

By the Committees on Criminal Justice; Children and Families;  
and Senator Lynn

307-2668-04

1                                       A bill to be entitled  
2           An act relating to the Department of Children  
3           and Family Services; creating ss. 393.135,  
4           394.4593, and 916.1075, F.S.; defining the  
5           terms "employee," "sexual activity," and  
6           "sexual misconduct"; providing that it is a  
7           second-degree felony for an employee to engage  
8           in sexual misconduct with certain  
9           developmentally disabled clients, certain  
10          mental health patients, or certain forensic  
11          clients; providing certain exceptions;  
12          requiring certain employees to report sexual  
13          misconduct to the central abuse hotline of the  
14          department and to law enforcement; providing  
15          for notification to the inspector general of  
16          the department; providing that it is a  
17          first-degree misdemeanor to knowingly and  
18          willfully fail to make a report as required, or  
19          to prevent another from doing so, or to submit  
20          inaccurate or untruthful information; providing  
21          that it is a third-degree felony to coerce or  
22          threaten another person to alter testimony or a  
23          report with respect to an incident of sexual  
24          misconduct; providing criminal penalties;  
25          specifying that these provisions and penalties  
26          are in addition to any other actions provided  
27          for by law; amending s. 435.03, F.S.; expanding  
28          level 1 screening standards to include criminal  
29          offenses related to sexual misconduct with  
30          certain developmentally disabled clients,  
31          mental health patients, or forensic clients and

1 the reporting of such sexual misconduct;  
2 amending s. 435.04, F.S.; expanding level 2  
3 screening standards to include the offenses  
4 related to sexual misconduct with certain  
5 developmentally disabled clients, mental health  
6 patients, or forensic clients and the reporting  
7 of such sexual misconduct; reenacting and  
8 amending s. 943.0585, F.S., relating to  
9 court-ordered expunction of criminal history  
10 records, for the purpose of incorporating the  
11 amendment to s. 943.059, F.S., in a reference  
12 thereto; providing that certain criminal  
13 history records relating to sexual misconduct  
14 with developmentally disabled clients, mental  
15 health patients, or forensic clients, or the  
16 reporting of such sexual misconduct, may not be  
17 expunged; providing that the application for  
18 eligibility for expunction certify that the  
19 criminal history record does not relate to an  
20 offense involving sexual misconduct with  
21 certain developmentally disabled clients,  
22 mental health patients, or forensic clients, or  
23 the reporting of such sexual misconduct;  
24 reenacting and amending s. 943.059, F.S.,  
25 relating to court-ordered sealing of criminal  
26 history records, for the purpose of  
27 incorporating the amendment to s. 943.0585,  
28 F.S., in a reference thereto; providing that  
29 certain criminal history records relating to  
30 sexual misconduct with developmentally disabled  
31 clients, mental health patients, or forensic

1 clients, or the reporting of such sexual  
2 misconduct, may not be sealed; providing that  
3 the application for eligibility for sealing  
4 certify that the criminal history record does  
5 not relate to an offense involving sexual  
6 misconduct with certain developmentally  
7 disabled clients, mental health patients, or  
8 forensic clients, or the reporting of such  
9 sexual misconduct; amending s. 400.215, F.S.,  
10 and reenacting paragraphs (b) and (c) of  
11 subsection (2) and subsection (3), relating to  
12 background screening requirements for certain  
13 nursing home personnel, for the purpose of  
14 incorporating the amendments to ss. 435.03 and  
15 435.04, F.S., in references thereto; correcting  
16 a cross-reference; amending s. 400.964, F.S.,  
17 and reenacting subsections (1), (2), and (7),  
18 relating to background screening requirements  
19 for certain personnel employed by intermediate  
20 care facilities for the developmentally  
21 disabled, for the purpose of incorporating the  
22 amendments to ss. 435.03 and 435.04, F.S., in  
23 references thereto; correcting a  
24 cross-reference; amending s. 435.045, F.S., and  
25 reenacting paragraph (a) of subsection (1),  
26 relating to requirements for the placement of  
27 dependent children, for the purpose of  
28 incorporating the amendment to s. 435.04, F.S.,  
29 in a reference thereto; correcting a  
30 cross-reference; reenacting ss. 400.414(1)(f)  
31 and (g), 400.4174, 400.509(4)(a), (b), (c),

1 (d), (f), and (g), 400.556(2)(c), 400.6065(1),  
2 (2), and (4), 400.980(4)(a), (b), (c), (d),  
3 (f), and (g), 409.175(2)(k), 409.907(8)(d),  
4 435.05(1) and (3), 744.3135, and 985.04(2),  
5 F.S., relating to denial, revocation, or  
6 suspension of license to operate an assisted  
7 living facility; background screening  
8 requirements for certain personnel employed by  
9 assisted living facilities; registration of  
10 particular home health care service providers;  
11 denial, suspension, or revocation of license to  
12 operate adult day care centers; background  
13 screening requirements for certain hospice  
14 personnel; background screening requirements  
15 for registrants of the health care service  
16 pools; the definition of "screening" in  
17 connection with the licensure of family foster  
18 homes, residential child-caring agencies, and  
19 child-placing agencies; background screening  
20 requirements of Medicaid providers; employment  
21 of persons in positions requiring background  
22 screening; credit and criminal investigations  
23 of guardians; and oaths, records, and  
24 confidential information pertaining to juvenile  
25 offenders, respectively, for the purpose of  
26 incorporating the amendments to ss. 435.03 and  
27 435.04, F.S., in references thereto; reenacting  
28 ss. 400.512, 400.619(4), 400.6194(1), 400.953,  
29 409.912(32), 435.07(4), 464.018(1)(e),  
30 744.309(3), 744.474(12), and 985.407(4), F.S.,  
31 relating to background screening of home health

1 agency personnel, nurse registry personnel,  
2 companions, and homemakers; application and  
3 renewal of adult family-care home provider  
4 licenses; denial, revocation, or suspension of  
5 adult family-care home provider license;  
6 background screening of home medical equipment  
7 provider personnel and background screening  
8 requirements for certain persons responsible  
9 for managed care plans; exemptions from  
10 disqualification from employment; denial of  
11 nursing license and disciplinary actions  
12 against such licensees; disqualification of  
13 guardians; removal of guardians; and background  
14 screening requirements for certain Department  
15 of Juvenile Justice personnel, respectively,  
16 for the purpose of incorporating the amendment  
17 to s. 435.03, F.S., in references thereto;  
18 reenacting ss. 39.001(2)(b), 39.821(1),  
19 110.1127(3)(a) and (c), 112.0455(12)(a),  
20 381.0059(1), (2), and (4), 381.60225(1)(a),  
21 (b), (c), (d), (f), and (g), 383.305(7)(a),  
22 (b), (c), (d), (f), and (g), 390.015(3)(a),  
23 (b), (c), (d), (f), and (g), 393.0655(1),  
24 393.067(6)(a), (b), (c), (d), (f), and (g),  
25 394.875(13)(a), (b), (c), (d), (f), and (g),  
26 395.0055(1), (2), (3), (4), (6), and (8),  
27 395.0199(4)(a), (b), (c), (d), (f), and (g),  
28 397.451(1)(a), 400.071(4)(a), (b), (c), (d),  
29 and (f), 400.471(4)(a), (b), (c), (d), (f), and  
30 (g), 400.506(2)(a), (b), (c), (d), (f), and  
31 (g), 400.5572, 400.607(3)(a), 400.801(4)(a),

