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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Criminal and Civil Justice)

A bill to be entitled

An act relating to licensing and training; amending s. 120.565, F.S.; authorizing a person to seek a declaratory statement from an agency as to the effect of the person's criminal background on his or her eligibility for certain licenses, registrations, or certificates; specifying that a person may seek a declaratory statement before meeting any prerequisites for the license, registration, or certification; requiring that an agency's conclusion in the declaratory statement contain certain statements; providing that the agency's conclusion is binding, except under certain circumstances; requiring a person seeking a declaratory statement to submit certain items to the agency and pay certain fees and costs; providing requirements for the processing of fingerprints; requiring the petitioner to pay the actual cost of processing the fingerprints; amending s. 455.213, F.S.; requiring the board to use a specified process for the review of an applicant's criminal record to determine the applicant's eligibility for certain licenses; prohibiting the conviction of a crime before a specified date from being grounds for the denial of certain licenses; defining the term "conviction"; authorizing a person to apply for a license before his or her lawful release from confinement or supervision; prohibiting



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28 additional fees for an applicant confined or under
29 supervision; prohibiting the board from basing a
30 denial of a license application solely on the
31 applicant's current confinement or supervision;
32 authorizing the board to stay the issuance of an
33 approved license under certain circumstances;
34 requiring the board to verify an applicant's release
35 with the Department of Corrections; providing
36 requirements for the appearance of certain applicants
37 at certain meetings; requiring the board to adopt
38 rules specifying how certain crimes affect an
39 applicant's eligibility for licensure; conforming a
40 cross-reference; amending s. 464.203, F.S.; providing
41 that the conviction of a crime before a specified date
42 may not serve as grounds for the denial of a
43 certification under certain circumstances; providing
44 that the conviction of a crime before a specified date
45 may not serve as grounds for the failure of a
46 background screening; defining the term "conviction";
47 authorizing a person to apply for certification before
48 his or her lawful release from confinement or
49 supervision; prohibiting additional fees for an
50 applicant confined or under supervision; prohibiting
51 the board from basing the denial of a certification
52 solely on the applicant's current confinement or
53 supervision; authorizing the board to stay the
54 issuance of an approved certificate under certain
55 circumstances; requiring the board to verify an
56 applicant's release with the Department of



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57 Corrections; providing requirements for the appearance
58 of certain applicants at certain meetings; requiring
59 the board to adopt rules specifying how certain crimes
60 may affect an applicant's eligibility for
61 certification; amending s. 400.211, F.S.; conforming a
62 cross-reference; amending s. 944.801, F.S.;

63 authorizing the Department of Corrections to contract
64 with certain entities to provide educational services
65 for the Correctional Education Program; amending s.
66 951.176, F.S.; authorizing each county to contract
67 with certain entities to provide educational services
68 for county inmates; amending s. 1011.80, F.S.;

69 removing a provision prohibiting state funds for the
70 operation of postsecondary workforce programs from
71 being used for the education of certain state inmates;
72 providing an effective date.

73

74 Be It Enacted by the Legislature of the State of Florida:

75

76 Section 1. Subsection (4) is added to section 120.565,
77 Florida Statutes, to read:

78 120.565 Declaratory statement by agencies.—

79 (4) (a) Any person may seek a declaratory statement
80 regarding an agency's opinion as to the effect of the
81 petitioner's criminal background on his or her eligibility for a
82 specific occupational or professional license, registration, or
83 certificate issued by the agency based on the applicable
84 statutes and rules for the occupation or profession. The
85 petition may include mitigating factors or other information the



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86 petitioner believes relevant to establish the petitioner's
87 eligibility, including, but not limited to, the time elapsed
88 since completion of or lawful release from confinement,
89 supervision, or nonmonetary condition imposed by the court for a
90 disqualifying offense, and the petitioner's standing in his or
91 her community. A person may seek a declaratory statement under
92 this subsection before attaining any education, training,
93 experience, or other prerequisites for the license,
94 registration, or certification.

