

Committee on Criminal Justice

CS/SB 676 — Level 2 Background Screenings

by Appropriations Committee and Senator Grall

The bill amends s. 435.04, F.S., to require all employees required by law to be screened under Level 2 screening standards in this section and persons with an affiliation with a qualified entity for whom the qualified entity chooses to conduct screening under s. 943.0542, F.S., to undergo a Level 2 security background investigation as a condition of employment or continued employment. This investigation must include a search of the sexual predator and sexual offender registries of any state in which the current or prospective employee resided during the immediate preceding 5 years. The bill also amends the list of disqualifying offenses to reference aggravated assault, aggravated battery, battery on staff of a detention or commitment facility or on a juvenile probation officer, female genital mutilation, and certain offenses against students by authority figures.

For purposes of background screening, the bill amends s. 435.02, F.S., to provide definitions for “affiliation” and “qualified entity.”

The bill amends s. 435.07, F.S., to authorize the head of a qualified entity to grant an exemption to a person otherwise disqualified from employment, subject to the exemption requirements of this section. The bill also specifies when disqualification from affiliation may not be removed. The bill also references a “person with an affiliation” in provisions relevant to the process for seeking an exemption.

The bill amends s. 435.12, F.S. Beginning January 1, 2026, or a later date as determined by the Agency for Health Care Administration (AHCA), the Care Provider Background Screening Clearinghouse (Clearinghouse) must allow results of criminal history checks to be shared among qualified entities participating in the Clearinghouse for screening of care providers and other specified persons. Beginning January 1, 2025, or a later date as determined by the AHCA, the AHCA shall review and determine eligibility for all criminal history checks submitted to the Clearinghouse for the Department of Education (DOE). The Clearinghouse shall share eligibility determinations with the DOE and qualified entities.

Effective January 1, 2026, or a later date as determined by the AHCA, a person with a break in service of more than 90 days from a position for which a background screening is conducted by a qualified entity participating in the Clearinghouse must submit to a national screening if the person returns to a position for which screening is required by such entity.

A qualified entity participating in the Clearinghouse must register with the Clearinghouse and maintain the employment or affiliation status of all persons included in the Clearinghouse. The bill specifies dates for reporting initial status and changes in status. The qualified entity must also register with and initiate all criminal history checks through the Clearinghouse before referring an employee or potential employee or a person with a current or potential affiliation with a qualified entity for electronic fingerprint submission to the Florida Department of Law Enforcement (FDLE).

The bill updates the schedule for employees of specified educational entities to be rescreened.

The bill amends s. 943.0438, F.S., to revise background screening requirements for athletic coaches to require these individuals, including managers, to increase the level of background screening from a Level 1 to a Level 2 background screening. The bill also removes the 20 hour minimum work requirement. These changes mean that all youth athletic coaches, assistant coaches, managers, and referees must undergo a Level 2 background screening, regardless of hours worked.

Before January 1, 2026, or a later date as determined by the AHCA, an independent sanctioning authority shall disqualify any person from acting as an athletic coach as provided in s. 435.04, F.S., (Level 2 standards). On or after January 1, 2026, or a later date as determined by the AHCA, an independent sanctioning authority shall not allow any person to act as an athletic coach if he or she does not pass the background screening qualifications in s. 435.04, F.S. However, the authority may allow a disqualified person to act as an athletic coach if the person has successfully completed the exemption for disqualification process under s. 435.07, F.S.

The bill amends s. 943.05, F.S., to require the Criminal Justice Information Program to search arrest fingerprint submissions received from qualified entities participating in the Clearinghouse. Additionally, the FDLE must develop a method for identifying or verifying an individual through automated biometrics for federal approval.

The bill amends s. 943.0542, F.S., to require a qualified entity conducting criminal history checks under s. 943.0542, F.S., to do the following:

- Require such entity to register with the FDLE before submitting a request for screening under this section.
- Before January 1, 2026, or a later date as determined by the AHCA, submit to the FDLE specified information relevant to a request for background screening. Effective January 1, 2026, the qualified entity registers with the AHCA instead of the FDLE.
- Effective January 1, 2026, or a later date as determined by the AHCA, comply with Level 2 screening requirements in s. 435.12, F.S. All fingerprints must be entered into the Clearinghouse.

Through December 31, 2025, or a later date as determined by the AHCA, all of the following occurs:

- The FDLE provides directly to the qualified entity non-exempt state criminal history records. Effective January 1, 2026, or a later date as determined by the AHCA, the Clearinghouse provides such records only if a person who is a subject of a criminal history record challenges the record.
- The FDLE provides national criminal history data to qualified entities for the purpose of screening employees and volunteers as authorized by written waiver required for submission of a request. Effective January 1, 2026, or a later date as determined by the

AHCA, the Clearinghouse provides such record only if the person requests an exemption from such entity under s. 435.07, F.S.

- The qualified entity making the determination regarding a background screening applies the Level 2 background screening criteria under s. 435.04(2), F.S., to the state and national criminal history record information received from the FDLE for those persons subject to screening. Beginning January 1, 2026, or a later date determined by the AHCA, the AHCA determines the eligibility of the employee or volunteer of a qualified entity.
- The qualified entity, provides written notification to a person of his or her right to obtain a copy of any background screening report, including criminal history records, if any, contained in the report, and the right to challenge the accuracy and completeness of information contained in the report and obtain a determination on its validity before a final determination regarding the person is made by the qualified entity reviewing the information. Effective January 1, 2026, or a later date determined the AHCA, the AHCA is responsible for this process.

The bill amends ss. 1012.315 and 1012.467, F.S. Beginning January 1, 2025, or a later date determined by the AHCA, all of the following occurs:

- The AHCA determines the eligibility of employees in any position that requires direct contact with students in a district school system, a charter school, or a private school that participates in a state scholarship program. A person may not be employed in such position if determined to be ineligible based on a security background investigation under s. 435.04(2), F.S.
- The AHCA conducts background screenings under s. 435.12, F.S., to determine the eligibility of noninstructional contractors who are permitted access to school grounds when students are present.
- Background screenings relevant to school districts sharing criminal history information through secured electronic means are conducted through the Clearinghouse under s. 435.12, F.S.

The changes made to s. 435.12, F.S., in the bill must be implemented by January 1, 2025, or a later date as determined by the AHCA.

The bill provides that, for the 2023-2024 fiscal year, the sums of \$400,000 in recurring funds from the Health Care Trust Fund and \$4 million in nonrecurring funds from the Health Care Trust Fund are appropriated to the AHCA. The effective date of the appropriations section of the bill is July 1, 2023.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2024, except where otherwise provided.

Vote: Senate 39-0; House 115-0