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## SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: April 23, 1998

Revised: 4/29/98 \_\_\_\_\_

Subject: Health Quality Assurance

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Carter</u>	<u>Wilson</u>	<u>HC</u>	<u>Favorable/CS</u>
2.	<u>Eccles</u>	<u>Smith</u>	<u>WM</u>	<u>Favorable/CS</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

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### I. Summary:

Committee Substitute for Senate Bill 714 provides background screening requirements for applicants for health care facility licensure administered by the Agency for Health Care Administration, requires certain health care entities to conduct employment background screening for all direct-care employees, and requires abuse registry screening for certain administrative employees. The bill also:

- Amends the Drug-Free Workplace Act to authorize use of body hair, excluding hair from the pubic area, as specimens for purposes of drug testing, as provided under the Act. This modification of law is applicable to public sector and private sector workplaces;
- Substantially revises provisions relating to licensure of home health agencies to increase the application processing time from 60 to 90 days; to establish an inspection deficiency classification scheme; to define terms; to revise requirements for supervision of patient care; to expand exemptions from licensure requirements; and to expand penalties for operating without a license;
- Repeals licensure of designated health care services providers under s. 455.661, F.S.;
- Makes numerous cross reference, conforming, and other technical revisions.

This bill amends the following sections of the Florida Statutes: 112.0455, 383.302, 383.305, 383.308, 383.309, 383.31, 383.312, 383.313, 383.318, 383.32, 383.324, 383.325, 383.327, 383.33, 383.331, 390.015, 391.206, 393.063, 393.067, 394.4787, 394.67, 394.875, 394.876, 394.877, 394.878, 394.879, 394.90, 394.902, 394.903, 394.904, 394.907, 395.002, 395.0199, 400.051, 400.071, 400.411, 400.414, 400.417, 400.4174, 400.4176, 400.461, 400.462, 400.464, 400.471, 400.474, 400.484, 400.487, 400.491, 400.497, 400.506, 400.509, 400.512, 400.555,

400.556, 400.557, 400.606, 400.607, 400.619, 400.801, 400.805, 430.04, 455.654, 468.505, 483.101, 483.106, and 483.30.

This bill creates sections 381.60225, 395.0055, 400.5572, 400.6065, and 400.6194, Florida Statutes. This bill repeals section 455.661, Florida Statutes. This bill creates three undesignated sections of law.

## **II. Present Situation:**

### **Agency for Health Care Administration**

Chapter 92-33, Laws of Florida, transferred health facility regulation from the Department of Health and Rehabilitative Services (HRS) to the Agency for Health Care Administration (AHCA or agency), which was created by s. 1 of chapter 92-33, Laws of Florida. Effective July 1, 1994, regulatory jurisdiction over health care professionals was transferred to the agency from the Department of Business and Professional Regulation. However, effective July 1, 1997, chapter 96-403, Laws of Florida, moved the Division of Medical Quality Assurance, which is responsible for 28 regulatory boards and councils from the agency to the Department of Health. The Department of Health is required to contract with AHCA for consumer complaint, investigative, and prosecutorial services required by the Division of Medical Quality Assurance or its regulatory boards or councils.

The agency administers 25 regulatory programs relating to health care facilities and health care services, totaling approximately 15,500 licensed providers. Licensure for these providers occurs either annually or biennially. Most facilities and programs that are subject to licensure regulation by AHCA are required, by statute, to undergo on-site survey inspections to determine compliance with minimum quality-of-care standards.

### **Employment Background Screening**

The public is at risk from providers who have a history of fraud, abuse, or other crimes that may form a pattern of behavior and a mode of doing business that is continuously repeated. Assisted living facilities, adult day care centers, crisis stabilization units, nursing homes, home health agencies, nurse registries, homemaker, companion, (adult) sitter services, intermediate care facilities for the developmentally disabled, residential treatment facilities, and short-term residential treatment facilities all currently comply with background screening requirements for certain employees and owners.

The law requires that, for Florida Department of Law Enforcement (FDLE) background screenings that result in reports of criminal offenses, an explanation be provided to AHCA in writing giving the circumstances regarding the offense, the outcome of the legal action, any court documents regarding the offense, information as to the injury to any victim, and any other facts relevant to an offense. Section 415.107, F.S., requires that “hits” (a finding of a reported incident) resulting from abuse background screenings that are proposed confirmed (this means a report of

abuse, neglect, or exploitation is made and the adult protective investigator alleges that there is a preponderance of evidence that abuse, neglect, or exploitation occurred and the alleged perpetrator is identified) be explained in writing. The person identified must provide information regarding the circumstances surrounding the incident, the nature of the situation, any harm to the victim, and the history of the person since the incident, or other information that indicates the person is not a danger to the safety or well-being of aged persons or disabled adults. Failure, on the part of the person identified, to satisfactorily resolve the background screening issues can result in denial of an assisted living facility, adult day care center, or adult family care home license. Confirmed reports of abuse, neglect, or exploitation can result in denial of an assisted living facility, adult day care center, or adult family care home license.