95 (b) The agency's conclusion in the declaratory statement
96 must indicate whether:

97 1. The petitioner is disqualified from obtaining the
98 license, registration, or certification due to the petitioner's
99 criminal background, regardless of the petitioner's education,
100 training, experience, or other prerequisites required for the
101 license, registration, or certification.

102 2. The petitioner is not eligible for a specified
103 occupational or professional license, registration, or
104 certification because of his or her criminal background, but
105 that the conclusion may be reversed upon the petitioner's
106 presentation of evidence of rehabilitation or mitigation
107 identified by the agency in the declaratory statement at any
108 time subsequent to the issuance of the declaratory statement.

109 3. Federal laws or regulations may impede the petitioner's
110 licensure, registration, or certification in the profession or
111 occupation.

112 4. Conditions or restrictions imposed by the court on the
113 petitioner for a disqualifying offense may impede the
114 petitioner's licensure, registration, or certification in the



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115 profession or occupation.

116 (c) The agency's conclusion in the declaratory statement
117 shall be binding on the agency as to the petitioner, unless the
118 petitioner's subsequent criminal history constitutes an
119 independent basis for denial of the petitioner's application for
120 a license, registration, or certification in the profession or
121 occupation. The agency's conclusion is subject to judicial
122 review pursuant to s. 120.68.

123 (d) A person seeking a declaratory statement under this
124 subsection must submit to the agency, in addition to the
125 petition for a declaratory statement:

- 126 1. A fee set by the agency not to exceed \$100;
127 2. A certified copy of each criminal judgment rendered
128 against the petitioner; and
129 3. A complete set of electronic fingerprints.

130 (e) The agency shall submit the fingerprints to the
131 Department of Law Enforcement for a state criminal history
132 record check and the Department of Law Enforcement shall forward
133 them to the Federal Bureau of Investigation for a national
134 criminal history record check. The agency shall review the
135 criminal history record results to determine if the petitioner
136 meets licensure, registration, or certification requirements.
137 The petitioner shall pay the actual cost of state and federal
138 processing in addition to the fee in subparagraph (d)1.

139 Section 2. Present subsections (3) through (12) of section
140 455.213, Florida Statutes, are redesignated as subsections (4)
141 through (13), respectively, subsection (2) of that section is
142 amended, and a new subsection (3) is added to that section, to
143 read:



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144 455.213 General licensing provisions.-

145 (2) Before the issuance of any license, the department may
146 charge an initial license fee as determined by rule of the
147 applicable board or, if no such board exists, by rule of the
148 department. Upon receipt of the appropriate license fee, except
149 as provided in subsection (4) ~~(3)~~, the department shall issue a
150 license to any person certified by the appropriate board, or its
151 designee, or the department when there is no board, as having
152 met the applicable requirements imposed by law or rule. However,
153 an applicant who is not otherwise qualified for licensure is not
154 entitled to licensure solely based on a passing score on a
155 required examination. Upon a determination by the department
156 that it erroneously issued a license, or upon the revocation of
157 a license by the applicable board, or by the department when
158 there is no board, the licensee must surrender his or her
159 license to the department.

160 (3) (a) Notwithstanding any other provision of law, the
161 board shall use the process in this subsection for review of an
162 applicant's criminal record to determine his or her eligibility
163 for licensure as a:

164 1. Barber under chapter 476;

165 2. Cosmetologist or cosmetology specialist under chapter
166 477; or

167 3. Any of the following construction professions under
168 chapter 489:

169 a. Air-conditioning contractor;

170 b. Electrical contractor;

171 c. Mechanical contractor;

172 d. Plumbing contractor;



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- 173 e. Pollutant storage systems contractor;
- 174 f. Roofing contractor;
- 175 g. Septic tank contractor;
- 176 h. Sheet metal contractor;
- 177 i. Solar contractor;
- 178 j. Swimming pool and spa contractor;
- 179 k. Underground utility and excavation contractor; and
- 180 l. Other specialty contractors.