1 (b), (c), (d), (f), and (g), 400.805(3)(a),  
2 (b), (c), (d), (f), and (g), 400.906(5)(a),  
3 (b), (c), (d), (f), and (g), 400.931(5)(a),  
4 (b), (c), (e), and (f), 400.962(10)(a), (b),  
5 (c), (d), and (f), 400.991(7)(b) and (d),  
6 402.302(2)(e), 402.305(2)(a), 402.3054(3),  
7 483.30(2)(a), (b), (c), (d), (f), and (g),  
8 483.101(2)(a), (b), (c), (d), (f), and (g),  
9 744.1085(5), 984.01(2)(b), 985.01(2)(b),  
10 1002.36(7)(a) and (b), F.S., relating to  
11 background screening requirements for certain  
12 Department of Children and Family Services  
13 personnel; qualifications of guardians ad  
14 litem; security checks of certain public  
15 officers and employees; background screening  
16 requirements of certain laboratory personnel in  
17 connection with the Drug-Free Workplace Act;  
18 background screening requirements for school  
19 health services personnel; background screening  
20 of certain personnel of the public health  
21 system; background screening and licensure of  
22 birth center personnel; background screening  
23 and licensure of abortion clinic personnel;  
24 background screening of direct service  
25 providers; background screening and licensure  
26 of personnel of intermediate care facilities  
27 for the developmentally disabled; background  
28 screening of mental health personnel;  
29 background screening and licensure of personnel  
30 of crisis stabilization units, residential  
31 treatment facilities, and residential treatment

1 centers for children and adolescents;  
2 background screening and licensure of personnel  
3 of hospitals, ambulatory surgical centers, and  
4 mobile surgical facilities; background  
5 screening of certain personnel in connection  
6 with registration for private utilization  
7 reviews; background screening of certain  
8 service provider personnel; background  
9 screening and licensure of certain long-term  
10 care facility personnel; background screening  
11 and licensure of certain home health agency  
12 personnel; background screening and licensure  
13 of nurse registry applicants; background  
14 screening of certain adult day care center  
15 personnel; denial or revocation of hospice  
16 license; background screening and licensure of  
17 certain transitional living facility personnel;  
18 background screening and licensure of certain  
19 prescribed pediatric extended care center  
20 personnel; background screening and licensure  
21 of certain home medical equipment provider  
22 personnel; background screening and licensure  
23 of certain personnel of intermediate care  
24 facilities for the developmentally disabled;  
25 background screening and licensure of health  
26 care clinic personnel; the definition of "child  
27 care facility" in connection with background  
28 screening of operators; background screening  
29 requirements for personnel of child care  
30 facilities; background screening requirements  
31 for child enrichment service providers;

1 background screening and licensure of certain  
2 personnel of multiphasic health testing  
3 centers; background screening and licensure of  
4 certain clinical laboratory personnel;  
5 regulation of professional guardians;  
6 background screening of certain Department of  
7 Juvenile Justice and Department of Children and  
8 Family Services personnel in connection with  
9 programs for children and families in need of  
10 services; and background screening of certain  
11 Department of Juvenile Justice and Department  
12 of Children and Family Services personnel in  
13 connection with juvenile justice programs,  
14 background screening of personnel of the  
15 Florida School for the Deaf and the Blind,  
16 respectively, for the purposes of incorporating  
17 the amendment to s. 435.04, F.S., in references  
18 thereto; amending s. 394.4572, F.S.; requiring  
19 the department and the agency to check the  
20 employment history of a person when screening  
21 mental health personnel for employment;  
22 reenacting s. 943.0582(2)(a) and (6), F.S.,  
23 relating to prearrest, postarrest, or teen  
24 court diversion program expunction for the  
25 purpose of incorporating the amendments to ss.  
26 943.0585 and 943.059, F.S., in references  
27 thereto; reenacting s. 943.053(7), (8), and  
28 (9), F.S., relating to dissemination of  
29 criminal justice information, for the purpose  
30 of incorporating the amendment to s. 943.059,  
31



1 F.S., in references thereto; providing  
2 applicability; providing an effective date.

3  
4 Be It Enacted by the Legislature of the State of Florida:

5  
6 Section 1. Section 393.135, Florida Statutes, is  
7 created to read:

8 393.135 Sexual misconduct prohibited; reporting  
9 required; penalties.--

10 (1) As used in this section, the term:

11 (a) "Employee" includes any person under contract with  
12 the agency or the department and any paid staff member,  
13 volunteer, or intern of the agency or the department or any  
14 person under contract with the agency or the department or any  
15 person providing care or support to a client on behalf of the  
16 department or its providers.

17 (b) "Sexual activity" means:

18 1. The oral, anal, or vaginal penetration by, or union  
19 with, the sexual organ of another or the anal or vaginal  
20 penetration of another by any other object;

21 2. Intentionally touching in a lewd or lascivious  
22 manner the breasts, genitals, the genital area, or buttocks,  
23 or the clothing covering them, of a person, or forcing or  
24 enticing a person to touch the perpetrator;

25 3. Intentionally masturbating in the presence of  
26 another person;

27 4. Intentionally exposing the genitals in a lewd or  
28 lascivious manner in the presence of another person; or

29 5. Intentionally committing any other sexual act that  
30 does not involve actual physical or sexual contact with the  
31 victim, including, but not limited to, sadomasochistic abuse,

1 sexual bestiality, or the simulation of any act involving  
2 sexual activity in the presence of a victim.

3 (c) "Sexual misconduct" means any sexual activity  
4 between an employee and a client, regardless of the consent of  
5 the client. The term does not include an act done for a bona  
6 fide medical purpose or an internal search conducted in the  
7 lawful performance of duty by an employee.

8 (2) An employee who engages in sexual misconduct with  
9 an individual with a developmental disability who:

10 (a) Is in the custody of the department;

11 (b) Resides in a residential facility, including any  
12 comprehensive transitional education program, developmental  
13 services institution, foster care facility, group home  
14 facility, intermediate care facility for the developmentally  
15 disabled, or residential habilitation center; or

16 (c) Receives services from a family care program

17  
18 commits a felony of the second degree, punishable as provided  
19 in s. 775.082, s. 775.083, or s. 775.084. An employee may be  
20 found guilty of violating this subsection without having  
21 committed the crime of sexual battery.

22 (3) The consent of the client to sexual activity is  
23 not a defense to prosecution under this section.

24 (4) This section does not apply to an employee who:

25 (a) Is legally married to the client; or

26 (b) Had no reason to believe that the person with whom  
27 the employee engaged in sexual misconduct is a client  
28 receiving services as described in subsection (2).