All certified nursing assistants working in nursing homes are required to undergo employment background screening, including central abuse registry screening, conducted by FDLE and the Department of Children and Family Services, as provided under chapter 435, F.S. Section 400.512, F.S., states that all staff who enter a patient's home and the administrator of the home health agency delivering services to the patient must be screened by FDLE and the Department of Children and Family Services through the central abuse registry. Homemakers, companions, sitters, and nurse registries also fall under s. 400.512, F.S., screening requirements. When direct-care staff fail to meet screening requirements in nursing homes, home health agencies, nurse registries, and homemaker, companion, and adult sitter services agencies, those individuals must be barred from employment. There are no background screening requirements for abortion clinics, ambulatory surgical centers, birthing centers, clinical laboratories, drug-free workplace laboratories, homes for special services, hospices, hospitals, multiphasic health testing centers, organ and tissue procurement organizations, prescribed pediatric extended care centers, private utilization review agents, radiation therapy centers, or transitional living facilities.

### **The Drug-Free Workplace Act**

Chapter 112, F.S., provides for the regulation of public officers and employees. Under part I of this chapter the term, "employer," is defined to mean the state or any county, municipality, or special district or any subdivision or agency of any of these governmental entities, but does not include any law enforcement agency or firefighting agency in the state. The term, "employee," is defined as an individual employed by any employer. Part I of chapter 112, F.S., relates to the conditions of employment, retirement, and travel expenses between public employers and public employees. This part lays out the general guidelines for public employers in their relationships with their employees.

Chapter 96-289, Laws of Florida, amended s. 112.0455, F.S., to authorize AHCA, under the Drug-Free Workplace Act, to adopt rules using criteria established by the United States Department of Health and Human Services as guidelines for modeling the state drug-testing program for analysis of, among other specimen types: urine, hair, and blood specimens. The agency may determine the appropriate minimum specimen amounts for drug testing, but only in conformity with the act. Also, standards were added to the law relating to collecting of hair specimens, transporting hair specimens to the testing facility, and screening hair specimens for:

marijuana, cocaine, opiate/synthetic narcotics and metabolites, phencyclidine, and amphetamines. Additionally, standards were provided for screening quality control. Furthermore, hair testing facilities are required to enroll with and demonstrate to an “independent group” satisfactory performance in an established proficiency testing program. Satisfactory performance of drug testing facilities is required based on maintaining an “overall testing event score” that is equivalent to passing proficiency scores for other drug testing matrices. Unsuccessful performance by a testing facility is defined as “failure to achieve satisfactory performance in two consecutive testing events, or two out of three consecutive testing events.”

### **Home Health Agencies**

The Agency for Health Care Administration licenses home health agencies. The agency must process a licensure application, complete with its supporting documentation, within 60 days of receipt. There are approximately 1,792 licensed home health agencies. The number of home health agencies is growing at the rate of approximately 30 facilities per month. As a result of fraud, Operation Restore Trust was developed by the federal Health Care Financing Administration to investigate fraud by Medicare providers, including home health agencies; Florida was one of the states targeted for investigation. Operation Restore Trust fraud detection recommendations have been incorporated into the licensure and Medicare certification survey processes currently conducted by AHCA. These measures have increased survey inspection time by 25 percent due to billing reviews and interviews of certain patients.

### **III. Effect of Proposed Changes:**

**Section 1.** Amends subsection 112.0455(12), F.S., providing drug-testing standards for laboratories under the Drug-Free Workplace Act, to require each applicant for licensure to operate a laboratory that is authorized to conduct initial and confirmatory drug tests under the Act, to submit to background screening, as specified in the bill. The background screening requirements are imposed on the licensure applicant’s managing employee and financial officer, and may be imposed on an *individual who is an applicant* if AHCA has *probable cause to believe* that the individual has been convicted of an offense that would prohibit the individual’s employment under chapter 435, F.S., relating to employment screening. Background screening, as provided in the bill, must conform to level 2 employment screening, including FBI, state-criminal-records checks, and an abuse registry check. However, this screening requirement may be waived if an applicant provides proof of such screening within the previous 5 years in conjunction with any other state health care licensure requirements.

