checks, drafts, or promissory notes.

789 (q) Section 831.09, relating to uttering forged bank
 790 bills, checks, drafts, or promissory notes.

791 (r) Section 831.30, relating to fraud in obtaining
 792 medicinal drugs.

793 (s) Section 831.31, relating to the sale, manufacture,
 794 delivery, or possession with the intent to sell, manufacture, or
 795 deliver any counterfeit controlled substance, if the offense was
 796 a felony.

797

798 A person who serves as a controlling interest of or is employed
 799 by a licensee on September 30, 2009, is not required by law to
 800 submit to rescreening if that licensee has in its possession
 801 written evidence that the person has been screened and qualified
 802 according to the standards specified in s. 435.03 or s. 435.04.
 803 However, if such person has a disqualifying offense listed in
 804 this section, he or she may apply for an exemption from the
 805 appropriate licensing agency before September 30, 2009, and if
 806 agreed to by the employer, may continue to perform his or her
 807 duties until the licensing agency renders a decision on the
 808 application for exemption for offenses listed in this section.
 809 Exemptions from disqualification may be granted pursuant to s.
 810 435.07.

811 (5) ~~(6)~~ The costs associated with obtaining the required
 812 screening must be borne either by the licensee or the person

BILL

ORIGINAL

YEAR

813 subject to screening. Licensees may reimburse persons for these
 814 costs. The Florida Department of Law Enforcement shall charge
 815 the agency for screening a rate sufficient to cover the costs of
 816 such screening pursuant to s. 943.053(3). The agency shall
 817 establish a schedule of fees to cover the costs of screening.
 818 ~~The attestations required under ss. 435.04(5) and 435.05(3) must~~
 819 ~~be submitted at the time of license renewal, notwithstanding the~~
 820 ~~provisions of ss. 435.04(5) and 435.05(3) which require annual~~
 821 ~~submission of an affidavit of compliance with background~~
 822 ~~screening requirements.~~

823 (6) (a) As provided in ch. 435, the agency may grant an
 824 exemption from disqualification to a person who is subject to
 825 this section and who has not received a professional license or
 826 certification from the Department of Health if that person is
 827 providing a service that is within the scope of their licensed
 828 practice.

829 (b) As provided in ch. 435, the appropriate regulatory
 830 board within the Department of Health, or the department itself
 831 when there is no board, may grant an exemption from
 832 disqualification to a person who is subject to this section and
 833 who has received a professional license or certification from
 834 the Department of Health or a regulatory board within that
 835 department and that person is providing a service within the
 836 scope of their licensed practice.

837 (7) The agency and the Department of Health may adopt
 838 rules pursuant to ch. 120 to implement this section, ch. 435,
 839 and authorizing statutes requiring background screening, and to
 840 implement and adopt criteria relating to retaining fingerprints

BILL

ORIGINAL

YEAR

841 pursuant to s. 943.05(2).

842 (8) There is no monetary or unemployment liability on the
 843 part of, and no cause of action for damages arising against an
 844 employer that, upon notice of a disqualifying offense listed
 845 under chapter 435 or this section, terminates the person against
 846 whom the report was issued, whether or not the person has filed
 847 for an exemption with the Department of Health or the Agency for
 848 Health Care Administration.

849 Section 18. Paragraph (k) of subsection (2) of section
 850 409.175, Florida Statutes, is amended to read:

851 409.175 Licensure of family foster homes, residential
 852 child-caring agencies, and child-placing agencies; public
 853 records exemption.—

854 (2) As used in this section, the term:

855 (k) "Screening" means the act of assessing the background
 856 of personnel and includes, but is not limited to, employment
 857 history checks as provided in chapter 435, using the level 2
 858 standards for screening set forth in that chapter. Screening for
 859 employees and volunteers in summer day camps and summer 24-hour
 860 camps and screening for all volunteers included under the
 861 definition of "personnel" shall be conducted as provided in
 862 chapter 435, using the level 2 ~~level 1~~ standards set forth in
 863 that chapter.

864 Section 19. Paragraph (i) of subsection (4) of section
 865 409.221, Florida Statutes, is amended to read:

866 409.221 Consumer-directed care program.—

867 (4) CONSUMER-DIRECTED CARE.—

868 (i) Background screening requirements.—All persons who

BILL

ORIGINAL

YEAR

869 render care under this section must undergo level 2 background
 870 screening pursuant to ch. 435 shall comply with the requirements
 871 ~~of s. 435.05. Persons shall be excluded from employment pursuant~~
 872 ~~to s. 435.06.~~

873 ~~1. Persons excluded from employment may request an~~
 874 ~~exemption from disqualification, as provided in s. 435.07.~~
 875 ~~Persons not subject to certification or professional licensure~~
 876 ~~may request an exemption from the agency. In considering a~~
 877 ~~request for an exemption, the agency shall comply with the~~
 878 ~~provisions of s. 435.07.~~

879 ~~2.~~ The agency shall, as allowable, reimburse consumer-
 880 employed caregivers for the cost of conducting background
 881 screening as required by this section.

882
 883 For purposes of this section, a person who has undergone
 884 screening, who is qualified for employment under this section
 885 and applicable rule, and who has not been unemployed for more
 886 than 90 ~~180~~ days following such screening is not required to be
 887 rescreened. Such person must attest under penalty of perjury to
 888 not having been convicted of a disqualifying offense since
 889 completing such screening.

890 Section 20. Subsection (8) of section 409.907, Florida
 891 Statutes, is amended to read:

892 409.907 Medicaid provider agreements.—The agency may make
 893 payments for medical assistance and related services rendered to
 894 Medicaid recipients only to an individual or entity who has a
 895 provider agreement in effect with the agency, who is performing
 896 services or supplying goods in accordance with federal, state,

BILL

ORIGINAL

YEAR

897 | and local law, and who agrees that no person shall, on the
 898 | grounds of handicap, race, color, or national origin, or for any
 899 | other reason, be subjected to discrimination under any program
 900 | or activity for which the provider receives payment from the
 901 | agency.

902 | (8) (a) Each provider, or each principal of the provider if
 903 | the provider is a corporation, partnership, association, or
 904 | other entity, seeking to participate in the Medicaid program
 905 | must submit a complete set of his or her fingerprints to the
 906 | agency for the purpose of conducting a criminal history record
 907 | check. Principals of the provider include any officer, director,
 908 | billing agent, managing employee, or affiliated person, or any
 909 | partner or shareholder who has an ownership interest equal to 5
 910 | percent or more in the provider. However, a director of a not-
 911 | for-profit corporation or organization is not a principal for
 912 | purposes of a background investigation as required by this
 913 | section if the director: serves solely in a voluntary capacity
 914 | for the corporation or organization, does not regularly take
 915 | part in the day-to-day operational decisions of the corporation
 916 | or organization, receives no remuneration from the not-for-
 917 | profit corporation or organization for his or her service on the
 918 | board of directors, has no financial interest in the not-for-
 919 | profit corporation or organization, and has no family members
 920 | with a financial interest in the not-for-profit corporation or
 921 | organization; and if the director submits an affidavit, under
 922 | penalty of perjury, to this effect to the agency and the not-
 923 | for-profit corporation or organization submits an affidavit,
 924 | under penalty of perjury, to this effect to the agency as part

BILL ORIGINAL YEAR

925 of the corporation's or organization's Medicaid provider
 926 agreement application. Notwithstanding the above, the agency may
 927 require a background check for any person reasonably suspected
 928 by the agency to have been convicted of a crime. This subsection
 929 shall not apply to:

- 930 1. A hospital licensed under chapter 395;
- 931 2. A nursing home licensed under chapter 400;
- 932 3. A hospice licensed under chapter 400;
- 933 4. An assisted living facility licensed under chapter 429;
- 934 5. A unit of local government, except that requirements of
 935 this subsection apply to nongovernmental providers and entities
 936 when contracting with the local government to provide Medicaid
 937 services. The actual cost of the state and national criminal
 938 history record checks must be borne by the nongovernmental
 939 provider or entity; or
- 940 6. Any business that derives more than 50 percent of its
 941 revenue from the sale of goods to the final consumer, and the
 942 business or its controlling parent either is required to file a
 943 form 10-K or other similar statement with the Securities and
 944 Exchange Commission or has a net worth of \$50 million or more.

945 (b) Background screening shall be conducted in accordance
 946 with ch. 435 and s. 408.809. ~~The agency shall submit the~~
 947 ~~fingerprints to the Department of Law Enforcement. The~~
 948 ~~department shall conduct a state criminal background~~
 949 ~~investigation and forward the fingerprints to the Federal Bureau~~
 950 ~~of Investigation for a national criminal history record check.~~
 951 The cost of the state and national criminal record check shall
 952 be borne by the provider.