181 (b) A conviction for a crime more than 5 years before the
182 date of the application may not be grounds for denial of a
183 license specified in paragraph (a). For purposes of this
184 paragraph, the term "conviction" means a determination of guilt
185 that is the result of a plea or trial, regardless of whether
186 adjudication is withheld.

187 (c)1. A person may apply for a license before his or her
188 lawful release from confinement or supervision. The department
189 may not charge an applicant an additional fee for being confined
190 or under supervision. The board may not deny an application for
191 a license solely on the basis of the applicant's current
192 confinement or supervision.

193 2. After a license application is approved, the board may
194 stay the issuance of a license until the applicant is lawfully
195 released from confinement or supervision and the applicant
196 notifies the board of such release. The board must verify the
197 applicant's release with the Department of Corrections before it
198 issues a license.

199 3. If an applicant is unable to appear in person due to his
200 or her confinement or supervision, the board must permit the
201 applicant to appear by teleconference or video conference, as



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202 appropriate, at any meeting of the board or other hearing by the
203 agency concerning his or her application.

204 4. If an applicant is confined or under supervision, the
205 Department of Corrections and the board shall cooperate and
206 coordinate to facilitate the appearance of the applicant at a
207 board meeting or agency hearing in person, by teleconference, or
208 by video conference, as appropriate.

209 (d) The board shall adopt rules specifying the crimes that,
210 if committed, and regardless of adjudication, do not relate to
211 the practice of the profession or the ability to practice the
212 profession and do not constitute grounds for denial of a
213 license.

214 (e) The board shall adopt rules specifying the crimes that,
215 if committed, and regardless of adjudication, relate to the
216 practice of the profession or the ability to practice the
217 profession and may constitute grounds for denial of a license.

218 Section 3. Present subsections (2) through (8) of section
219 464.203, Florida Statutes, are redesignated as subsections (3)
220 through (9), respectively, and a new subsection (2) is added to
221 that section, to read:

222 464.203 Certified nursing assistants; certification
223 requirement.—

224 (2) (a) 1. Except as provided in s. 435.07(4), a conviction
225 for a crime more than 7 years before the date of the application
226 may not be grounds for denial of a certificate to practice as a
227 certified nursing assistant.

228 2. Except as provided in s. 435.07(4), a conviction for a
229 crime more than 7 years before the date of the application may
230 not be grounds for failure of a required background screening.



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231 3. For purposes of this paragraph, the term "conviction"
232 means a determination of guilt that is the result of a plea or
233 trial, regardless of whether adjudication is withheld.

234 (b)1. A person may apply for a certificate to practice as a
235 certified nursing assistant before his or her lawful release
236 from confinement or supervision. The department may not charge
237 an applicant an additional fee for being confined or under
238 supervision. The board may not deny an application for a
239 certificate solely on the basis of the person's current
240 confinement or supervision.

241 2. After a certification application is approved, the board
242 may stay the issuance of a certificate until the applicant
243 notifies the board of his or her lawful release from confinement
244 or supervision. The board must verify the applicant's release
245 with the Department of Corrections before it issues a license.

246 3. If an applicant is unable to appear in person due to his
247 or her confinement or supervision, the board must permit the
248 applicant to appear by teleconference or video conference, as
249 appropriate, at any meeting of the board or other hearing by the
250 agency concerning his or her application.

251 4. If an applicant is confined or under supervision, the
252 Department of Corrections and the board shall cooperate and
253 coordinate to facilitate the appearance of the applicant at a
254 board meeting or agency hearing in person, by teleconference, or
255 by video conference, as appropriate.

256 (c) The board shall adopt rules specifying the crimes that,
257 if committed, and regardless of adjudication, do not relate to
258 the practice of the profession or the ability to practice the
259 profession and do not constitute grounds for denial of a



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260 certification.

