

Committee on Children, Families, And Elder Affairs

CS/CS/CS/HB 943 — Background Screening

by Health and Human Services Committee; Criminal Justice Subcommittee; Health and Human Services Access Subcommittee; and Rep. Holder and others (CS/CS/SB 320 by Budget Subcommittee on Health and Human Services Appropriations; Children, Families, and Elder Affairs Committee and Senators Storms, Thrasher, and Rich)

The bill makes a number of changes to background screening requirements, primarily relating to individuals who work and volunteer with vulnerable populations. Specifically, the bill:

- Exempts mental health personnel working in a facility licensed under ch. 395, F.S., who work on an intermittent basis for less than 15 hours per week of direct, face-to-face contact with patients and who are not listed on the Florida Department of Law Enforcement's (FDLE) Career Offender Search or the Dru Sjodin National Sex Offender public website from fingerprinting and screening – unless that person works in a facility with a primary purpose of providing treatment for children;
- Establishes a rescreening schedule for those individuals who have been screened and qualified to work by the Agency for Health Care Administration (AHCA);
- Revises a list of professionals to include law enforcement officers such that officers are not required to be refingerprinted or rescreened if they are working or volunteering in a capacity that would otherwise require them to be screened;
- Includes provisions covering the Division of Vocational Rehabilitation's (DVR) background screening needs and requirements;
- Exempts, from the definition of "direct service provider;" individuals who are related to the client, and volunteers who assist on an intermittent basis for less than 20 hours per month of direct, face-to-face contact with a client and who are not listed on FDLE's Career Offender Search or the Dru Sjodin National Sex Offender public website;
- Specifies that employers of direct service providers previously qualified for employment or volunteer work under Level 1 screening standards, and individuals required to be screened according to the Level 2 screening standards, shall be rescreened every five years, except in cases where fingerprints are electronically retained;
- Creates a definition of the term "specified agency" for purposes of conducting background screening. These agencies include the Department of Health (DOH), the Department of Children and Family Services (DCF), AHCA, the Department of Elder Affairs (DOEA), the Department of Juvenile Justice (DJJ), the Agency for Persons with Disabilities (APD) and DVR;
- Requires fingerprint vendors to meet certain technology requirements;
- Provides that employees may be hired before completing the background screening process but those employees may have no direct contact with vulnerable persons;
- Waives the additional background screening requirement for Certified Nursing Assistants (CNA) under certain circumstances; and
- Provides for requirements relating to fingerprinting including who may take the prints, standards for vendors, and fee collection.

The bill also provides for the creation of the Care Provider Background Screening Clearinghouse. The clearinghouse will:

- Be created by AHCA, in consultation with FDLE;
- Be a web-based system;
- Be implemented to fullest extent possible no later than September 30, 2013; and
- Allow results of criminal history checks, provided to specified agencies for screening of persons under s. 943.0542, F.S., to be shared among the specified agencies when a person has applied to volunteer; be employed; be licensed or enter into a contract that requires a state and national finger-print based criminal history check.

The bill also provides that prints retained by the clearinghouse must meet certain criteria. Finally, the bill provides for rescreening procedures related to use of the clearinghouse; and provides for screening procedures for use on or after January 1, 2013.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 39-0; House 114-0