BILL

ORIGINAL

YEAR

953 (c) ~~The agency may permit a provider to participate in the~~
 954 ~~Medicaid program pending the results of the criminal record~~
 955 ~~check. However, such permission is fully revocable if the record~~
 956 ~~check reveals any crime-related history as provided in~~
 957 ~~subsection (10).~~

958 ~~(d)~~ Proof of compliance with the requirements of level 2
 959 screening under s. 435.04 conducted within 12 months prior to
 960 the date that the Medicaid provider application is submitted to
 961 the agency shall fulfill the requirements of this subsection.
 962 ~~Proof of compliance with the requirements of level 1 screening~~
 963 ~~under s. 435.03 conducted within 12 months prior to the date~~
 964 ~~that the Medicaid provider application is submitted to the~~
 965 ~~agency shall meet the requirement that the Department of Law~~
 966 ~~Enforcement conduct a state criminal history record check.~~

967 Section 21. Subsection (1) of section 429.14, Florida
 968 Statutes, is amended to read:

969 429.14 Administrative penalties.—

970 (1) In addition to the requirements of part II of chapter
 971 408, the agency may deny, revoke, and suspend any license issued
 972 under this part and impose an administrative fine in the manner
 973 provided in chapter 120 against a licensee ~~of an assisted living~~
 974 ~~facility~~ for a violation of any provision of this part, part II
 975 of chapter 408, or applicable rules, or for any of the following
 976 actions by a licensee ~~of an assisted living facility~~, for the
 977 actions of any person subject to level 2 background screening
 978 under s. 408.809, or for the actions of any facility employee:

979 (a) An intentional or negligent act seriously affecting
 980 the health, safety, or welfare of a resident of the facility.

BILL

ORIGINAL

YEAR

981 (b) The determination by the agency that the owner lacks
 982 the financial ability to provide continuing adequate care to
 983 residents.

984 (c) Misappropriation or conversion of the property of a
 985 resident of the facility.

986 (d) Failure to follow the criteria and procedures provided
 987 under part I of chapter 394 relating to the transportation,
 988 voluntary admission, and involuntary examination of a facility
 989 resident.

990 (e) A citation of any of the following deficiencies as
 991 specified in s. 429.19:

- 992 1. One or more cited class I deficiencies.
- 993 2. Three or more cited class II deficiencies.
- 994 3. Five or more cited class III deficiencies that have
 995 been cited on a single survey and have not been corrected within
 996 the times specified.

997 (f) Failure to comply with the ~~A determination that a~~
 998 ~~person subject to level 2 background screening under s. 408.809~~
 999 ~~does not meet the screening standards of~~ this part, ch. 435, or
 1000 pt. II of ch. 408 s. 435.04 ~~or that the facility is retaining an~~
 1001 ~~employee subject to level 1 background screening standards under~~
 1002 ~~s. 429.174 who does not meet the screening standards of s.~~
 1003 ~~435.03 and for whom exemptions from disqualification have not~~
 1004 ~~been provided by the agency.~~

1005 (g) ~~A determination that an employee, volunteer,~~
 1006 ~~administrator, or owner, or person who otherwise has access to~~
 1007 ~~the residents of a facility does not meet the criteria specified~~
 1008 ~~in s. 435.03(2), and the owner or administrator has not taken~~

BILL ORIGINAL YEAR

1009 ~~action to remove the person. Exemptions from disqualification~~
 1010 ~~may be granted as set forth in s. 435.07. No administrative~~
 1011 ~~action may be taken against the facility if the person is~~
 1012 ~~granted an exemption.~~

1013 ~~(h)~~ Violation of a moratorium.

1014 ~~(h)~~~~(i)~~ Failure of the license applicant, the licensee
 1015 during relicensure, or a licensee that holds a provisional
 1016 license to meet the minimum license requirements of this part,
 1017 or related rules, at the time of license application or renewal.

1018 ~~(i)~~~~(j)~~ An intentional or negligent life-threatening act in
 1019 violation of the uniform firesafety standards for assisted
 1020 living facilities or other firesafety standards that threatens
 1021 the health, safety, or welfare of a resident of a facility, as
 1022 communicated to the agency by the local authority having
 1023 jurisdiction or the State Fire Marshal.

1024 ~~(j)~~~~(k)~~ Knowingly operating any unlicensed facility or
 1025 providing without a license any service that must be licensed
 1026 under this chapter or chapter 400.

1027 ~~(k)~~~~(l)~~ Any act constituting a ground upon which
 1028 application for a license may be denied.

1029 Section 22. Section 429.174, Florida Statutes, is amended
 1030 to read:

1031 429.174 Background screening; ~~exemptions.~~~~The agency shall~~
 1032 require level 2 background screening for personnel as required
 1033 in s. 408.809(1)(e) pursuant to ch. 435 and s. 408.809. ~~The~~
 1034 ~~owner or administrator of an assisted living facility must~~
 1035 ~~conduct level 1 background screening, as set forth in chapter~~
 1036 ~~435, on all employees hired on or after October 1, 1998, who~~

BILL ORIGINAL YEAR

1037 ~~perform personal services as defined in s. 429.02(16). The~~
 1038 ~~agency may exempt an individual from employment disqualification~~
 1039 ~~as set forth in chapter 435. Such persons shall be considered as~~
 1040 ~~having met this requirement if:~~

1041 ~~(1) Proof of compliance with level 1 screening~~
 1042 ~~requirements obtained to meet any professional license~~
 1043 ~~requirements in this state is provided and accompanied, under~~
 1044 ~~penalty of perjury, by a copy of the person's current~~
 1045 ~~professional license and an affidavit of current compliance with~~
 1046 ~~the background screening requirements.~~

1047 ~~(2) The person required to be screened has been~~
 1048 ~~continuously employed in the same type of occupation for which~~
 1049 ~~the person is seeking employment without a breach in service~~
 1050 ~~which exceeds 180 days, and proof of compliance with the level 1~~
 1051 ~~screening requirement which is no more than 2 years old is~~
 1052 ~~provided. Proof of compliance shall be provided directly from~~
 1053 ~~one employer or contractor to another, and not from the person~~
 1054 ~~screened. Upon request, a copy of screening results shall be~~
 1055 ~~provided by the employer retaining documentation of the~~
 1056 ~~screening to the person screened.~~

1057 ~~(3) The person required to be screened is employed by a~~
 1058 ~~corporation or business entity or related corporation or~~
 1059 ~~business entity that owns, operates, or manages more than one~~
 1060 ~~facility or agency licensed under this chapter, and for whom a~~
 1061 ~~level 1 screening was conducted by the corporation or business~~
 1062 ~~entity as a condition of initial or continued employment.~~

1063 Section 23. Subsection (4) of section 429.67, Florida
 1064 Statutes, is amended to read:

BILL ORIGINAL YEAR

1065 429.67 Licensure.—
 1066 (4) ~~Upon receipt of a completed license application or~~
 1067 ~~license renewal, and the fee,~~ The agency shall require level 2
 1068 initiate a level 1 background screening for personnel as
 1069 required in s. 408.809(1) (e), including as provided under
 1070 ~~chapter 435 on the adult family-care home provider, the~~
 1071 ~~designated relief person, and all adult household members,~~
 1072 pursuant to ch. 435 and s. 408.809 ~~and all staff members.~~

1073 ~~(a) Proof of compliance with level 1 screening standards~~
 1074 ~~which has been submitted within the previous 5 years to meet any~~
 1075 ~~facility or professional licensure requirements of the agency or~~
 1076 ~~the Department of Health satisfies the requirements of this~~
 1077 ~~subsection. Such proof must be accompanied, under penalty of~~
 1078 ~~perjury, by a copy of the person's current professional license~~
 1079 ~~and an affidavit of current compliance with the background~~
 1080 ~~screening requirements.~~

1081 ~~(b) The person required to be screened must have been~~
 1082 ~~continuously employed in the same type of occupation for which~~
 1083 ~~the person is seeking employment without a breach in service~~
 1084 ~~that exceeds 180 days, and proof of compliance with the level 1~~
 1085 ~~screening requirement which is no more than 2 years old must be~~
 1086 ~~provided. Proof of compliance shall be provided directly from~~
 1087 ~~one employer or contractor to another, and not from the person~~
 1088 ~~screened. Upon request, a copy of screening results shall be~~
 1089 ~~provided to the person screened by the employer retaining~~
 1090 ~~documentation of the screening.~~

1091 Section 24. Section 429.69, Florida Statutes, is amended
 1092 to read:

BILL

ORIGINAL

YEAR

1093 429.69 Denial, revocation, and suspension of a license.—In
 1094 addition to the requirements of part II of chapter 408, the
 1095 agency may deny, suspend, and revoke a license for any of the
 1096 following reasons:

1097 (1) Failure to comply with the ~~of any of the persons~~
 1098 ~~required to undergo~~ background screening standards of this part,
 1099 pt. II of ch. 408, or ch. 435 under s. 429.67 to meet the level
 1100 ~~1 screening standards of s. 435.03, unless an exemption from~~
 1101 ~~disqualification has been provided by the agency.~~

1102 (2) Failure to correct cited fire code violations that
 1103 threaten the health, safety, or welfare of residents.