29 (5) An employee who witnesses sexual misconduct, or  
30 who otherwise knows or has reasonable cause to suspect that a  
31 person has engaged in sexual misconduct, shall immediately

1 report the incident to the department's central abuse hotline  
2 and to law enforcement. Such employee shall also prepare,  
3 date, and sign an independent report that specifically  
4 describes the nature of the sexual misconduct, the location  
5 and time of the incident, and the persons involved. The  
6 employee shall deliver the report to the supervisor or program  
7 director, who is responsible for providing copies to the  
8 department's inspector general. The inspector general shall  
9 immediately conduct an appropriate administrative  
10 investigation, and, if there is probable cause to believe that  
11 sexual misconduct has occurred, the inspector general shall  
12 notify the state attorney in the circuit in which the incident  
13 occurred.

14 (6)(a) Any person who is required to make a report  
15 under this section and who knowingly or willfully fails to do  
16 so, or who knowingly or willfully prevents another person from  
17 doing so, commits a misdemeanor of the first degree,  
18 punishable as provided in s. 775.082 or s. 775.083.

19 (b) Any person who knowingly or willfully submits  
20 inaccurate, incomplete, or untruthful information with respect  
21 to a report required under this section commits a misdemeanor  
22 of the first degree, punishable as provided in s. 775.082 or  
23 s. 775.083.

24 (c) Any person who knowingly or willfully coerces or  
25 threatens any other person with the intent to alter testimony  
26 or a written report regarding an incident of sexual misconduct  
27 commits a felony of the third degree, punishable as provided  
28 in s. 775.082, s. 775.083, or s. 775.084.

29 (7) The provisions and penalties set forth in this  
30 section are in addition to any other civil, administrative, or  
31

1 criminal action provided by law which may be applied against  
2 an employee.

3 Section 2. Section 394.4593, Florida Statutes, is  
4 created to read:

5 394.4593 Sexual misconduct prohibited; reporting  
6 required; penalties.--

7 (1) As used in this section, the term:

8 (a) "Employee" includes any person under contract with  
9 the department and any paid staff member, volunteer, or intern  
10 of the department or any person under contract with the  
11 department or any person providing care or support to a  
12 patient on behalf of the department or its providers.

13 (b) "Sexual activity" means:

14 1. The oral, anal, or vaginal penetration by, or union  
15 with, the sexual organ of another or the anal or vaginal  
16 penetration of another by any other object;

17 2. Intentionally touching in a lewd or lascivious  
18 manner the breasts, genitals, the genital area, or buttocks,  
19 or the clothing covering them, of a person, or forcing or  
20 enticing a person to touch the perpetrator;

21 3. Intentionally masturbating in the presence of  
22 another person;

23 4. Intentionally exposing the genitals in a lewd or  
24 lascivious manner in the presence of another person; or

25 5. Intentionally committing any other sexual act that  
26 does not involve actual physical or sexual contact with the  
27 victim, including, but not limited to, sadomasochistic abuse,  
28 sexual bestiality, or the simulation of any act involving  
29 sexual activity in the presence of a victim.

30 (c) "Sexual misconduct" means any sexual activity  
31 between an employee and a patient, regardless of the consent

1 of the patient. The term does not include an act done for a  
2 bona fide medical purpose or an internal search conducted in  
3 the lawful performance of duty by an employee.

4 (2) An employee who engages in sexual misconduct with  
5 a patient who:

6 (a) Is in the custody of the department; or

7 (b) Resides in a receiving facility as defined in s.  
8 394.455(26) or a treatment facility as defined in s.  
9 394.455(30),

10  
11 commits a felony of the second degree, punishable as provided  
12 in s. 775.082, s. 775.083, or s. 775.084. An employee may be  
13 found guilty of violating this subsection without having  
14 committed the crime of sexual battery.

15 (3) The consent of the patient to sexual activity is  
16 not a defense to prosecution under this section.

17 (4) This section does not apply to an employee who:

18 (a) Is legally married to the patient; or

19 (b) Had no reason to believe that the person with whom  
20 the employee engaged in sexual misconduct is a patient  
21 receiving services as described in subsection (2).

22 (5) An employee who witnesses sexual misconduct, or  
23 who otherwise knows or has reasonable cause to suspect that a  
24 person has engaged in sexual misconduct, shall immediately  
25 report the incident to the department's central abuse hotline  
26 and to law enforcement. Such employee shall also prepare,  
27 date, and sign an independent report that specifically  
28 describes the nature of the sexual misconduct, the location  
29 and time of the incident, and the persons involved. The  
30 employee shall deliver the report to the supervisor or program  
31 director, who is responsible for providing copies to the

1 department's inspector general. The inspector general shall  
2 immediately conduct an appropriate administrative  
3 investigation, and, if there is probable cause to believe that  
4 sexual misconduct has occurred, the inspector general shall  
5 notify the state attorney in the circuit in which the incident  
6 occurred.

7 (6)(a) Any person who is required to make a report  
8 under this section and who knowingly or willfully fails to do  
9 so, or who knowingly or willfully prevents another person from  
10 doing so, commits a misdemeanor of the first degree,  
11 punishable as provided in s. 775.082 or s. 775.083.

12 (b) Any person who knowingly or willfully submits  
13 inaccurate, incomplete, or untruthful information with respect  
14 to a report required under this section commits a misdemeanor  
15 of the first degree, punishable as provided in s. 775.082 or  
16 s. 775.083.

17 (c) Any person who knowingly or willfully coerces or  
18 threatens any other person with the intent to alter testimony  
19 or a written report regarding an incident of sexual misconduct  
20 commits a felony of the third degree, punishable as provided  
21 in s. 775.082, s. 775.083, or s. 775.084.

22 (7) The provisions and penalties set forth in this  
23 section are in addition to any other civil, administrative, or  
24 criminal action provided by law which may be applied against  
25 an employee.

26 Section 3. Section 916.1075, Florida Statutes, is  
27 created to read:

28 916.1075 Sexual misconduct prohibited; reporting  
29 required; penalties.--

30 (1) As used in this section, the term:  
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1           (a) "Employee" includes any person under contract with  
2 the department and any paid staff member, volunteer, or intern  
3 of the department or any person under contract with the  
4 department or any person providing care or support to a client  
5 on behalf of the department or its providers.

6           (b) "Sexual activity" means:

7           1. The oral, anal, or vaginal penetration by, or union  
8 with, the sexual organ of another or the anal or vaginal  
9 penetration of another by any other object;

10           2. Intentionally touching in a lewd or lascivious  
11 manner the breasts, genitals, the genital area, or buttocks,  
12 or the clothing covering them, of a person, or forcing or  
13 enticing a person to touch the perpetrator;

14           3. Intentionally masturbating in the presence of  
15 another person;

16           4. Intentionally exposing the genitals in a lewd or  
17 lascivious manner in the presence of another person; or

18           5. Intentionally committing any other sexual act that  
19 does not involve actual physical or sexual contact with the  
20 victim, including, but not limited to, sadomasochistic abuse,  
21 sexual bestiality, or the simulation of any act involving  
22 sexual activity in the presence of a victim.

