

By the Committee on Appropriations; and Senator Rouson

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1 A bill to be entitled
2 An act relating to licensing and training; amending s.
3 120.565, F.S.; authorizing a person to seek a
4 declaratory statement from an agency as to the effect
5 of the person's criminal background on his or her
6 eligibility for certain licenses, registrations, or
7 certificates; specifying that a person may seek a
8 declaratory statement before meeting any prerequisites
9 for the license, registration, or certification;
10 requiring that an agency's conclusion in the
11 declaratory statement contain certain statements;
12 providing that the agency's conclusion is binding,
13 except under certain circumstances; requiring a person
14 seeking a declaratory statement to submit certain
15 items to the agency and pay certain fees and costs;
16 providing requirements for the processing of
17 fingerprints; requiring the petitioner to pay the
18 actual cost of processing the fingerprints; amending
19 s. 455.213, F.S.; requiring the board to use a
20 specified process for the review of an applicant's
21 criminal record to determine the applicant's
22 eligibility for certain licenses; prohibiting the
23 conviction of a crime before a specified date from
24 being grounds for the denial of certain licenses;
25 providing exceptions; defining the term "conviction";
26 authorizing a person to apply for a license before his
27 or her lawful release from confinement or supervision;
28 prohibiting additional fees for an applicant confined
29 or under supervision; prohibiting the board from

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30 basing a 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; amending s.
40 464.203, F.S.; prohibiting the conviction of a crime
41 before a specified date from being grounds for the
42 denial of a certification under certain circumstances;
43 prohibiting the conviction of a crime before a
44 specified date from being grounds for the failure of a
45 background screening; authorizing a person to apply
46 for certification before his or her lawful release
47 from confinement or supervision; prohibiting
48 additional fees for an applicant confined or under
49 supervision; prohibiting the board from basing the
50 denial of a certification solely on the applicant's
51 current confinement or supervision; authorizing the
52 board to stay the issuance of an approved certificate
53 under certain circumstances; requiring the board to
54 verify an applicant's release with the Department of
55 Corrections; providing requirements for the appearance
56 of certain applicants at certain meetings; requiring
57 the board to adopt rules specifying how certain crimes
58 may affect an applicant's eligibility for

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59 certification; amending s. 400.211, F.S.; conforming a
60 cross-reference; amending s. 944.801, F.S.;
61 authorizing the Department of Corrections to contract
62 with certain entities to provide educational services
63 for the Correctional Education Program; amending s.
64 951.176, F.S.; authorizing each county to contract
65 with certain entities to provide educational services
66 for county inmates; amending ss. 1011.80 and 1011.81,
67 F.S.; removing provisions prohibiting state funds for
68 the operation of postsecondary workforce programs and
69 funds for the Florida College System Program Fund,
70 respectively, from being used for the education of
71 certain state inmates; amending s. 1011.84, F.S.;
72 conforming a provision to changes made by the act;
73 providing an effective date.

74

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

76

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

79 120.565 Declaratory statement by agencies.-

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

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

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

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

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

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

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

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

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

127 1. A fee set by the agency not to exceed \$100;

128 2. A certified copy of each criminal judgment rendered
129 against the petitioner; and

130 3. A complete set of electronic fingerprints.

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

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

145 455.213 General licensing provisions.—

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

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

165 1. Barber under chapter 476;

166 2. Cosmetologist or cosmetology specialist under chapter
167 477; or

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

170 a. Air-conditioning contractor;

171 b. Electrical contractor;

172 c. Mechanical contractor;

173 d. Plumbing contractor;

174 e. Pollutant storage systems contractor;

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175 f. Roofing contractor;

176 g. Septic tank contractor;

177 h. Sheet metal contractor;

178 i. Solar contractor;

179 j. Swimming pool and spa contractor;

180 k. Underground utility and excavation contractor; and

181 l. Other specialty contractors, excluding alarm system
182 contractors.

183 (b) Except as provided in s. 435.07(4) and convictions
184 pursuant to chapter 812, a conviction for a crime more than 5
185 years before the date of the application may not be grounds for
186 denial of a license specified in paragraph (a). For purposes of
187 this paragraph, the term "conviction" means having been found
188 guilty, with or without adjudication of guilt, as a result of a
189 jury verdict, nonjury trial, or entry of a plea of guilty or
190 nolo contendere.

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

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

203 3. If an applicant is unable to appear in person due to his

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204 or her confinement or supervision, the board must permit the
205 applicant to appear by teleconference or video conference, as
206 appropriate, at any meeting of the board or other hearing by the
207 agency concerning his or her application.