1104 Section 25. Paragraph (c) of subsection (2) of section
 1105 429.911, Florida Statutes, is amended to read:

1106 429.911 Denial, suspension, revocation of license;
 1107 emergency action; administrative fines; investigations and
 1108 inspections.—

1109 (2) Each of the following actions by the owner of an adult
 1110 day care center or by its operator or employee is a ground for
 1111 action by the agency against the owner of the center or its
 1112 operator or employee:

1113 (c) A Failure to comply with the ~~of persons subject to~~
 1114 ~~level 2~~ background screening standards of this part, pt. II of
 1115 ch. 408, or ch. 435 under s. 408.809 to meet the screening
 1116 ~~standards of s. 435.04, or the retention by the center of an~~
 1117 ~~employee subject to level 1 background screening standards under~~
 1118 ~~s. 429.174 who does not meet the screening standards of s.~~
 1119 ~~435.03 and for whom exemptions from disqualification have not~~
 1120 ~~been provided by the agency.~~

BILL

ORIGINAL

YEAR

1121 Section 26. Section 429.919, Florida Statutes, is amended
 1122 to read:

1123 429.919 Background screening.—The agency shall require
 1124 level 2 background screening for personnel as required in s.
 1125 408.809(1) (e) pursuant to ch. 435 and s. 408.809. ~~The owner or~~
 1126 ~~administrator of an adult day care center must conduct level 1~~
 1127 ~~background screening as set forth in chapter 435 on all~~
 1128 ~~employees hired on or after October 1, 1998, who provide basic~~
 1129 ~~services or supportive and optional services to the~~
 1130 ~~participants. Such persons satisfy this requirement if:~~

1131 ~~(1) Proof of compliance with level 1 screening~~
 1132 ~~requirements obtained to meet any professional license~~
 1133 ~~requirements in this state is provided and accompanied, under~~
 1134 ~~penalty of perjury, by a copy of the person's current~~
 1135 ~~professional license and an affidavit of current compliance with~~
 1136 ~~the background screening requirements.~~

1137 ~~(2) The person required to be screened has been~~
 1138 ~~continuously employed, without a breach in service that exceeds~~
 1139 ~~180 days, in the same type of occupation for which the person is~~
 1140 ~~seeking employment and provides proof of compliance with the~~
 1141 ~~level 1 screening requirement which is no more than 2 years old.~~
 1142 ~~Proof of compliance must be provided directly from one employer~~
 1143 ~~or contractor to another, and not from the person screened. Upon~~
 1144 ~~request, a copy of screening results shall be provided to the~~
 1145 ~~person screened by the employer retaining documentation of the~~
 1146 ~~screening.~~

1147 ~~(3) The person required to be screened is employed by a~~
 1148 ~~corporation or business entity or related corporation or~~

BILL

ORIGINAL

YEAR

1149 ~~business entity that owns, operates, or manages more than one~~
 1150 ~~facility or agency licensed under chapter 400 or this chapter,~~
 1151 ~~and for whom a level 1 screening was conducted by the~~
 1152 ~~corporation or business entity as a condition of initial or~~
 1153 ~~continued employment.~~

1154 Section 27. Section 430.60, Florida Statutes, is created
 1155 to read:

1156 430.60 Screening of direct service providers.-

1157 (1) (a) Level 2 background screening pursuant to ch. 435 is
 1158 required for direct service providers. Background screening
 1159 shall include employment history checks as provided in s.
 1160 435.03(1) and local criminal records checks through local law
 1161 enforcement agencies.

1162 (b) For purposes of this section, "direct service
 1163 provider" means a person 18 years of age or older who is
 1164 unrelated to his or her clients and who has direct face-to-face
 1165 contact with a client while providing services to the client,
 1166 has access to a client's living areas or to a client's funds or
 1167 personal property, including coordinators, and managers and
 1168 supervisors of residential facilities and volunteers.

1169 (2) Licensed physicians, nurses, or other professionals
 1170 licensed by the Department of Health are not subject to
 1171 background screening pursuant to this section if they are
 1172 providing a service that is within the scope of their licensed
 1173 practice.

1174 (3) Refusal on the part of an employer to dismiss a
 1175 manager, supervisor, or direct service provider who has been
 1176 found to be in noncompliance with standards of this section

BILL

ORIGINAL

YEAR

1177 shall result in automatic denial, termination, or revocation of
 1178 the license or certification, rate agreement, purchase order, or
 1179 contract, in addition to any other remedies authorized by law.

1180 (4) The background screening conducted pursuant to this
 1181 section must ensure that, in addition to the disqualifying
 1182 offenses listed in s. 435.04, no persons subject to the
 1183 provisions of this section have been found guilty of, regardless
 1184 of adjudication, or entered a plea of nolo contendere or guilty
 1185 to, any offense prohibited under any of the following provisions
 1186 of the Florida Statutes or under any similar statute of another
 1187 jurisdiction:

1188 (a) Any authorizing statutes, if the offense was a felony.

1189 (b) This chapter, if the offense was a felony.

1190 (c) Section 409.920, relating to Medicaid provider fraud,
 1191 if the offense was a felony.

1192 (d) Section 409.9201, relating to Medicaid fraud, if the
 1193 offense was a felony.

1194 (e) Section 817.034, relating to fraudulent acts through
 1195 mail, wire, radio, electromagnetic, photoelectronic, or
 1196 photooptical systems.

1197 (f) Section 817.234, relating to false and fraudulent
 1198 insurance claims.

1199 (g) Section 817.505, relating to patient brokering.

1200 (h) Section 817.568, relating to criminal use of personal
 1201 identification information.

1202 (i) Section 817.60, relating to obtaining a credit card
 1203 through fraudulent means.

1204 (j) Section 817.61, relating to fraudulent use of credit

BILL ORIGINAL YEAR

1205 cards, if the offense was a felony.
 1206 (k) Section 831.01, relating to forgery.
 1207 (l) Section 831.02, relating to uttering forged
 1208 instruments.
 1209 (m) Section 831.07, relating to forging bank bills,
 1210 checks, drafts, or promissory notes.
 1211 (n) Section 831.09, relating to uttering forged bank
 1212 bills, checks, drafts, or promissory notes.
 1213 Section 28. Section 435.01, Florida Statutes, is amended
 1214 to read:
 1215 435.01 Applicability of this chapter.—
 1216 (a) Unless otherwise provided by law, whenever a
 1217 background screening for employment or a background security
 1218 check is required by law to be conducted pursuant to this
 1219 chapter for employment, unless otherwise provided by law, the
 1220 provisions of this chapter shall apply.
 1221 (b) Unless expressly provided otherwise, a reference in
 1222 any section of the Florida Statutes to ch. 435 or to any section
 1223 or sections or portion of a section of ch. 435 includes, and
 1224 shall be understood as including, all subsequent amendments to
 1225 ch. 435 or to the referenced section or sections or portions of
 1226 a section. The purpose of this chapter is to facilitate uniform
 1227 background screening and, to this end, a reference to this
 1228 chapter, or to any section or subdivision within this chapter,
 1229 constitutes a general reference under the doctrine of
 1230 incorporation by reference.
 1231 Section 29. Section 435.02, Florida Statutes, is amended
 1232 to read:

BILL ORIGINAL YEAR

1233 435.02 Definitions.—For the purposes of this chapter:

1234 (1) "Employee" means any person required by law to be
 1235 screened pursuant to the provisions of this chapter.

1236 (2) "Employer" means any person or entity required by law
 1237 to conduct screening of employees pursuant to this chapter.

1238 (3) "Employment" means any activity or service sought to
 1239 be performed by an employee that requires the employee to be
 1240 subject to screening pursuant to this chapter.

1241 (4) "Licensing Agency" means any state, municipality, or
 1242 county agency that ~~which~~ grants licenses or registration
 1243 permitting the operation of an employer or is itself an
 1244 employer, or otherwise facilitates the screening of employees
 1245 pursuant to this chapter. When there is no state ~~licensing~~
 1246 agency or the municipal or county ~~licensing~~ agency chooses not
 1247 to conduct employment screening, "~~licensing~~ agency" means the
 1248 Department of Children and Family Services.