23           (c) "Sexual misconduct" means any sexual activity  
24 between an employee and a client, regardless of the consent of  
25 the client. The term does not include an act done for a bona  
26 fide medical purpose or an internal search conducted in the  
27 lawful performance of duty by an employee.

28           (2) An employee who engages in sexual misconduct with  
29 a client who resides in a civil or forensic state mental  
30 health treatment facility commits a felony of the second  
31 degree, punishable as provided in s. 775.082, s. 775.083, or

1 s. 775.084. An employee may be found guilty of violating this  
2 subsection without having committed the crime of sexual  
3 battery.

4 (3) The consent of the client to sexual activity is  
5 not a defense to prosecution under this section.

6 (4) This section does not apply to an employee who:

7 (a) Is legally married to the client; or

8 (b) Had no reason to believe that the person with whom  
9 the employee engaged in sexual misconduct is a client  
10 receiving services as described in subsection (2).

11 (5) An employee who witnesses sexual misconduct, or  
12 who otherwise knows or has reasonable cause to suspect that a  
13 person has engaged in sexual misconduct, shall immediately  
14 report the incident to the department's central abuse hotline  
15 or law enforcement. Such employee shall also prepare, date,  
16 and sign an independent report that specifically describes the  
17 nature of the sexual misconduct, the location and time of the  
18 incident, and the persons involved. The employee shall deliver  
19 the report to the supervisor or program director, who is  
20 responsible for providing copies to the department's inspector  
21 general. The inspector general shall immediately conduct an  
22 appropriate administrative investigation, and, if there is  
23 probable cause to believe that sexual misconduct has occurred,  
24 the inspector general shall notify the state attorney in the  
25 circuit in which the incident occurred.

26 (6)(a) Any person who is required to make a report  
27 under this section and who knowingly or willfully fails to do  
28 so, or who knowingly or willfully prevents another person from  
29 doing so, commits a misdemeanor of the first degree,  
30 punishable as provided in s. 775.082 or s. 775.083.  
31



1           (b) Any person who knowingly or willfully submits  
2 inaccurate, incomplete, or untruthful information with respect  
3 to a report required under this section commits a misdemeanor  
4 of the first degree, punishable as provided in s. 775.082 or  
5 s. 775.083.

6           (c) Any person who knowingly or willfully coerces or  
7 threatens any other person with the intent to alter testimony  
8 or a written report regarding an incident of sexual misconduct  
9 commits a felony of the third degree, punishable as provided  
10 in s. 775.082, s. 775.083, or s. 775.084.

11           (7) The provisions and penalties set forth in this  
12 section are in addition to any other civil, administrative, or  
13 criminal action provided by law which may be applied against  
14 an employee.

15           Section 4. Subsection (2) of section 435.03, Florida  
16 Statutes, is amended to read:

17           435.03 Level 1 screening standards.--

18           (2) Any person for whom employment screening is  
19 required by statute must not have been found guilty of,  
20 regardless of adjudication, or entered a plea of nolo  
21 contendere or guilty to, any offense prohibited under any of  
22 the following provisions of the Florida Statutes or under any  
23 similar statute of another jurisdiction:

24           (a) Section 393.135, relating to sexual misconduct  
25 with certain developmentally disabled clients and reporting of  
26 such sexual misconduct.

27           (b) Section 394.4593, relating to sexual misconduct  
28 with certain mental health patients and reporting of such  
29 sexual misconduct.

30           (c)(a) Section 415.111, relating to abuse, neglect, or  
31 exploitation of a vulnerable adult.

1           ~~(d)~~(b) Section 782.04, relating to murder.  
2           ~~(e)~~(c) Section 782.07, relating to manslaughter,  
3 aggravated manslaughter of an elderly person or disabled  
4 adult, or aggravated manslaughter of a child.  
5           ~~(f)~~(d) Section 782.071, relating to vehicular  
6 homicide.  
7           ~~(g)~~(e) Section 782.09, relating to killing of an  
8 unborn child by injury to the mother.  
9           ~~(h)~~(f) Section 784.011, relating to assault, if the  
10 victim of the offense was a minor.  
11           ~~(i)~~(g) Section 784.021, relating to aggravated  
12 assault.  
13           ~~(j)~~(h) Section 784.03, relating to battery, if the  
14 victim of the offense was a minor.  
15           ~~(k)~~(i) Section 784.045, relating to aggravated  
16 battery.  
17           ~~(l)~~(j) Section 787.01, relating to kidnapping.  
18           ~~(m)~~(k) Section 787.02, relating to false imprisonment.  
19           ~~(n)~~(l) Section 794.011, relating to sexual battery.  
20           ~~(o)~~(m) Former s. 794.041, relating to prohibited acts  
21 of persons in familial or custodial authority.  
22           ~~(p)~~(n) Chapter 796, relating to prostitution.  
23           ~~(q)~~(o) Section 798.02, relating to lewd and lascivious  
24 behavior.  
25           ~~(r)~~(p) Chapter 800, relating to lewdness and indecent  
26 exposure.  
27           ~~(s)~~(q) Section 806.01, relating to arson.  
28           ~~(t)~~(r) Chapter 812, relating to theft, robbery, and  
29 related crimes, if the offense was a felony.  
30           ~~(u)~~(s) Section 817.563, relating to fraudulent sale of  
31 controlled substances, only if the offense was a felony.

1       ~~(v)(t)~~ Section 825.102, relating to abuse, aggravated  
2 abuse, or neglect of an elderly person or disabled adult.

3       ~~(w)(u)~~ Section 825.1025, relating to lewd or  
4 lascivious offenses committed upon or in the presence of an  
5 elderly person or disabled adult.

6       ~~(x)(v)~~ Section 825.103, relating to exploitation of an  
7 elderly person or disabled adult, if the offense was a felony.

8       ~~(y)(w)~~ Section 826.04, relating to incest.

9       ~~(z)(x)~~ Section 827.03, relating to child abuse,  
10 aggravated child abuse, or neglect of a child.

11       ~~(aa)(y)~~ Section 827.04, relating to contributing to  
12 the delinquency or dependency of a child.

13       ~~(bb)(z)~~ Former s. 827.05, relating to negligent  
14 treatment of children.

15       ~~(cc)(aa)~~ Section 827.071, relating to sexual  
16 performance by a child.

17       ~~(dd)(bb)~~ Chapter 847, relating to obscene literature.

18       ~~(ee)(cc)~~ Chapter 893, relating to drug abuse  
19 prevention and control, only if the offense was a felony or if  
20 any other person involved in the offense was a minor.

21       ~~(ff)~~ Section 916.0175, relating to sexual misconduct  
22 with certain forensic clients and reporting of such sexual  
23 misconduct.

24       Section 5. Subsection (2) of section 435.04, Florida  
25 Statutes, is amended to read:

26       435.04 Level 2 screening standards.--

27       (2) The security background investigations under this  
28 section must ensure that no persons subject to the provisions  
29 of this section have been found guilty of, regardless of  
30 adjudication, or entered a plea of nolo contendere or guilty  
31 to, any offense prohibited under any of the following

1 provisions of the Florida Statutes or under any similar  
2 statute of another jurisdiction:

3 (a) Section 393.135, relating to sexual misconduct  
4 with certain developmentally disabled clients and reporting of  
5 such sexual misconduct.