An applicant must submit to AHCA, along with the application for initial and renewal licensure: (1) a description and explanation of any exclusions, permanent suspensions, or terminations to which it is subject under the Medicare or Medicaid programs or submit proof of compliance with Medicare or Medicaid program ownership and control-interest disclosure requirements; and (2) for a member of its board of directors, its officers, or any individual owning 5 percent or more of the applicant entity, a description and explanation of any conviction of an offense that would preclude employment under the level 2 screening standards of chapter 435, F.S. An exception is

provided for a director of a not-for-profit organization when the director serves solely in a voluntary capacity, does not regularly participate in the day-to-day operational decisions of the organization, receives no remuneration for services on the board of directors, has no financial interest, and has no family member with a financial interest in the organization, if the director and the organization include a statement in the licensure application affirming such a relationship.

A provisional license may be issued to applicants who have met the standards for the abuse registry check and the state criminal records check, but for whom AHCA has not yet received the results of the FBI criminal records check or to applicants who are waiting for a response from AHCA to a request for exemption from disqualification from employment as provided under chapter 435, F.S. The agency may grant a license to an applicant after the agency receives the FBI results report for each individual who is made subject to the background screening requirements of this section, but only if such reports confirm that all standards have been met or upon AHCA granting an exemption from disqualification under chapter 435, F.S.

The agency may not grant a license to an applicant if the applicant or a managing employee has been found guilty of, regardless of adjudication, or has entered a plea of nolo contendere or guilty to, any offense that would preclude employment under the level 2 screening standards of chapter 435, F.S. However, a license may be granted to an applicant who is granted or whose managing employee is granted an exemption from disqualification. The agency may deny or revoke a license if the applicant: (1) has falsely represented or omitted a material fact in the application relating to exclusion, permanent suspension, or termination from the Medicare or Medicaid program or relating to describing or explaining a board member's, an officer's, or a 5-percent owner's conviction that would preclude employment under level 2 screening standards provided in chapter 435, F.S.; or (2) has been excluded, permanently suspended, or terminated from the Medicare or Medicaid program.

Paragraph 112.0455(13)(b), F.S., is amended to include hair from the body, excluding the pubic area, as an authorized source for specimen collection for purposes of drug-use testing under the Drug-Free Workplace Act. This expansion of authorized specimens applies to both public and private work settings.

**Section 2.** Creates s. 381.60225, F.S., to provide for background screening of applicants for certification to operate organ procurement organizations, tissue banks, and eye banks. (See the description in section 1 of the bill for the screening requirements.)

**Section 3.** Amends s. 383.302, F.S., providing definitions used in the Birth Center Licensure Act, to define the term "agency" and to delete the term and the definition of the term "department."

**Section 4.** Amends s. 383.305, F.S., providing licensure requirements for birth centers, to: change references to the regulatory agency from HRS to AHCA; and add background screening requirements for licensure applicants. (See the description in section 1 of the bill for the screening requirements.)

**Sections 5-16.** Amend ss. 383.308, 383.309, 383.31, 383.312, 383.313, 383.318, 383.32, 383.324, 383.325, 383.327, 383.33, and 383.331, F.S., relating to birth centers, to change references to “department” to “agency” and make other technical revisions.

**Section 17.** Amends s. 390.015 F.S., providing requirements for application for abortion clinic licensure, to establish background screening requirements for licensure applicants. (See the description in section 1 of the bill for the screening requirements.)

**Section 18.** Amends s. 391.206, F.S., providing licensure requirements for prescribed pediatric extended care centers, to establish background screening requirements for licensure applicants. (See the description in section 1 of the bill for the screening requirements.)

**Section 19.** Amends s. 393.063, F.S., providing definitions used in the Developmental Disabilities Prevention and Community Services Act, to define the term “agency.”

**Section 20.** Amends s. 393.067, F.S., providing requirements relating to licensure of residential facilities, to establish background screening requirements for persons applying for licensure to operate intermediate care facilities for the developmentally disabled. (See the description in section 1 of the bill for the screening requirements.)

**Section 21.** Amends s. 394.4787, F.S., providing definitions relating to hospital reimbursement for indigent mental health services and relating to use of certain Public Medical Assistance Trust Fund monies for purchasing acute care mental health services, respectively, to conform a cross-reference to the definition of “specialty psychiatric hospital,” as defined in the hospital and ambulatory surgical center licensure law.