1249 (5) "Vulnerable person" means a minor as defined in s.
 1250 1.01 or a vulnerable adult as defined in s. 415.102.

1251 Section 30. Section 435.03, Florida Statutes, is amended
 1252 to read:

1253 435.03 Level 1 screening standards.—

1254 (1) All employees required by law to be screened pursuant
 1255 to this section must ~~shall be required to~~ undergo background
 1256 screening as a condition of employment and continued employment
 1257 that includes. ~~For the purposes of this subsection, level 1~~
 1258 ~~screenings shall include,~~ but need not be limited to, employment
 1259 history checks and statewide criminal correspondence checks
 1260 through the Florida Department of Law Enforcement, and may

BILL

ORIGINAL

YEAR

1261 include local criminal records checks through local law
 1262 enforcement agencies.

1263 (2) Any person required by law to be screened pursuant to
 1264 this section ~~for whom employment screening is required by~~
 1265 ~~statute~~ must not have been found guilty of, regardless of
 1266 adjudication, or entered a plea of nolo contendere or guilty to,
 1267 any offense prohibited under any provision of s. 435.04(2) of
 1268 ~~the following provisions of the Florida Statutes~~ or under any
 1269 similar statute of another jurisdiction. ‡

1270 ~~(a) Section 393.135, relating to sexual misconduct with~~
 1271 ~~certain developmentally disabled clients and reporting of such~~
 1272 ~~sexual misconduct.~~

1273 ~~(b) Section 394.4593, relating to sexual misconduct with~~
 1274 ~~certain mental health patients and reporting of such sexual~~
 1275 ~~misconduct.~~

1276 ~~(c) Section 415.111, relating to abuse, neglect, or~~
 1277 ~~exploitation of a vulnerable adult.~~

1278 ~~(d) Section 782.04, relating to murder.~~

1279 ~~(e) Section 782.07, relating to manslaughter, aggravated~~
 1280 ~~manslaughter of an elderly person or disabled adult, or~~
 1281 ~~aggravated manslaughter of a child.~~

1282 ~~(f) Section 782.071, relating to vehicular homicide.~~

1283 ~~(g) Section 782.09, relating to killing of an unborn quick~~
 1284 ~~child by injury to the mother.~~

1285 ~~(h) Section 784.011, relating to assault, if the victim of~~
 1286 ~~the offense was a minor.~~

1287 ~~(i) Section 784.021, relating to aggravated assault.~~

1288 ~~(j) Section 784.03, relating to battery, if the victim of~~

BILL ORIGINAL YEAR

1289 ~~the offense was a minor.~~
 1290 ~~(k) Section 784.045, relating to aggravated battery.~~
 1291 ~~(l) Section 787.01, relating to kidnapping.~~
 1292 ~~(m) Section 787.02, relating to false imprisonment.~~
 1293 ~~(n) Section 794.011, relating to sexual battery.~~
 1294 ~~(o) Former s. 794.041, relating to prohibited acts of~~
 1295 ~~persons in familial or custodial authority.~~
 1296 ~~(p) Chapter 796, relating to prostitution.~~
 1297 ~~(q) Section 798.02, relating to lewd and lascivious~~
 1298 ~~behavior.~~
 1299 ~~(r) Chapter 800, relating to lewdness and indecent~~
 1300 ~~exposure.~~
 1301 ~~(s) Section 806.01, relating to arson.~~
 1302 ~~(t) Chapter 812, relating to theft, robbery, and related~~
 1303 ~~crimes, if the offense was a felony.~~
 1304 ~~(u) Section 817.563, relating to fraudulent sale of~~
 1305 ~~controlled substances, only if the offense was a felony.~~
 1306 ~~(v) Section 825.102, relating to abuse, aggravated abuse,~~
 1307 ~~or neglect of an elderly person or disabled adult.~~
 1308 ~~(w) Section 825.1025, relating to lewd or lascivious~~
 1309 ~~offenses committed upon or in the presence of an elderly person~~
 1310 ~~or disabled adult.~~
 1311 ~~(x) Section 825.103, relating to exploitation of an~~
 1312 ~~elderly person or disabled adult, if the offense was a felony.~~
 1313 ~~(y) Section 826.04, relating to incest.~~
 1314 ~~(z) Section 827.03, relating to child abuse, aggravated~~
 1315 ~~child abuse, or neglect of a child.~~
 1316 ~~(aa) Section 827.04, relating to contributing to the~~

BILL ORIGINAL YEAR

1317 ~~delinquency or dependency of a child.~~
 1318 ~~(bb) Former s. 827.05, relating to negligent treatment of~~
 1319 ~~children.~~
 1320 ~~(cc) Section 827.071, relating to sexual performance by a~~
 1321 ~~child.~~
 1322 ~~(dd) Chapter 847, relating to obscene literature.~~
 1323 ~~(ee) Chapter 893, relating to drug abuse prevention and~~
 1324 ~~control, only if the offense was a felony or if any other person~~
 1325 ~~involved in the offense was a minor.~~
 1326 ~~(ff) Section 916.1075, relating to sexual misconduct with~~
 1327 ~~certain forensic clients and reporting of such sexual~~
 1328 ~~misconduct.~~
 1329 (3) The security background investigations under this
 1330 section must ensure that no persons subject to the provisions of
 1331 this section have been found guilty of, regardless of
 1332 adjudication, or entered a plea of nolo contendere or guilty to,
 1333 any offense that constitutes domestic violence as defined in s.
 1334 741.28, whether such act was committed in Florida or in another
 1335 jurisdiction. Standards must also ensure that the person:
 1336 (a) ~~For employees and employers licensed or registered~~
 1337 ~~pursuant to chapter 400 or chapter 429, and for employees and~~
 1338 ~~employers of developmental disabilities centers as defined in s.~~
 1339 ~~393.063, intermediate care facilities for the developmentally~~
 1340 ~~disabled as defined in s. 400.960, and mental health treatment~~
 1341 ~~facilities as defined in s. 394.455, meets the requirements of~~
 1342 ~~this chapter.~~
 1343 (b) ~~Has not committed an act that constitutes domestic~~
 1344 ~~violence as defined in s. 741.28.~~

BILL

ORIGINAL

YEAR

1345 Section 31. Section 435.04, Florida Statutes, is amended
 1346 to read:

1347 435.04 Level 2 screening standards.—

1348 (1) (a) All employees required by law to be screened
 1349 pursuant to this section must ~~in positions designated by law as~~
 1350 ~~positions of trust or responsibility shall be required to~~
 1351 undergo security background investigations as a condition of
 1352 employment and continued employment that includes. ~~For the~~
 1353 ~~purposes of this subsection, security background investigations~~
 1354 ~~shall include, but need not be limited to, fingerprinting for~~
 1355 ~~all purposes and~~ statewide criminal history checks in this
 1356 ~~subsection, statewide criminal and juvenile records checks~~
 1357 through the Florida Department of Law Enforcement, and federal
 1358 criminal records checks through the Federal Bureau of
 1359 Investigation, and may include local criminal records checks
 1360 through local law enforcement agencies.

1361 (b) Fingerprints submitted pursuant to this section on or
 1362 after July 1, 2012, must be submitted by the employee or
 1363 employer using a Federal Bureau of Investigation authorized
 1364 electronic fingerprint submission format.

1365 (c) An agency may contract with one or more vendors to
 1366 perform all or part of the electronic fingerprinting pursuant to
 1367 this section. Such contracts must ensure that the owners and
 1368 personnel of the vendor performing the electronic fingerprinting
 1369 are qualified and will ensure the integrity and security of all
 1370 personal information.

1371 (d) An agency may require, by rule adopted pursuant to ch.
 1372 120, that fingerprints submitted pursuant to this section must

BILL

ORIGINAL

YEAR

1373 be submitted by the employee or employer using a Federal Bureau
 1374 of Investigation authorized electronic fingerprint submission
 1375 format on a date prior to July 1, 2012.

1376 (2) The security background investigations under this
 1377 section must ensure that no persons subject to the provisions of
 1378 this section have been found guilty of, regardless of
 1379 adjudication, or entered a plea of nolo contendere or guilty to,
 1380 any offense prohibited under any of the following provisions of
 1381 the Florida Statutes or under any similar statute of another
 1382 jurisdiction:

1383 (a) Section 393.135, relating to sexual misconduct with
 1384 certain developmentally disabled clients and reporting of such
 1385 sexual misconduct.

1386 (b) Section 394.4593, relating to sexual misconduct with
 1387 certain mental health patients and reporting of such sexual
 1388 misconduct.