6 (b) Section 394.4593, relating to sexual misconduct  
7 with certain mental health patients and reporting of such  
8 sexual misconduct.

9 ~~(c)(a)~~ Section 415.111, relating to adult abuse,  
10 neglect, or exploitation of aged persons or disabled adults.

11 ~~(d)(b)~~ Section 782.04, relating to murder.

12 ~~(e)(c)~~ Section 782.07, relating to manslaughter,  
13 aggravated manslaughter of an elderly person or disabled  
14 adult, or aggravated manslaughter of a child.

15 ~~(f)(d)~~ Section 782.071, relating to vehicular  
16 homicide.

17 ~~(g)(e)~~ Section 782.09, relating to killing of an  
18 unborn child by injury to the mother.

19 ~~(h)(f)~~ Section 784.011, relating to assault, if the  
20 victim of the offense was a minor.

21 ~~(i)(g)~~ Section 784.021, relating to aggravated  
22 assault.

23 ~~(j)(h)~~ Section 784.03, relating to battery, if the  
24 victim of the offense was a minor.

25 ~~(k)(i)~~ Section 784.045, relating to aggravated  
26 battery.

27 ~~(l)(j)~~ Section 784.075, relating to battery on a  
28 detention or commitment facility staff.

29 ~~(m)(k)~~ Section 787.01, relating to kidnapping.

30 ~~(n)(l)~~ Section 787.02, relating to false imprisonment.  
31

1           ~~(o)~~(m) Section 787.04(2), relating to taking,  
2           enticing, or removing a child beyond the state limits with  
3           criminal intent pending custody proceedings.  
4           ~~(p)~~(n) Section 787.04(3), relating to carrying a child  
5           beyond the state lines with criminal intent to avoid producing  
6           a child at a custody hearing or delivering the child to the  
7           designated person.  
8           ~~(q)~~(o) Section 790.115(1), relating to exhibiting  
9           firearms or weapons within 1,000 feet of a school.  
10          ~~(r)~~(p) Section 790.115(2)(b), relating to possessing  
11          an electric weapon or device, destructive device, or other  
12          weapon on school property.  
13          ~~(s)~~(q) Section 794.011, relating to sexual battery.  
14          ~~(t)~~(r) Former s. 794.041, relating to prohibited acts  
15          of persons in familial or custodial authority.  
16          ~~(u)~~(s) Chapter 796, relating to prostitution.  
17          ~~(v)~~(t) Section 798.02, relating to lewd and lascivious  
18          behavior.  
19          ~~(w)~~(u) Chapter 800, relating to lewdness and indecent  
20          exposure.  
21          ~~(x)~~(v) Section 806.01, relating to arson.  
22          ~~(y)~~(w) Chapter 812, relating to theft, robbery, and  
23          related crimes, if the offense is a felony.  
24          ~~(z)~~(x) Section 817.563, relating to fraudulent sale of  
25          controlled substances, only if the offense was a felony.  
26          ~~(aa)~~(y) Section 825.102, relating to abuse, aggravated  
27          abuse, or neglect of an elderly person or disabled adult.  
28          ~~(bb)~~(z) Section 825.1025, relating to lewd or  
29          lascivious offenses committed upon or in the presence of an  
30          elderly person or disabled adult.  
31

1           ~~(cc)~~~~(aa)~~ Section 825.103, relating to exploitation of  
2 an elderly person or disabled adult, if the offense was a  
3 felony.  
4           ~~(dd)~~~~(bb)~~ Section 826.04, relating to incest.  
5           ~~(ee)~~~~(cc)~~ Section 827.03, relating to child abuse,  
6 aggravated child abuse, or neglect of a child.  
7           ~~(ff)~~~~(dd)~~ Section 827.04, relating to contributing to  
8 the delinquency or dependency of a child.  
9           ~~(gg)~~~~(ee)~~ Former s. 827.05, relating to negligent  
10 treatment of children.  
11           ~~(hh)~~~~(ff)~~ Section 827.071, relating to sexual  
12 performance by a child.  
13           ~~(ii)~~~~(gg)~~ Section 843.01, relating to resisting arrest  
14 with violence.  
15           ~~(jj)~~~~(hh)~~ Section 843.025, relating to depriving a law  
16 enforcement, correctional, or correctional probation officer  
17 means of protection or communication.  
18           ~~(kk)~~~~(ii)~~ Section 843.12, relating to aiding in an  
19 escape.  
20           ~~(ll)~~~~(jj)~~ Section 843.13, relating to aiding in the  
21 escape of juvenile inmates in correctional institutions.  
22           ~~(mm)~~~~(kk)~~ Chapter 847, relating to obscene literature.  
23           ~~(nn)~~~~(ll)~~ Section 874.05(1), relating to encouraging or  
24 recruiting another to join a criminal gang.  
25           ~~(oo)~~~~(mm)~~ Chapter 893, relating to drug abuse  
26 prevention and control, only if the offense was a felony or if  
27 any other person involved in the offense was a minor.  
28           (pp) Section 916.0175, relating to sexual misconduct  
29 with certain forensic clients and reporting of such sexual  
30 misconduct.  
31

1           ~~(qq)~~~~(nn)~~ Section 944.35(3), relating to inflicting  
2 cruel or inhuman treatment on an inmate resulting in great  
3 bodily harm.

4           ~~(rr)~~~~(oo)~~ Section 944.46, relating to harboring,  
5 concealing, or aiding an escaped prisoner.

6           ~~(ss)~~~~(pp)~~ Section 944.47, relating to introduction of  
7 contraband into a correctional facility.

8           ~~(tt)~~~~(qq)~~ Section 985.4045, relating to sexual  
9 misconduct in juvenile justice programs.

10           ~~(uu)~~~~(rr)~~ Section 985.4046, relating to contraband  
11 introduced into detention facilities.