261 (d) The board shall adopt rules specifying the crimes that,
262 if committed, and regardless of adjudication, relate to the
263 practice of the profession or the ability to practice the
264 profession and may constitute grounds for denial of a
265 certification.

266 Section 4. Subsection (4) of section 400.211, Florida
267 Statutes, is amended to read:

268 400.211 Persons employed as nursing assistants;
269 certification requirement.—

270 (4) When employed by a nursing home facility for a 12-month
271 period or longer, a nursing assistant, to maintain
272 certification, shall submit to a performance review every 12
273 months and must receive regular inservice education based on the
274 outcome of such reviews. The inservice training must meet all of
275 the following requirements:

276 (a) Be sufficient to ensure the continuing competence of
277 nursing assistants and must meet the standard specified in s.
278 464.203(8). ~~s. 464.203(7);~~

279 (b) Include, at a minimum:

280 1. Techniques for assisting with eating and proper feeding;

281 2. Principles of adequate nutrition and hydration;

282 3. Techniques for assisting and responding to the
283 cognitively impaired resident or the resident with difficult
284 behaviors;

285 4. Techniques for caring for the resident at the end-of-
286 life; and

287 5. Recognizing changes that place a resident at risk for
288 pressure ulcers and falls. ~~;~~ ~~and~~



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289 (c) Address areas of weakness as determined in nursing
290 assistant performance reviews and may address the special needs
291 of residents as determined by the nursing home facility staff.
292

293 Costs associated with this training may not be reimbursed from
294 additional Medicaid funding through interim rate adjustments.

295 Section 5. Present subsections (4) and (5) of section
296 944.801, Florida Statutes, are renumbered as subsections (5) and
297 (6), respectively, and a new subsection (4) is added to that
298 section, to read:

299 944.801 Education for state prisoners.-

300 (4) The department may contract with a district school
301 board, the Florida Virtual School, a Florida College System
302 institution, a virtual education provider approved by the State
303 Board of Education, or a charter school authorized to operate
304 under s. 1002.33 to provide educational services for the
305 Correctional Education Program. The educational services may
306 include any educational, career, or workforce education training
307 that is authorized by the department.

308 Section 6. Section 951.176, Florida Statutes, is amended to
309 read:

310 951.176 Provision of education ~~programs for youth.~~-

311 (1) Each county may contract with a district school board,
312 the Florida Virtual School, a Florida College System
313 institution, a virtual education provider approved by the State
314 Board of Education, or a charter school authorized to operate
315 under s. 1002.33 to provide educational services for inmates at
316 county detention facilities. The educational services may
317 include any educational, career, or workforce education training



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318 that is authorized by the sheriff or chief correctional officer,
319 or his or her designee.

320 (2) Minors who have not graduated from high school and
321 eligible students with disabilities under the age of 22 who have
322 not graduated with a standard diploma or its equivalent who are
323 detained in a county or municipal detention facility as defined
324 in s. 951.23 shall be offered educational services by the local
325 school district in which the facility is located. These
326 educational services shall be based upon the estimated length of
327 time the youth will be in the facility and the youth's current
328 level of functioning. School district superintendents or their
329 designees shall be notified by the county sheriff or chief
330 correctional officer, or his or her designee, upon the
331 assignment of a youth under the age of 21 to the facility. A
332 cooperative agreement with the local school district and
333 applicable law enforcement units shall be developed to address
334 the notification requirement and the provision of educational
335 services to these youth.

336 Section 7. Paragraph (b) of subsection (7) of section
337 1011.80, Florida Statutes, is amended to read:

338 1011.80 Funds for operation of workforce education
339 programs.—

340 (7)

341 (b) State funds provided for the operation of postsecondary
342 workforce programs may not be expended for the education of
343 state inmates with more than 60 months of time remaining to
344 serve on their sentence or federal inmates.

345 Section 8. This act shall take effect July 1, 2018.