1389 (c) Section 415.111, relating to adult abuse, neglect, or
 1390 exploitation of aged persons or disabled adults.

1391 (d) Section 782.04, relating to murder.

1392 (e) Section 782.07, relating to manslaughter, aggravated
 1393 manslaughter of an elderly person or disabled adult, or
 1394 aggravated manslaughter of a child.

1395 (f) Section 782.071, relating to vehicular homicide.

1396 (g) Section 782.09, relating to killing of an unborn quick
 1397 child by injury to the mother.

1398 (h) Chapter 784, relating to assault, battery, and
 1399 culpable negligence, if the offense was a felony.

1400 (i) ~~(h)~~ Section 784.011, relating to assault, if the victim

BILL ORIGINAL YEAR

1401 of the offense was a minor.

1402 ~~(i) Section 784.021, relating to aggravated assault.~~

1403 (j) Section 784.03, relating to battery, if the victim of

1404 the offense was a minor.

1405 ~~(k) Section 784.045, relating to aggravated battery.~~

1406 ~~(l) Section 784.075, relating to battery on a detention or~~

1407 ~~commitment facility staff.~~

1408 (k) ~~(m)~~ Section 787.01, relating to kidnapping.

1409 (l) ~~(n)~~ Section 787.02, relating to false imprisonment.

1410 (m) Section 787.025, relating to luring or enticing a

1411 child.

1412 (n) ~~(o)~~ Section 787.04(2), relating to taking, enticing, or

1413 removing a child beyond the state limits with criminal intent

1414 pending custody proceedings.

1415 (o) ~~(p)~~ Section 787.04(3), relating to carrying a child

1416 beyond the state lines with criminal intent to avoid producing a

1417 child at a custody hearing or delivering the child to the

1418 designated person.

1419 (p) ~~(q)~~ Section 790.115(1), relating to exhibiting firearms

1420 or weapons within 1,000 feet of a school.

1421 (q) ~~(r)~~ Section 790.115(2)(b), relating to possessing an

1422 electric weapon or device, destructive device, or other weapon

1423 on school property.

1424 (r) ~~(s)~~ Section 794.011, relating to sexual battery.

1425 (s) ~~(t)~~ Former s. 794.041, relating to prohibited acts of

1426 persons in familial or custodial authority.

1427 (t) Section 794.05, relating to unlawful sexual activity

1428 with certain minors.

BILL ORIGINAL YEAR

1429 (u) Chapter 796, relating to prostitution.
 1430 (v) Section 798.02, relating to lewd and lascivious
 1431 behavior.
 1432 (w) Chapter 800, relating to lewdness and indecent
 1433 exposure.
 1434 (x) Section 806.01, relating to arson.
 1435 (y) Section 810.02, relating to burglary.
 1436 (z) Section 810.14, relating to voyeurism, if the offense
 1437 is a felony.
 1438 (aa) Section 810.145, relating to video voyeurism, if the
 1439 offense is a felony.
 1440 (bb)~~(y)~~ Chapter 812, relating to theft, robbery, and
 1441 related crimes, if the offense is a felony.
 1442 (cc)~~(z)~~ Section 817.563, relating to fraudulent sale of
 1443 controlled substances, only if the offense was a felony.
 1444 (dd)~~(aa)~~ Section 825.102, relating to abuse, aggravated
 1445 abuse, or neglect of an elderly person or disabled adult.
 1446 (ee)~~(bb)~~ Section 825.1025, relating to lewd or lascivious
 1447 offenses committed upon or in the presence of an elderly person
 1448 or disabled adult.
 1449 (ff)~~(cc)~~ Section 825.103, relating to exploitation of an
 1450 elderly person or disabled adult, if the offense was a felony.
 1451 (gg)~~(dd)~~ Section 826.04, relating to incest.
 1452 (hh)~~(ee)~~ Section 827.03, relating to child abuse,
 1453 aggravated child abuse, or neglect of a child.
 1454 (ii)~~(ff)~~ Section 827.04, relating to contributing to the
 1455 delinquency or dependency of a child.
 1456 (jj)~~(gg)~~ Former s. 827.05, relating to negligent treatment

BILL ORIGINAL YEAR

1457 of children.

1458 (kk)~~(hh)~~ Section 827.071, relating to sexual performance

1459 by a child.

1460 (ll)~~(ii)~~ Section 843.01, relating to resisting arrest with

1461 violence.

1462 (mm)~~(jj)~~ Section 843.025, relating to depriving a law

1463 enforcement, correctional, or correctional probation officer

1464 means of protection or communication.

1465 (nn)~~(kk)~~ Section 843.12, relating to aiding in an escape.

1466 (oo)~~(ll)~~ Section 843.13, relating to aiding in the escape

1467 of juvenile inmates in correctional institutions.

1468 (pp)~~(mm)~~ Chapter 847, relating to obscene literature.

1469 (qq)~~(nn)~~ Section 874.05(1), relating to encouraging or

1470 recruiting another to join a criminal gang.

1471 (rr)~~(oo)~~ Chapter 893, relating to drug abuse prevention

1472 and control, only if the offense was a felony or if any other

1473 person involved in the offense was a minor.

1474 (ss)~~(pp)~~ Section 916.1075, relating to sexual misconduct

1475 with certain forensic clients and reporting of such sexual

1476 misconduct.

1477 (tt)~~(qq)~~ Section 944.35(3), relating to inflicting cruel

1478 or inhuman treatment on an inmate resulting in great bodily

1479 harm.

1480 (uu) Section 944.40, relating to escape.

1481 (vv)~~(rr)~~ Section 944.46, relating to harboring,

1482 concealing, or aiding an escaped prisoner.

1483 (ww)~~(ss)~~ Section 944.47, relating to introduction of

1484 contraband into a correctional facility.

BILL ORIGINAL YEAR

1485 ~~(xx)(tt)~~ Section 985.701, relating to sexual misconduct in
 1486 juvenile justice programs.

1487 ~~(yy)(uu)~~ Section 985.711, relating to contraband
 1488 introduced into detention facilities.

1489 (3) The security background investigations under this
 1490 section must ensure that no persons subject to the provisions of
 1491 this section have been found guilty of, regardless of
 1492 adjudication, or entered a plea of nolo contendere or guilty to,
 1493 any offense that constitutes domestic violence as defined in s.
 1494 741.28, whether such act was committed in Florida or in another
 1495 jurisdiction. ~~The security background investigations conducted~~
 1496 ~~under this section for employees of the Department of Juvenile~~
 1497 ~~Justice must ensure that no persons subject to the provisions of~~
 1498 ~~this section have been found guilty of, regardless of~~
 1499 ~~adjudication, or entered a plea of nolo contendere or guilty to,~~
 1500 ~~any offense prohibited under any of the following provisions of~~
 1501 ~~the Florida Statutes or under any similar statute of another~~
 1502 ~~jurisdiction:~~

1503 ~~(a) Section 784.07, relating to assault or battery of law~~
 1504 ~~enforcement officers, firefighters, emergency medical care~~
 1505 ~~providers, public transit employees or agents, or other~~
 1506 ~~specified officers.~~

1507 ~~(b) Section 810.02, relating to burglary, if the offense~~
 1508 ~~is a felony.~~

1509 ~~(c) Section 944.40, relating to escape.~~

1510

1511 ~~The Department of Juvenile Justice may not remove a~~
 1512 ~~disqualification from employment or grant an exemption to any~~

BILL

ORIGINAL

YEAR

1513 ~~person who is disqualified under this section for any offense~~
 1514 ~~disposed of during the most recent 7-year period.~~

1515 ~~(4) Standards must also ensure that the person:~~

1516 ~~(a) For employees or employers licensed or registered~~
 1517 ~~pursuant to chapter 400 or chapter 429, does not have a~~
 1518 ~~confirmed report of abuse, neglect, or exploitation as defined~~
 1519 ~~in s. 415.102(6), which has been uncontested or upheld under s.~~
 1520 ~~415.103.~~

1521 ~~(b) Has not committed an act that constitutes domestic~~
 1522 ~~violence as defined in s. 741.30.~~

1523 ~~(5) Under penalty of perjury, all employees in such~~
 1524 ~~positions of trust or responsibility shall attest to meeting the~~
 1525 ~~requirements for qualifying for employment and agreeing to~~
 1526 ~~inform the employer immediately if convicted of any of the~~
 1527 ~~disqualifying offenses while employed by the employer. Each~~
 1528 ~~employer of employees in such positions of trust or~~
 1529 ~~responsibilities which is licensed or registered by a state~~
 1530 ~~agency shall submit to the licensing agency annually or at the~~
 1531 ~~time of license renewal, under penalty of perjury, an affidavit~~
 1532 ~~of compliance with the provisions of this section.~~

1533 Section 32. Section 435.05, Florida Statutes, is amended
 1534 to read:

1535 435.05 Requirements for covered employees and employers.—
 1536 Except as otherwise provided by law, the following requirements
 1537 shall apply to covered employees and employers:

1538 (1) (a) Every person required by law to be screened
 1539 pursuant to the provisions of this chapter must ~~employed in a~~
 1540 ~~position for which employment screening is required must, within~~

BILL

ORIGINAL

YEAR

1541 ~~5 working days after starting to work,~~ submit to the employer a
 1542 complete set of information necessary to conduct a screening
 1543 under this chapter ~~section~~.