12           Section 6. Section 943.0585, Florida Statutes, is  
13 amended to read:

14           943.0585 Court-ordered expunction of criminal history  
15 records.--The courts of this state have jurisdiction over  
16 their own procedures, including the maintenance, expunction,  
17 and correction of judicial records containing criminal history  
18 information to the extent such procedures are not inconsistent  
19 with the conditions, responsibilities, and duties established  
20 by this section. Any court of competent jurisdiction may order  
21 a criminal justice agency to expunge the criminal history  
22 record of a minor or an adult who complies with the  
23 requirements of this section. The court shall not order a  
24 criminal justice agency to expunge a criminal history record  
25 until the person seeking to expunge a criminal history record  
26 has applied for and received a certificate of eligibility for  
27 expunction pursuant to subsection (2). A criminal history  
28 record that relates to a violation of s. 393.135, s. 394.4593,  
29 s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 817.034, s.  
30 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135,  
31 s. 847.0145, s. 893.135, s. 916.1075, or a violation

1 enumerated in s. 907.041 may not be expunged, without regard  
2 to whether adjudication was withheld, if the defendant was  
3 found guilty of or pled guilty or nolo contendere to the  
4 offense, or if the defendant, as a minor, was found to have  
5 committed, or pled guilty or nolo contendere to committing,  
6 the offense as a delinquent act. The court may only order  
7 expunction of a criminal history record pertaining to one  
8 arrest or one incident of alleged criminal activity, except as  
9 provided in this section. The court may, at its sole  
10 discretion, order the expunction of a criminal history record  
11 pertaining to more than one arrest if the additional arrests  
12 directly relate to the original arrest. If the court intends  
13 to order the expunction of records pertaining to such  
14 additional arrests, such intent must be specified in the  
15 order. A criminal justice agency may not expunge any record  
16 pertaining to such additional arrests if the order to expunge  
17 does not articulate the intention of the court to expunge a  
18 record pertaining to more than one arrest. This section does  
19 not prevent the court from ordering the expunction of only a  
20 portion of a criminal history record pertaining to one arrest  
21 or one incident of alleged criminal activity. Notwithstanding  
22 any law to the contrary, a criminal justice agency may comply  
23 with laws, court orders, and official requests of other  
24 jurisdictions relating to expunction, correction, or  
25 confidential handling of criminal history records or  
26 information derived therefrom. This section does not confer  
27 any right to the expunction of any criminal history record,  
28 and any request for expunction of a criminal history record  
29 may be denied at the sole discretion of the court.

30  
31



1           (1) PETITION TO EXPUNGE A CRIMINAL HISTORY  
2 RECORD.--Each petition to a court to expunge a criminal  
3 history record is complete only when accompanied by:  
4           (a) A certificate of eligibility for expunction issued  
5 by the department pursuant to subsection (2).  
6           (b) The petitioner's sworn statement attesting that  
7 the petitioner:  
8           1. Has never, prior to the date on which the petition  
9 is filed, been adjudicated guilty of a criminal offense or  
10 comparable ordinance violation or adjudicated delinquent for  
11 committing a felony or a misdemeanor specified in s.  
12 943.051(3)(b).  
13           2. Has not been adjudicated guilty of, or adjudicated  
14 delinquent for committing, any of the acts stemming from the  
15 arrest or alleged criminal activity to which the petition  
16 pertains.  
17           3. Has never secured a prior sealing or expunction of  
18 a criminal history record under this section, former s.  
19 893.14, former s. 901.33, or former s. 943.058, or from any  
20 jurisdiction outside the state.  
21           4. Is eligible for such an expunction to the best of  
22 his or her knowledge or belief and does not have any other  
23 petition to expunge or any petition to seal pending before any  
24 court.  
25  
26 Any person who knowingly provides false information on such  
27 sworn statement to the court commits a felony of the third  
28 degree, punishable as provided in s. 775.082, s. 775.083, or  
29 s. 775.084.  
30           (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.--Prior  
31 to petitioning the court to expunge a criminal history record,

1 a person seeking to expunge a criminal history record shall  
2 apply to the department for a certificate of eligibility for  
3 expunction. The department shall, by rule adopted pursuant to  
4 chapter 120, establish procedures pertaining to the  
5 application for and issuance of certificates of eligibility  
6 for expunction. The department shall issue a certificate of  
7 eligibility for expunction to a person who is the subject of a  
8 criminal history record if that person:

9 (a) Has obtained, and submitted to the department, a  
10 written, certified statement from the appropriate state  
11 attorney or statewide prosecutor which indicates:

12 1. That an indictment, information, or other charging  
13 document was not filed or issued in the case.

14 2. That an indictment, information, or other charging  
15 document, if filed or issued in the case, was dismissed or  
16 nolle prosequi by the state attorney or statewide prosecutor,  
17 or was dismissed by a court of competent jurisdiction.

18 3. That the criminal history record does not relate to  
19 a violation of s. 393.135, s. 394.4593, s. 787.025, chapter  
20 794, s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s.  
21 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145,  
22 s. 893.135, s. 916.1075, or a violation enumerated in s.  
23 907.041, where the defendant was found guilty of, or pled  
24 guilty or nolo contendere to any such offense, or that the  
25 defendant, as a minor, was found to have committed, or pled  
26 guilty or nolo contendere to committing, such an offense as a  
27 delinquent act, without regard to whether adjudication was  
28 withheld.

29 (b) Remits a \$75 processing fee to the department for  
30 placement in the Department of Law Enforcement Operating Trust  
31 Fund, unless such fee is waived by the executive director.

1 (c) Has submitted to the department a certified copy  
2 of the disposition of the charge to which the petition to  
3 expunge pertains.

4 (d) Has never, prior to the date on which the  
5 application for a certificate of eligibility is filed, been  
6 adjudicated guilty of a criminal offense or comparable  
7 ordinance violation or adjudicated delinquent for committing a  
8 felony or a misdemeanor specified in s. 943.051(3)(b).

9 (e) Has not been adjudicated guilty of, or adjudicated  
10 delinquent for committing, any of the acts stemming from the  
11 arrest or alleged criminal activity to which the petition to  
12 expunge pertains.

13 (f) Has never secured a prior sealing or expunction of  
14 a criminal history record under this section, former s.  
15 893.14, former s. 901.33, or former s. 943.058.

16 (g) Is no longer under court supervision applicable to  
17 the disposition of the arrest or alleged criminal activity to  
18 which the petition to expunge pertains.

19 (h) Is not required to wait a minimum of 10 years  
20 prior to being eligible for an expunction of such records  
21 because all charges related to the arrest or criminal activity  
22 to which the petition to expunge pertains were dismissed prior  
23 to trial, adjudication, or the withholding of adjudication.  
24 Otherwise, such criminal history record must be sealed under  
25 this section, former s. 893.14, former s. 901.33, or former s.  
26 943.058 for at least 10 years before such record is eligible  
27 for expunction.

28 (3) PROCESSING OF A PETITION OR ORDER TO EXPUNGE.--

29 (a) In judicial proceedings under this section, a copy  
30 of the completed petition to expunge shall be served upon the  
31 appropriate state attorney or the statewide prosecutor and

1 upon the arresting agency; however, it is not necessary to  
2 make any agency other than the state a party. The appropriate  
3 state attorney or the statewide prosecutor and the arresting  
4 agency may respond to the court regarding the completed  
5 petition to expunge.

6 (b) If relief is granted by the court, the clerk of  
7 the court shall certify copies of the order to the appropriate  
8 state attorney or the statewide prosecutor and the arresting  
9 agency. The arresting agency is responsible for forwarding the  
10 order to any other agency to which the arresting agency  
11 disseminated the criminal history record information to which  
12 the order pertains. The department shall forward the order to  
13 expunge to the Federal Bureau of Investigation. The clerk of  
14 the court shall certify a copy of the order to any other  
15 agency which the records of the court reflect has received the  
16 criminal history record from the court.