**Section 22.** Amends s. 394.67, F.S., providing definitions used under the Community Alcohol, Drug Abuse, and Mental Health Services Act, to define the terms “agency,” “applicant,” “director,” and “managing employee”; modify the definition of the terms “department,” “district plan,” and “residential treatment facility”; move into alphabetical order the terms “client,” “crisis stabilization unit,” “licensed facility,” “premises,” and “residential treatment facility”; and delete the term “alcohol, drug abuse, and mental health planning council.” The term: “department” is changed to mean the Department of Children and Family Services; “district plan” is changed to no longer require preparation of the combined district alcohol, drug abuse, and mental health plan by the alcohol, drug abuse, and mental health planning council; and “residential treatment facility” is modified by deleting from inclusion within this term short-term residential treatment facilities for treatment of mental illness.

**Sections 23-32.** Amend ss. 394.875, 394.876, 394.877, 394.878, 394.879, 394.90, 394.902, 394.903, 394.904, and 394.907, F.S., providing licensure requirements relating to crisis stabilization units and residential treatment facilities, to: add background screening requirements for persons applying for licensure to operate a crisis stabilization unit or residential treatment facility (See the description in section 1 of the bill for the screening requirements.); change references to the Department of Children and Family Services to: add a provision for AHCA to be

consulted regarding various regulatory activities, provide for joint regulatory jurisdiction between these two agencies in other instances, and transfer the licensure of crisis stabilization units and residential treatment facilities to AHCA; delete requirements for information about the character and competency of the applicant and administrator of the facility currently required as a part of the licensure application process and which would be covered by the background screening requirements of the bill; change references from the Mental Health Facility Licensing Trust Fund to the Health Care Trust Fund; and making other technical changes.

**Section 33.** Amends s. 395.002, F.S., providing definitions relating to licensure regulations pertaining to hospitals and ambulatory surgical centers, to: define the terms “applicant,” “director,” and “managing employee” that are used in a new section establishing screening requirements for hospital and ambulatory surgical center licensure applicants and conform cross-references.

**Section 34.** Creates s. 395.0055, F.S., to require background screening of persons applying for licensure to operate a hospital or ambulatory surgical center. (See the description in section 1 of the bill for the screening requirements.)

**Section 35.** Amends s. 395.0199, F.S., relating to private utilization review regulation, to establish background screening requirements for persons applying to register to perform private utilization review in Florida. (See the description in section 1 of the bill for the screening requirements.)

**Section 36.** Amends paragraph 400.051(1)(b), F.S., relating to homes or institutions exempt from nursing home licensure, to conform a cross-reference to the term “general hospital,” as defined in the hospital and ambulatory surgical center licensure law.

**Section 37.** Amends s. 400.071, F.S., providing for licensure of nursing home facilities, to add background screening requirements for persons applying for licensure to operate a nursing home facility. (See the description in section 1 of the bill for the screening requirements.)

**Sections 38-40.** Amend ss. 400.411, 400.414, and 400.417, F.S., providing for licensure of assisted living facilities, to: (1) establish background screening requirements for persons applying for initial and renewal licensure to operate an assisted living facility (See the description in section 1 of the bill for the screening requirements.); (2) authorize AHCA to take action against an assisted living facility license when it determines that the facility owner or administrator is not of suitable character or competency, as required under employment screening standards contained in s. 435.04, F.S., or the owner or administrator has retained an employee who is not of suitable character or competency under employment screening standards, as indicated by the results of the employee’s criminal-history background screening; and (3) require an applicant for licensure renewal that has not complied with the background screening requirements of section 38 to complete such screening, and to require applicants for renewal that have previously completed background screening to submit to AHCA, under penalty of perjury, a notarized affidavit of compliance with the background screening provisions.

**Sections 41 and 42.** Amend ss. 400.4174 and 400.4176, F.S., providing for reports of abuse in assisted living facilities and providing for notice of change of an assisted living facility administrator, respectively, to: (1) require the facility owner or operator to conduct level 1 background screening, including criminal-history record checks and abuse-registry checks, on all employees hired on or after October 1, 1998, who perform personal services; (2) authorize AHCA to exempt such a person from employment disqualification, as provided under chapter 435, F.S.; (3) provide for alternative means of proving compliance with the level 1 background screening requirements of this section; and (4) make other technical changes.

**Section 43.** Amends ss. 400.461 through 400.518, F.S., to provide the short title and purpose of the Home Health Services Act.