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

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

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

221 464.203 Certified nursing assistants; certification
222 requirement.—

223 (2) (a) 1. Notwithstanding s. 456.0635, and except as
224 provided in s. 435.07(4), a conviction for a crime more than 7
225 years before the date of the application may not be grounds for
226 denial of a certificate to practice as a certified nursing
227 assistant.

228 2. Notwithstanding s. 456.0635, and except as provided in
229 s. 435.07(4), a conviction for a crime more than 7 years before
230 the date of the application may not be grounds for failure of a
231 required background screening.

232 3. For purposes of this paragraph, the term "conviction"

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233 means having been found guilty, with or without adjudication of
234 guilt, as a result of a jury verdict, nonjury trial, or entry of
235 a plea of guilty or nolo contendere.

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

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

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

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

258 (c) The board shall adopt rules specifying the crimes that,
259 if committed, and regardless of adjudication, relate to the
260 practice of the profession or the ability to practice the
261 profession and may constitute grounds for denial of a

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262 certification.

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

265 400.211 Persons employed as nursing assistants;
266 certification requirement.—

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

273 (a) Be sufficient to ensure the continuing competence of
274 nursing assistants and must meet the standard specified in s.
275 464.203(8). ~~s. 464.203(7);~~

276 (b) Include, at a minimum:

277 1. Techniques for assisting with eating and proper feeding;
278 2. Principles of adequate nutrition and hydration;
279 3. Techniques for assisting and responding to the
280 cognitively impaired resident or the resident with difficult
281 behaviors;

282 4. Techniques for caring for the resident at the end-of-
283 life; and

284 5. Recognizing changes that place a resident at risk for
285 pressure ulcers and falls. ~~and~~

286 (c) Address areas of weakness as determined in nursing
287 assistant performance reviews and may address the special needs
288 of residents as determined by the nursing home facility staff.

289
290 Costs associated with this training may not be reimbursed from

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291 additional Medicaid funding through interim rate adjustments.

292 Section 5. Present subsections (4) and (5) of section
293 944.801, Florida Statutes, are renumbered as subsections (5) and
294 (6), respectively, and a new subsection (4) is added to that
295 section, to read:

296 944.801 Education for state prisoners.—

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

305 Section 6. Section 951.176, Florida Statutes, is amended to
306 read:

307 951.176 Provision of education ~~programs for youth.~~—

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

317 (2) Minors who have not graduated from high school and
318 eligible students with disabilities under the age of 22 who have
319 not graduated with a standard diploma or its equivalent who are

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320 detained in a county or municipal detention facility as defined
321 in s. 951.23 shall be offered educational services by the local
322 school district in which the facility is located. These
323 educational services shall be based upon the estimated length of
324 time the youth will be in the facility and the youth's current
325 level of functioning. School district superintendents or their
326 designees shall be notified by the county sheriff or chief
327 correctional officer, or his or her designee, upon the
328 assignment of a youth under the age of 21 to the facility. A
329 cooperative agreement with the local school district and
330 applicable law enforcement units shall be developed to address
331 the notification requirement and the provision of educational
332 services to these youth.

333 Section 7. Paragraph (b) of subsection (7) of section
334 1011.80, Florida Statutes, is amended to read:

335 1011.80 Funds for operation of workforce education
336 programs.—

337 (7)

338 (b) State funds provided for the operation of postsecondary
339 workforce programs may not be expended for the education of
340 state inmates with more than 48 months of time remaining to
341 serve on their sentence or federal inmates.

342 Section 8. Subsection (4) of section 1011.81, Florida
343 Statutes, is amended to read:

344 1011.81 Florida College System Program Fund.—

345 (4) State funds provided for the Florida College System
346 Program Fund may not be expended for the education of state
347 inmates with more than 48 months of time remaining on their
348 sentence or federal inmates.

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349 Section 9. Paragraph (e) of subsection (1) of section
350 1011.84, Florida Statutes, is amended to read:

351 1011.84 Procedure for determining state financial support
352 and annual apportionment of state funds to each Florida College
353 System institution district.—The procedure for determining state
354 financial support and the annual apportionment to each Florida
355 College System institution district authorized to operate a
356 Florida College System institution under the provisions of s.
357 1001.61 shall be as follows:

358 (1) DETERMINING THE AMOUNT TO BE INCLUDED IN THE FLORIDA
359 COLLEGE SYSTEM PROGRAM FUND FOR THE CURRENT OPERATING PROGRAM.—

360 (e) All state inmate education provided by Florida College
361 System institutions shall be reported by program, FTE
362 expenditure, and revenue source. These enrollments,
363 expenditures, and revenues shall be reported and projected
364 separately. Instruction of state inmates with more than 48
365 months of time remaining on their sentence may ~~shall~~ not be
366 included in the full-time equivalent student enrollment for
367 funding through the Florida College System Program Fund.

368 Section 10. This act shall take effect July 1, 2018.