17 (c) For an order to expunge entered by a court prior  
18 to July 1, 1992, the department shall notify the appropriate  
19 state attorney or statewide prosecutor of an order to expunge  
20 which is contrary to law because the person who is the subject  
21 of the record has previously been convicted of a crime or  
22 comparable ordinance violation or has had a prior criminal  
23 history record sealed or expunged. Upon receipt of such  
24 notice, the appropriate state attorney or statewide prosecutor  
25 shall take action, within 60 days, to correct the record and  
26 petition the court to void the order to expunge. The  
27 department shall seal the record until such time as the order  
28 is voided by the court.

29 (d) On or after July 1, 1992, the department or any  
30 other criminal justice agency is not required to act on an  
31 order to expunge entered by a court when such order does not

1 | comply with the requirements of this section. Upon receipt of  
2 | such an order, the department must notify the issuing court,  
3 | the appropriate state attorney or statewide prosecutor, the  
4 | petitioner or the petitioner's attorney, and the arresting  
5 | agency of the reason for noncompliance. The appropriate state  
6 | attorney or statewide prosecutor shall take action within 60  
7 | days to correct the record and petition the court to void the  
8 | order. No cause of action, including contempt of court, shall  
9 | arise against any criminal justice agency for failure to  
10 | comply with an order to expunge when the petitioner for such  
11 | order failed to obtain the certificate of eligibility as  
12 | required by this section or such order does not otherwise  
13 | comply with the requirements of this section.

14 |       (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any  
15 | criminal history record of a minor or an adult which is  
16 | ordered expunged by a court of competent jurisdiction pursuant  
17 | to this section must be physically destroyed or obliterated by  
18 | any criminal justice agency having custody of such record;  
19 | except that any criminal history record in the custody of the  
20 | department must be retained in all cases. A criminal history  
21 | record ordered expunged that is retained by the department is  
22 | confidential and exempt from the provisions of s. 119.07(1)  
23 | and s. 24(a), Art. I of the State Constitution and not  
24 | available to any person or entity except upon order of a court  
25 | of competent jurisdiction. A criminal justice agency may  
26 | retain a notation indicating compliance with an order to  
27 | expunge.

28 |       (a) The person who is the subject of a criminal  
29 | history record that is expunged under this section or under  
30 | other provisions of law, including former s. 893.14, former s.  
31 | 901.33, and former s. 943.058, may lawfully deny or fail to

1 acknowledge the arrests covered by the expunged record, except  
2 when the subject of the record:

3 1. Is a candidate for employment with a criminal  
4 justice agency;

5 2. Is a defendant in a criminal prosecution;

6 3. Concurrently or subsequently petitions for relief  
7 under this section or s. 943.059;

8 4. Is a candidate for admission to The Florida Bar;

9 5. Is seeking to be employed or licensed by or to  
10 contract with the Department of Children and Family Services  
11 or the Department of Juvenile Justice or to be employed or  
12 used by such contractor or licensee in a sensitive position  
13 having direct contact with children, the developmentally  
14 disabled, the aged, or the elderly as provided in s.  
15 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.  
16 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.  
17 916.106(10) and (13), s. 985.407, or chapter 400; or

18 6. Is seeking to be employed or licensed by the Office  
19 of Teacher Education, Certification, Staff Development, and  
20 Professional Practices of the Department of Education, any  
21 district school board, or any local governmental entity that  
22 licenses child care facilities.

23 (b) Subject to the exceptions in paragraph (a), a  
24 person who has been granted an expunction under this section,  
25 former s. 893.14, former s. 901.33, or former s. 943.058 may  
26 not be held under any provision of law of this state to commit  
27 perjury or to be otherwise liable for giving a false statement  
28 by reason of such person's failure to recite or acknowledge an  
29 expunged criminal history record.

30 (c) Information relating to the existence of an  
31 expunged criminal history record which is provided in

1 accordance with paragraph (a) is confidential and exempt from  
2 the provisions of s. 119.07(1) and s. 24(a), Art. I of the  
3 State Constitution, except that the department shall disclose  
4 the existence of a criminal history record ordered expunged to  
5 the entities set forth in subparagraphs (a)1., 4., 5., and 6.  
6 for their respective licensing and employment purposes, and to  
7 criminal justice agencies for their respective criminal  
8 justice purposes. It is unlawful for any employee of an entity  
9 set forth in subparagraph (a)1., subparagraph (a)4.,  
10 subparagraph (a)5., or subparagraph (a)6. to disclose  
11 information relating to the existence of an expunged criminal  
12 history record of a person seeking employment or licensure  
13 with such entity or contractor, except to the person to whom  
14 the criminal history record relates or to persons having  
15 direct responsibility for employment or licensure decisions.  
16 Any person who violates this paragraph commits a misdemeanor  
17 of the first degree, punishable as provided in s. 775.082 or  
18 s. 775.083.

19 (5) STATUTORY REFERENCES.--Any reference to any other  
20 chapter, section, or subdivision of the Florida Statutes in  
21 this section constitutes a general reference under the  
22 doctrine of incorporation by reference.

23 Section 7. Section 943.059, Florida Statutes, is  
24 amended to read:

25 943.059 Court-ordered sealing of criminal history  
26 records.--The courts of this state shall continue to have  
27 jurisdiction over their own procedures, including the  
28 maintenance, sealing, and correction of judicial records  
29 containing criminal history information to the extent such  
30 procedures are not inconsistent with the conditions,  
31 responsibilities, and duties established by this section. Any

1 | court of competent jurisdiction may order a criminal justice  
2 | agency to seal the criminal history record of a minor or an  
3 | adult who complies with the requirements of this section. The  
4 | court shall not order a criminal justice agency to seal a  
5 | criminal history record until the person seeking to seal a  
6 | criminal history record has applied for and received a  
7 | certificate of eligibility for sealing pursuant to subsection  
8 | (2). A criminal history record that relates to a violation of  
9 | s. 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03,  
10 | s. 800.04, s. 817.034, s. 825.1025, s. 827.071, chapter 839,  
11 | s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.  
12 | 916.1075, or a violation enumerated in s. 907.041 may not be  
13 | sealed, without regard to whether adjudication was withheld,  
14 | if the defendant was found guilty of or pled guilty or nolo  
15 | contendere to the offense, or if the defendant, as a minor,  
16 | was found to have committed or pled guilty or nolo contendere  
17 | to committing the offense as a delinquent act. The court may  
18 | only order sealing of a criminal history record pertaining to  
19 | one arrest or one incident of alleged criminal activity,  
20 | except as provided in this section. The court may, at its sole  
21 | discretion, order the sealing of a criminal history record  
22 | pertaining to more than one arrest if the additional arrests  
23 | directly relate to the original arrest. If the court intends  
24 | to order the sealing of records pertaining to such additional  
25 | arrests, such intent must be specified in the order. A  
26 | criminal justice agency may not seal any record pertaining to  
27 | such additional arrests if the order to seal does not  
28 | articulate the intention of the court to seal records  
29 | pertaining to more than one arrest. This section does not  
30 | prevent the court from ordering the sealing of only a portion  
31 | of a criminal history record pertaining to one arrest or one



1 incident of alleged criminal activity. Notwithstanding any law  
2 to the contrary, a criminal justice agency may comply with  
3 laws, court orders, and official requests of other  
4 jurisdictions relating to sealing, correction, or confidential  
5 handling of criminal history records or information derived  
6 therefrom. This section does not confer any right to the  
7 sealing of any criminal history record, and any request for  
8 sealing a criminal history record may be denied at the sole  
9 discretion of the court.