1544 (b) For level 1 screening, the employer must submit the
 1545 information necessary for screening to the Florida Department of
 1546 Law Enforcement within 5 working days after receiving it. The
 1547 Florida Department of Law Enforcement will conduct a search of
 1548 its records and will respond to the employer or agency. The
 1549 employer will inform the employee whether screening has revealed
 1550 any disqualifying information.

1551 (c) For level 2 screening, the employer or ~~licensing~~
 1552 agency must submit the information necessary for screening to
 1553 the Florida Department of Law Enforcement within 5 working days
 1554 after receiving it. The Florida Department of Law Enforcement
 1555 will perform a criminal history check of its ~~conduct a search of~~
 1556 ~~its criminal and juvenile~~ records and will request that the
 1557 Federal Bureau of Investigation perform a national criminal
 1558 history check ~~conduct a search~~ of its records for each employee
 1559 for whom the request is made. The Florida Department of Law
 1560 Enforcement will respond to the employer or ~~licensing~~ agency,
 1561 and the employer or ~~licensing~~ agency will inform the employee
 1562 whether screening has revealed disqualifying information.

1563 (d) The person whose background is being checked must
 1564 supply any missing criminal or other necessary information upon
 1565 request to the requesting employer or agency within 30 days
 1566 ~~after the employer makes a~~ of receiving the request for the
 1567 information ~~or be subject to automatic disqualification~~.

1568 (2) Every employee must attest, subject to penalty of

BILL ORIGINAL YEAR

1569 perjury, to meeting the requirements for qualifying for
 1570 employment pursuant to this chapter and agreeing to inform the
 1571 employer immediately if arrested for any of the disqualifying
 1572 offenses while employed by the employer. Unless otherwise
 1573 ~~prohibited by state or federal law, new employees may be placed~~
 1574 ~~on probationary status pending a determination of compliance~~
 1575 ~~with minimum standards set forth in this chapter.~~

1576 (3) Each employer that is licensed or registered with an
 1577 agency and is required by law to conduct level 2 background
 1578 screening must submit to the agency sign an affidavit annually
 1579 or at the time of license renewal, under penalty of perjury, a
 1580 signed affidavit attesting to compliance with the provisions of
 1581 this chapter stating that all covered employees have been
 1582 ~~screened or are newly hired and are awaiting the results of the~~
 1583 ~~required screening checks.~~

1584 Section 33. Section 435.06, Florida Statutes, is amended
 1585 to read:

1586 435.06 Exclusion from employment.—

1587 (1) When an employer or ~~licensing~~ agency has reasonable
 1588 cause to believe that grounds exist for the denial or
 1589 termination of employment of any employee as a result of
 1590 background screening, it shall notify the employee in writing,
 1591 stating the specific record that ~~which~~ indicates noncompliance
 1592 with the standards in this chapter ~~section~~. It shall be the
 1593 responsibility of the affected employee to contest his or her
 1594 disqualification or to request exemption from disqualification.
 1595 The only basis for contesting the disqualification shall be
 1596 proof of mistaken identity.

BILL

ORIGINAL

YEAR

1597 (2) (a) An employer may not hire, select, or otherwise
 1598 allow an employee contact with any vulnerable person that would
 1599 place the employee in a role that would require background
 1600 screening until such time as the screening process is completed
 1601 and demonstrates the absence of any grounds for the denial or
 1602 termination of employment. If the screening process shows any
 1603 grounds for the denial or termination of employment, the
 1604 employer may not hire, select, or otherwise allow the employee
 1605 contact with any vulnerable person that would place the employee
 1606 in a role that would require background screening unless the
 1607 employee is granted an exemption for the disqualification by the
 1608 agency as provided under s. 435.07.

1609 (b) If at any time, an employer becomes aware that an
 1610 employee has been arrested for a disqualifying offense, the
 1611 employer must remove the employee from contact with any
 1612 vulnerable person that would place the employee in a role that
 1613 would require background screening until such time as the
 1614 favorable disposition of the offense.

1615 (c) The employer must either terminate the employment of
 1616 any of its personnel found to be in noncompliance with the
 1617 minimum standards of this chapter ~~for good moral character~~
 1618 ~~contained in this section~~ or place the employee in a position
 1619 for which background screening is not required unless the
 1620 employee is granted an exemption from disqualification pursuant
 1621 to s. 435.07.

1622 (3) Any employee person who is required to undergo
 1623 ~~employment screening and~~ who refuses to cooperate in such
 1624 screening or refuses to timely submit the information necessary

BILL

ORIGINAL

YEAR

1625 to complete the screening, including fingerprints when required,
 1626 must ~~shall~~ be disqualified for employment in such position or,
 1627 if employed, must ~~shall~~ be dismissed.

1628 Section 34. Section 435.07, Florida Statutes, is amended
 1629 to read:

1630 435.07 Exemptions from disqualification.—Unless otherwise
 1631 provided by law, the provisions of this section shall apply to
 1632 exemptions from disqualification pursuant to this chapter.

1633 (1) The head of the appropriate ~~licensing~~ agency may grant
 1634 to any employee otherwise disqualified from employment an
 1635 exemption from disqualification for:

1636 (a) Felonies for which at least three years have elapsed
 1637 since the applicant for the exemption has completed or been
 1638 lawfully released from confinement, supervision, or sanction for
 1639 the disqualifying felony ~~committed more than 3 years prior to~~
 1640 ~~the date of disqualification;~~

1641 (b) Misdemeanors prohibited under any of the Florida
 1642 Statutes cited in this chapter or under similar statutes of
 1643 other jurisdictions;

1644 (c) Offenses that were felonies when committed but are now
 1645 misdemeanors; or

1646 (d) Findings of delinquency; ~~or~~

1647 ~~(e) Commissions of acts of domestic violence as defined in~~
 1648 ~~s. 741.30.~~

1649
 1650 For the purposes of this subsection, the term "felonies" means
 1651 both felonies prohibited under any of the Florida Statutes cited
 1652 in this chapter or under similar statutes of other

BILL

ORIGINAL

YEAR

1653 | jurisdictions.
 1654 | (2) Persons employed, or applicants for employment, by
 1655 | treatment providers who treat adolescents 13 years of age and
 1656 | older who are disqualified from employment solely because of
 1657 | crimes under s. 817.563, s. 893.13, or s. 893.147 may be
 1658 | exempted from disqualification from employment pursuant to this
 1659 | chapter section without application of the ~~3-year~~ waiting period
 1660 | in paragraph (1) (a).

1661 | (3) (a) In order for the head of an agency ~~a licensing~~
 1662 | ~~department~~ to grant an exemption to any employee, the employee
 1663 | must demonstrate by clear and convincing evidence that the
 1664 | employee should not be disqualified from employment. Employees
 1665 | seeking an exemption have the burden of setting forth clear and
 1666 | convincing ~~sufficient~~ evidence of rehabilitation, including, but
 1667 | not limited to, the circumstances surrounding the criminal
 1668 | incident for which an exemption is sought, the time period that
 1669 | has elapsed since the incident, the nature of the harm caused to
 1670 | the victim, and the history of the employee since the incident,
 1671 | or any other evidence or circumstances indicating that the
 1672 | employee will not present a danger if employment or continued
 1673 | employment is allowed.

1674 | (b) The agency may consider as part of its deliberations
 1675 | of the employee's rehabilitation the fact that the employee has,
 1676 | subsequent to the conviction for the disqualifying offense for
 1677 | which the exemption is being sought, been arrested for, or
 1678 | convicted of, another crime, even if that crime is not a
 1679 | disqualifying offense.

1680 | (c) The decision of the head of an agency ~~licensing~~

BILL

ORIGINAL

YEAR

1681 ~~department~~ regarding an exemption may be contested through the
 1682 hearing procedures set forth in chapter 120. The standard of
 1683 review by the administrative law judge is whether the agency's
 1684 intended action is an abuse of discretion.