**Section 44.** Amends s. 400.471, F.S., relating to licensure of home health agencies, by requiring applicants to undergo a background screening in accordance with level 2 standards in 435.

**Section 45.** Amends s. 400.506, F.S., providing for licensure of nurse registries, to add background screening requirements for persons applying for licensure to operate a nurse registry. (See the description in section 1 of the bill for the screening requirements.)

**Section 46.** Amends s. 400.555, F.S., providing for licensure of adult day care centers, to add background screening requirements for persons applying for licensure to operate an adult day care center. (See the description in section 1 of the bill for the screening requirements.)

**Section 47.** Amends s. 400.556, F.S., providing for AHCA disciplinary actions against an adult day care center license, owner, operator, or employee, to replace as a basis for such disciplinary action a confirmed report of adult abuse, neglect, or exploitation that has been upheld through the administrative hearing process with a failure of persons who are subject to level 2 background screening, as a condition of licensure as an assisted living facility, to meet the screening standards of the employee screening law or that the center has retained an employee who is subject to level 1 background screening, as required for licensure of an assisted living facility, who does not meet the screening requirements of the employee screening law and who has not been exempted from disqualification by AHCA.

**Section 48.** Amends s. 400.557, F.S., providing for the expiration and renewal of an adult day care center license and issuance of a conditional license or permit for the time-limited operation of an adult day care center, to add a requirement that licensure applicants submit along with their application an affidavit of compliance with background screening requirements for adult day care centers, as provided in s. 400.5572, F.S., created in section 58 of the bill.

**Section 49.** Creates s. 400.5572, F.S., to provide for background screening of direct-care employees of adult day care centers, to: (1) require the facility owner or operator to conduct level 1 background screening, as required under chapter 435, F.S., including criminal-history record checks and abuse-registry checks, on all employees hired on or after October 1, 1998, who perform basic or supportive and optional services as defined in s. 400.551, F.S.; (2) authorize



AHCA to exempt such a person from employment disqualification, as provided under chapter 435, F.S.; (3) provide alternative proofs of compliance with level 1 background screening requirements; and (4) require that AHCA be notified of a confirmed report of adult abuse, neglect, or exploitation when a protective investigator knows that the individual for which such a confirmation is received is an employee, volunteer, operator, or owner of an adult day care center.

**Section 50.** Amends s. 400.606, F.S., relating to hospice licensure, to add background screening requirements for persons applying for licensure to operate a hospice. This section is amended to require that each applicant for licensure to operate a hospice submit with its application information about certain specified sanctions under the Medicare and Medicaid programs by which the applicant has been disciplined. However, the applicant may submit proof of compliance with Medicare or Medicaid program disclosure ownership and control interest requirements as an alternative to submitting information about past sanctioning under those programs.

**Section 51.** Creates s. 400.6065, F.S., providing for background screening of hospice personnel, to add level 2 background screening as a part of the licensure process. (See the description in section 1 of the bill for the screening requirements.)

**Section 52.** Amends s. 400.607, providing for AHCA disciplinary actions against a hospice license, to authorize such disciplinary action upon a determination that: (1) persons who are subject to level 2 background screening, as a condition of hospice licensure, do not meet the employee screening law requirements and have not been exempted from disqualification by AHCA; or (2) an officer, board member, or person owning 5 percent or more of the hospice has been sanctioned by the Medicare or Medicaid program.

**Section 53.** Amends s. 400.619, F.S., providing for licensure of adult family-care homes, to add background screening requirements for persons applying for licensure to operate an adult family-care home. (See the description in section 1 of the bill for the screening requirements.)

**Section 54.** Creates s. 400.6194, F.S., providing grounds on which AHCA may base disciplinary action taken against an adult family-care home license, to authorize such disciplinary action against a licensee for: failure to comply with background screening requirements, as provided in the bill; intentional or negligent acts that materially affect the health, safety, or welfare of the residents of an adult family-care home resident; failure to comply with other specified regulatory requirements; submission of fraudulent information or omission of material facts on a license application or other AHCA required document; failure to pay an assessed administrative fine; violation of licensure regulations that result in conditions or practices that directly threaten the physical or emotional health, safety, or welfare of residents; failure to correct certain cited fire code violations; failure to submit a completed initial license application or to complete an application for licensure renewal within the specified time frames; or exclusion, permanent suspension, or termination of the provider from the Medicare or Medicaid program.