1685 (4) (a) Disqualification from employment under this chapter
 1686 ~~subsection (1)~~ may not be removed from, nor may an exemption be
 1687 granted to, any personnel who is found guilty of, regardless of
 1688 adjudication, or who has entered a plea of nolo contendere or
 1689 guilty to, any felony covered by s. 435.03 or s. 435.04 solely
 1690 by reason of any pardon, executive clemency, or restoration of
 1691 civil rights.

1692 (b) Disqualification from employment under this chapter may
 1693 not be removed from, nor may an exemption be granted to, any
 1694 person who has been designated as a sexual predator pursuant to
 1695 s. 775.21.

1696 (5) Exemptions granted by one ~~licensing~~ agency shall be
 1697 considered by subsequent ~~licensing~~ agencies, but are not binding
 1698 on the subsequent ~~licensing~~ agency.

1699 Section 35. Section 435.08, Florida Statutes, is amended
 1700 to read:

1701 435.08 Payment for processing of fingerprints and state
 1702 criminal records checks.—Either the employer or the employee is
 1703 responsible for paying the costs of screening. Payment shall be
 1704 submitted to the Florida Department of Law Enforcement with the
 1705 request for screening. The appropriate agency is responsible
 1706 for collecting and paying any fee related to fingerprints
 1707 retained on its behalf to the Florida Department of Law
 1708 Enforcement for costs resulting from the fingerprint information

BILL ORIGINAL YEAR

1709 retention services. The amount of the annual fee and procedures
 1710 for the submission and retention of fingerprint information and
 1711 for the dissemination of search results shall be established by
 1712 rule of the Florida Department of Law Enforcement.

1713 Section 36. Subsection (9) of section 489.115, Florida
 1714 Statutes, is amended to read:

1715 489.115 Certification and registration; endorsement;
 1716 reciprocity; renewals; continuing education.—

1717 (9) An initial applicant shall submit, along with the
 1718 application, a complete set of fingerprints in a form and manner
 1719 required by the department. The fingerprints shall be submitted
 1720 to the Department of Law Enforcement for state processing, and
 1721 the Department of Law Enforcement shall forward them to the
 1722 Federal Bureau of Investigation for the purpose of processing
 1723 the fingerprint submission to determine if the applicant has a
 1724 criminal history record ~~conducting a level 2 background check~~
 1725 ~~pursuant to s. 435.04.~~ The department shall and the board may
 1726 review the background results to determine if an applicant meets
 1727 licensure requirements. The cost for the fingerprint processing
 1728 shall be borne by the person subject to the background
 1729 screening. These fees are to be collected by the authorized
 1730 agencies or vendors. The authorized agencies or vendors are
 1731 responsible for paying the processing costs to the Department of
 1732 Law Enforcement.

1733 Section 37. Paragraphs (g) and (h) of subsection (2) of
 1734 section 943.05, Florida Statutes, are amended, and subsection
 1735 (4) is added to said section, to read:

1736 943.05 Criminal Justice Information Program; duties; crime

BILL ORIGINAL YEAR

1737 reports.—
 1738 (2) The program shall:
 1739 (g) Upon official written request from the agency
 1740 executive director or secretary or from his or her designee, or
 1741 from qualified entities participating in the volunteer and
 1742 employee criminal history screening system under s. 943.0542, or
 1743 as otherwise required ~~As authorized~~ by law, retain fingerprints
 1744 submitted by criminal and noncriminal justice agencies to the
 1745 department for a criminal history background screening in a
 1746 manner provided by rule and enter the fingerprints in the
 1747 statewide automated fingerprint identification system authorized
 1748 by paragraph (b). Such fingerprints shall thereafter be
 1749 available for all purposes and uses authorized for arrest
 1750 fingerprint submissions ~~cards~~ entered into the statewide
 1751 automated fingerprint identification system pursuant to s.
 1752 943.051.
 1753 (h)1. For such agencies that officially request retention
 1754 of fingerprints or for which retention is otherwise required ~~As~~
 1755 ~~authorized~~ by law, search all arrest fingerprint submissions
 1756 ~~cards~~ received under s. 943.051 against the fingerprints
 1757 retained in the statewide automated fingerprint identification
 1758 system under paragraph (g). Any arrest record that is identified
 1759 with the retained fingerprints of a person subject to background
 1760 screening as provided in paragraph (g) shall be reported to the
 1761 appropriate agency.
 1762 2. To ~~Agencies may~~ participate in this search process,
 1763 agencies or qualified entities must notify each person
 1764 fingerprinted that his or her fingerprints will be retained, pay

BILL

ORIGINAL

YEAR

1765 ~~by payment of~~ an annual fee to the department, and inform by
 1766 ~~informing~~ the department of any change in the affiliation,
 1767 employment, or contractual status or place of affiliation,
 1768 employment, or contracting of each person ~~the persons~~ whose
 1769 fingerprints are retained under paragraph (g). The department
 1770 shall adopt a rule setting the amount of the annual fee to be
 1771 imposed upon each participating agency or qualified entity for
 1772 performing these searches and establishing the procedures for
 1773 the retention of fingerprints and the dissemination of search
 1774 results. The fee may be borne by the agency, qualified entity,
 1775 or person subject to fingerprint retention or as otherwise
 1776 ~~provided by law. Fees may be waived or reduced by the executive~~
 1777 ~~director for good cause shown.~~ Consistent with the recognition
 1778 of criminal justice agencies expressed in s. 943.053(3), these
 1779 services will be provided to criminal justice agencies for
 1780 criminal justice purposes free of charge.

1781 3. Agencies that participate in the fingerprint retention
 1782 and search process may adopt rules pursuant to ch. 120 that
 1783 require employers to keep the agency informed of any change in
 1784 the affiliation, employment, or contractual status or place of
 1785 affiliation, employment, or contracting of each person whose
 1786 fingerprints are retained under paragraph (g).

1787 (4) Upon notification that a federal fingerprint retention
 1788 program is in effect, and provided that the department is funded
 1789 and equipped to participate in such a program, the department
 1790 shall, when a state and national criminal history record check
 1791 and retention of submitted prints are authorized or required by
 1792 law, retain the fingerprints as provided in paragraphs (2) (g)

BILL ORIGINAL YEAR

1793 and (h) and advise the Federal Bureau of Investigation to retain
 1794 the fingerprints at the national level for searching against
 1795 arrest fingerprint submissions received at the national level.

1796 Section 38. Subsections (6) and (11) of section 943.053,
 1797 Florida Statutes, are amended to read:

1798 943.053 Dissemination of criminal justice information;
 1799 fees.—

1800 (6) Notwithstanding any other provision of law, the
 1801 department shall provide to the Florida Department of Revenue
 1802 ~~Child Support Enforcement~~ access to Florida criminal records
 1803 which are not exempt from disclosure under chapter 119, and to
 1804 such information as may be lawfully available from other states
 1805 via the National Law Enforcement Telecommunications System, for
 1806 the purpose of locating subjects who owe or potentially owe
 1807 support, as defined in s. 409.2554, or to whom such obligation
 1808 is owed pursuant to Title IV-D of the Social Security Act. Such
 1809 information may be provided to child support enforcement
 1810 authorities in other states for these specific purposes.

1811 (11) A criminal justice agency that is authorized under
 1812 federal rules or law to conduct a criminal history background
 1813 check on an agency employee who is not certified by the Criminal
 1814 Justice Standards and Training Commission under s. 943.12 may
 1815 submit to the department the fingerprints of the noncertified
 1816 employee to obtain state and national criminal history
 1817 information. ~~Effective January 15, 2007,~~ The fingerprints
 1818 submitted shall be retained and entered in the statewide
 1819 automated fingerprint identification system authorized by s.
 1820 943.05 and shall be available for all purposes and uses

BILL ORIGINAL YEAR

1821 authorized for arrest fingerprint submissions ~~cards~~ entered in
 1822 the statewide automated fingerprint identification system
 1823 pursuant to s. 943.051. The department shall search all arrest
 1824 fingerprint submissions ~~cards~~ received pursuant to s. 943.051
 1825 against the fingerprints retained in the statewide automated
 1826 fingerprint identification system pursuant to this section. In
 1827 addition to all purposes and uses authorized for arrest
 1828 fingerprint submissions ~~cards~~ for which submitted fingerprints
 1829 may be used, any arrest record that is identified with the
 1830 retained employee fingerprints must be reported to the
 1831 submitting employing agency.