**Section 55.** Amends s. 400.801, F.S., providing for licensure of homes for special services, to add background screening requirements for persons applying for licensure to operate a home for special services. (See the description in section 1 of the bill for the screening requirements.)

**Section 56.** Amends s. 400.805, F.S., providing for licensure of transitional living facilities, to add background screening requirements for persons applying for licensure to operate a transitional living facility. (See the description in section 1 of the bill for the screening requirements.)

**Section 57.** Amends subsection 430.04(2), F.S., providing duties and responsibilities of the Department of Elderly Affairs, to add a new responsibility to a list of responsibilities delegated to the department in its oversight of area agencies on aging that is grounds for disciplinary action against such an agency. The department is required to take disciplinary action against an area agency on aging on the additional basis that the agency *failed to implement and maintain a department-approved client grievance resolution procedure*.

**Section 58.** Amends s. 455.654, F.S., providing definitions relating to the “Patient Self-Referral Act,” to delete a cross reference to s. 455.661, F.S., relating to the licensure of designated health care services.

**Section 59.** Amends s. 468.505(1), F.S., providing statutory construction clarifying that various licensed professionals are not prohibited or restricted in their practice, services, or activities as relates to dietetics and nutrition practice, to correct a cross reference to the term “hospital,” as defined in the hospital and ambulatory surgical center law.

**Section 60.** Amends s. 483.101, F.S., providing for licensure of clinical laboratories, to establish background screening requirements for persons applying for licensure to operate a clinical laboratory. (See the description in section 1 of the bill for the screening requirements.)

**Section 61.** Amends s. 483.106, F.S., providing for a certificate of exemption for a clinical laboratory to perform waived tests, to change the reference to one of the individuals required to apply for a certificate of exemption from “operator” to “director.”

**Section 62.** Amends s. 483.30, F.S., providing for licensure of multiphasic health testing centers, to add background screening requirements for persons applying for licensure to operate a multiphasic health testing center. (See the description in section 1 of the bill for the screening requirements.)

**Section 63.** Repeals s. 455.661, F.S., providing for licensure of designated health care facilities.

**Section 64.** Appropriates \$166,430 from the Health Care Trust Fund to AHCA to fund three full-time positions to implement and administer a background screening exemption program pertaining to direct-care employees of assisted living facilities and adult day care centers, in accordance with requirements of the employment screening law, chapter 435, F.S.

**Section 65.** Makes the background screening requirements contained in the bill applicable to any individual or entity that applies on or after July 1, 1998, for renewal of a license, certificate, or registration.

**Section 66.** Provides for a sunset review for the provisions of this bill requiring background screening.

**Section 67.** Provides a July 1, 1998, effective date.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

##### **B. Public Records/Open Meetings Issues:**

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Subsections 24(a) and (b) of the Florida Constitution.

##### **C. Trust Funds Restrictions:**

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

Persons applying for state licensure, certification, or registration will incur additional costs related to those regulations resulting from the background screening requirements established throughout this bill. According to the Agency for Health Care Administration, the cost of Level 1 screening totals \$21 (\$6 for abuse registry screening and \$15 for state criminal background screening). Level 2 screening costs an additional \$24 for federal criminal background screening for a total of \$45. Approximately 80% of nursing home facilities which receive Medicaid reimbursement are at the rate ceiling. Those facilities would not be able to recoup the costs associated with this screening through the Medicaid *per diem* reimbursement. Staff has not obtained comparable statistics relating to Medicare or Medicaid reimbursement rate structures for other health care facility types.

The provisions in the bill relating to personal care services may have the effect of limiting consumer options to such an extent that prices for such services will increase dramatically and will be even more difficult than present to influence through market dynamics. As provided in the bill, personal care services, such as bathing, dressing, or assisting a person with eating, may be provided, offered, or advertised by only a home health agency licensed by the state with some very limited exceptions.

**C. Government Sector Impact:**

The bill directly appropriates \$166,430 from the Health Care Trust Fund to the Agency for Health Care Administration for three positions and expenses associated with implementing and administering a background screening and exemption program.

Because significant workload increase is anticipated as a result of the screening requirements of the bill, AHCA projects it will incur increased costs and projects that FDLE and the Department of Children and Families will also incur additional costs.

The Department of Children and Family Services indicates that a fee increase will be needed to accommodate timely processing of such a large volume increase in abuse screenings (additional staffing may be needed also). The department stated that screenings actually cost \$18. However, s. 415.107(10), F.S., limits the department to a fee of only one-third the cost of screening, i.e., \$6.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.