1832 Section 39. Section 985.644, Florida Statutes, is amended
 1833 to read:

1834 985.644 Departmental contracting powers; personnel
 1835 standards and screening.—

1836 (1) ~~The department of Juvenile Justice or the Department~~
 1837 ~~of Children and Family Services, as appropriate,~~ may contract
 1838 with the Federal Government, other state departments and
 1839 agencies, county and municipal governments and agencies, public
 1840 and private agencies, and private individuals and corporations
 1841 in carrying out the purposes of, and the responsibilities
 1842 established in, this chapter.

1843 (a) ~~When the department of Juvenile Justice or the~~
 1844 ~~Department of Children and Family Services contracts with a~~
 1845 ~~provider for any program for children, all personnel, including~~
 1846 ~~owners, operators, employees, and volunteers, in the facility~~
 1847 ~~must be of good moral character.~~ Each contract entered into by
 1848 the ~~either~~ department for services delivered on an appointment

BILL

ORIGINAL

YEAR

1849 or intermittent basis by a provider that does not have regular
 1850 custodial responsibility for children and each contract with a
 1851 school for before or aftercare services must ensure that the all
 1852 owners, operators, and ~~all~~ personnel who have direct contact
 1853 with children are subject to level 2 background screening
 1854 pursuant to ch. 435 of good moral character.

1855 (b) A volunteer who assists the department or any program
 1856 for children on an intermittent basis for less than 40 hours per
 1857 month need not be screened if the volunteer is under direct and
 1858 constant supervision by persons who meet the screening
 1859 requirements.

1860 ~~(b) The department of Juvenile Justice and the Department~~
 1861 ~~of Children and Family Services shall require employment~~
 1862 ~~screening pursuant to chapter 435, using the level 2 standards~~
 1863 ~~set forth in that chapter for personnel in programs for children~~
 1864 ~~or youths.~~

1865 ~~(c) The Department of Juvenile Justice or the Department~~
 1866 ~~of Children and Family Services may grant exemptions from~~
 1867 ~~disqualification from working with children as provided in s.~~
 1868 ~~435.07.~~

1869 ~~(2) The department may contract with the Federal~~
 1870 ~~Government, other state departments and agencies, county and~~
 1871 ~~municipal governments and agencies, public and private agencies,~~
 1872 ~~and private individuals and corporations in carrying out the~~
 1873 ~~purposes and the responsibilities of the delinquency services~~
 1874 ~~and programs of the department.~~

1875 ~~(3) The department shall adopt a rule pursuant to chapter~~
 1876 ~~120 establishing a procedure to provide notice of policy changes~~

BILL

ORIGINAL

YEAR

1877 that affect contracted delinquency services and programs. A
 1878 policy is defined as an operational requirement that applies to
 1879 only the specified contracted delinquency service or program.

1880 The procedure shall include:

- 1881 (a) Public notice of policy development.
- 1882 (b) Opportunity for public comment on the proposed policy.
- 1883 (c) Assessment for fiscal impact upon the department and
 1884 providers.
- 1885 (d) The department's response to comments received.

1886 ~~(4) When the department contracts with a provider for any~~
 1887 ~~delinquency service or program, all personnel, including all~~
 1888 ~~owners, operators, employees, and volunteers in the facility or~~
 1889 ~~providing the service or program shall be of good moral~~
 1890 ~~character. A volunteer who assists on an intermittent basis for~~
 1891 ~~less than 40 hours per month is not required to be screened if~~
 1892 ~~the volunteer is under direct and constant supervision by~~
 1893 ~~persons who meet the screening requirements.~~

1894 (3)-(5) (a) All employees of the department and all personnel
 1895 of contract providers for any program for children, including
 1896 all owners, operators, employees, persons who have access to
 1897 confidential juvenile records, and volunteers, must complete ~~For~~
 1898 ~~any person employed by the department, or by a provider under~~
 1899 ~~contract with the department, in delinquency facilities,~~
 1900 ~~services, or programs, the department shall require:~~

1901 1. A level 2 employment screening pursuant to chapter 435
 1902 prior to employment. The security background investigations
 1903 conducted under this section must ensure that, in addition to
 1904 the disqualifying offenses listed in s. 435.04, no persons

BILL ORIGINAL YEAR

1905 subject to the background screening provisions of this section
 1906 have been found guilty of, regardless of adjudication, or
 1907 entered a plea of nolo contendere or guilty to, any offense
 1908 prohibited under any of the following provisions of the Florida
 1909 Statutes or under any similar statute of another jurisdiction:

1910 a. Section 784.07, relating to assault or battery of law
 1911 enforcement officers, firefighters, emergency medical care
 1912 providers, public transit employees or agents, or other
 1913 specified officers.

1914 b. Section 817.568, relating to criminal use of personal
 1915 identification information.

1916 2. A federal criminal records check by the Federal Bureau
 1917 of Investigation every 5 years following the date of the
 1918 person's employment.

1919 (b) Except for law enforcement, correctional, and
 1920 correctional probation officers, to whom s. 943.13(5) applies,
 1921 the department shall electronically submit to the Department of
 1922 Law Enforcement:

1923 1. Fingerprint information obtained during the employment
 1924 screening required by subparagraph (a)1.

1925 2. ~~Beginning on December 15, 2005,~~ Fingerprint information
 1926 for all persons employed by the department, or by a provider
 1927 under contract with the department, in delinquency facilities,
 1928 services, or programs if such fingerprint information has not
 1929 previously been electronically submitted to the Department of
 1930 Law Enforcement under this paragraph.

1931 (c) All fingerprint information electronically submitted
 1932 to the Department of Law Enforcement under paragraph (b) shall

BILL ORIGINAL YEAR

1933 be retained by the Department of Law Enforcement and entered
 1934 into the statewide automated fingerprint identification system
 1935 authorized by s. 943.05(2)(b). Thereafter, such fingerprint
 1936 information shall be available for all purposes and uses
 1937 authorized for arrest fingerprint information entered into the
 1938 statewide automated fingerprint identification system pursuant
 1939 to s. 943.051 until the fingerprint information is removed
 1940 pursuant to paragraph (e). The Department of Law Enforcement
 1941 shall search all arrest fingerprint information received
 1942 pursuant to s. 943.051 against the fingerprint information
 1943 entered into the statewide automated fingerprint system pursuant
 1944 to this subsection. Any arrest records identified as a result of
 1945 the search shall be reported to the department in the manner and
 1946 timeframe established by the Department of Law Enforcement by
 1947 rule.

1948 (d) The department shall pay an annual fee to the
 1949 Department of Law Enforcement for its costs resulting from the
 1950 fingerprint information retention services required by this
 1951 subsection. The amount of the annual fee and procedures for the
 1952 submission and retention of fingerprint information and for the
 1953 dissemination of search results shall be established by the
 1954 Department of Law Enforcement by a rule that is applicable to
 1955 the department individually pursuant to this subsection or that
 1956 is applicable to the department and other employing agencies
 1957 pursuant to rulemaking authority otherwise provided by law. The
 1958 appropriate agency is responsible for collecting and paying any
 1959 fee related to fingerprints retained on its behalf to the
 1960 Florida Department of Law Enforcement for costs resulting from

BILL

ORIGINAL

YEAR

1961 the fingerprint information retention services. The amount of
 1962 the annual fee and procedures for the submission and retention
 1963 of fingerprint information and for the dissemination of search
 1964 results shall be established by rule of the Florida Department
 1965 of Law Enforcement.

1966 (e) The department shall notify the Department of Law
 1967 Enforcement when a person whose fingerprint information is
 1968 retained by the Department of Law Enforcement under this
 1969 subsection is no longer employed by the department, or by a
 1970 provider under contract with the department, in a delinquency
 1971 facility, service, or program. This notice shall be provided by
 1972 the department to the Department of Law Enforcement no later
 1973 than 6 months after the date of the change in the person's
 1974 employment status. Fingerprint information for persons
 1975 identified by the department in the notice shall be removed from
 1976 the statewide automated fingerprint system.

1977 (6) The department may grant exemptions from
 1978 disqualification from working with children as provided in s.
 1979 435.07.

1980 (7) The department may, pursuant to ch. 120, adopt rules
 1981 that describe the procedure and requirements necessary to
 1982 implement the employment screening and fingerprint retention
 1983 services for all employees of the department and all personnel
 1984 of contract providers for any program for children, including
 1985 all owners, operators, employees, and volunteers including the
 1986 collection of associated fees.

1987 Section 40. The changes made by this act are intended to
 1988 be prospective in nature. It is not intended that persons be

BILL

ORIGINAL

YEAR

1989	<u>rescreened who are employed or licensed on the effective date of</u>
1990	<u>this act until such time they are otherwise required to be</u>
1991	<u>rescreened pursuant to law, at which time they would must meet</u>
1992	<u>the requirements for screening as set forth in this act.</u>
1993	Section 41. This act shall take effect July 1, 2010.