10 (1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.--Each  
11 petition to a court to seal a criminal history record is  
12 complete only when accompanied by:

13 (a) A certificate of eligibility for sealing issued by  
14 the department pursuant to subsection (2).

15 (b) The petitioner's sworn statement attesting that  
16 the petitioner:

17 1. Has never, prior to the date on which the petition  
18 is filed, been adjudicated guilty of a criminal offense or  
19 comparable ordinance violation or adjudicated delinquent for  
20 committing a felony or a misdemeanor specified in s.  
21 943.051(3)(b).

22 2. Has not been adjudicated guilty of or adjudicated  
23 delinquent for committing any of the acts stemming from the  
24 arrest or alleged criminal activity to which the petition to  
25 seal pertains.

26 3. Has never secured a prior sealing or expunction of  
27 a criminal history record under this section, former s.  
28 893.14, former s. 901.33, former s. 943.058, or from any  
29 jurisdiction outside the state.

30 4. Is eligible for such a sealing to the best of his  
31 or her knowledge or belief and does not have any other

1 petition to seal or any petition to expunge pending before any  
2 court.

3

4 Any person who knowingly provides false information on such  
5 sworn statement to the court commits a felony of the third  
6 degree, punishable as provided in s. 775.082, s. 775.083, or  
7 s. 775.084.

8 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.--Prior to  
9 petitioning the court to seal a criminal history record, a  
10 person seeking to seal a criminal history record shall apply  
11 to the department for a certificate of eligibility for  
12 sealing. The department shall, by rule adopted pursuant to  
13 chapter 120, establish procedures pertaining to the  
14 application for and issuance of certificates of eligibility  
15 for sealing. The department shall issue a certificate of  
16 eligibility for sealing to a person who is the subject of a  
17 criminal history record provided that such person:

18 (a) Has submitted to the department a certified copy  
19 of the disposition of the charge to which the petition to seal  
20 pertains.

21 (b) Remits a \$75 processing fee to the department for  
22 placement in the Department of Law Enforcement Operating Trust  
23 Fund, unless such fee is waived by the executive director.

24 (c) Has never, prior to the date on which the  
25 application for a certificate of eligibility is filed, been  
26 adjudicated guilty of a criminal offense or comparable  
27 ordinance violation or adjudicated delinquent for committing a  
28 felony or a misdemeanor specified in s. 943.051(3)(b).

29 (d) Has not been adjudicated guilty of or adjudicated  
30 delinquent for committing any of the acts stemming from the  
31

1 | arrest or alleged criminal activity to which the petition to  
2 | seal pertains.

3 |         (e) Has never secured a prior sealing or expunction of  
4 | a criminal history record under this section, former s.  
5 | 893.14, former s. 901.33, or former s. 943.058.

6 |         (f) Is no longer under court supervision applicable to  
7 | the disposition of the arrest or alleged criminal activity to  
8 | which the petition to seal pertains.

9 |         (3) PROCESSING OF A PETITION OR ORDER TO SEAL.--

10 |         (a) In judicial proceedings under this section, a copy  
11 | of the completed petition to seal shall be served upon the  
12 | appropriate state attorney or the statewide prosecutor and  
13 | upon the arresting agency; however, it is not necessary to  
14 | make any agency other than the state a party. The appropriate  
15 | state attorney or the statewide prosecutor and the arresting  
16 | agency may respond to the court regarding the completed  
17 | petition to seal.

18 |         (b) If relief is granted by the court, the clerk of  
19 | the court shall certify copies of the order to the appropriate  
20 | state attorney or the statewide prosecutor and to the  
21 | arresting agency. The arresting agency is responsible for  
22 | forwarding the order to any other agency to which the  
23 | arresting agency disseminated the criminal history record  
24 | information to which the order pertains. The department shall  
25 | forward the order to seal to the Federal Bureau of  
26 | Investigation. The clerk of the court shall certify a copy of  
27 | the order to any other agency which the records of the court  
28 | reflect has received the criminal history record from the  
29 | court.

30 |         (c) For an order to seal entered by a court prior to  
31 | July 1, 1992, the department shall notify the appropriate

1 state attorney or statewide prosecutor of any order to seal  
2 which is contrary to law because the person who is the subject  
3 of the record has previously been convicted of a crime or  
4 comparable ordinance violation or has had a prior criminal  
5 history record sealed or expunged. Upon receipt of such  
6 notice, the appropriate state attorney or statewide prosecutor  
7 shall take action, within 60 days, to correct the record and  
8 petition the court to void the order to seal. The department  
9 shall seal the record until such time as the order is voided  
10 by the court.

11 (d) On or after July 1, 1992, the department or any  
12 other criminal justice agency is not required to act on an  
13 order to seal entered by a court when such order does not  
14 comply with the requirements of this section. Upon receipt of  
15 such an order, the department must notify the issuing court,  
16 the appropriate state attorney or statewide prosecutor, the  
17 petitioner or the petitioner's attorney, and the arresting  
18 agency of the reason for noncompliance. The appropriate state  
19 attorney or statewide prosecutor shall take action within 60  
20 days to correct the record and petition the court to void the  
21 order. No cause of action, including contempt of court, shall  
22 arise against any criminal justice agency for failure to  
23 comply with an order to seal when the petitioner for such  
24 order failed to obtain the certificate of eligibility as  
25 required by this section or when such order does not comply  
26 with the requirements of this section.

27 (e) An order sealing a criminal history record  
28 pursuant to this section does not require that such record be  
29 surrendered to the court, and such record shall continue to be  
30 maintained by the department and other criminal justice  
31 agencies.

1           (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A  
2 criminal history record of a minor or an adult which is  
3 ordered sealed by a court of competent jurisdiction pursuant  
4 to this section is confidential and exempt from the provisions  
5 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution  
6 and is available only to the person who is the subject of the  
7 record, to the subject's attorney, to criminal justice  
8 agencies for their respective criminal justice purposes, or to  
9 those entities set forth in subparagraphs (a)1., 4., 5., and  
10 6. for their respective licensing and employment purposes.

11           (a) The subject of a criminal history record sealed  
12 under this section or under other provisions of law, including  
13 former s. 893.14, former s. 901.33, and former s. 943.058, may  
14 lawfully deny or fail to acknowledge the arrests covered by  
15 the sealed record, except when the subject of the record:

16           1. Is a candidate for employment with a criminal  
17 justice agency;

18           2. Is a defendant in a criminal prosecution;

19           3. Concurrently or subsequently petitions for relief  
20 under this section or s. 943.0585;

21           4. Is a candidate for admission to The Florida Bar;

22           5. Is seeking to be employed or licensed by or to  
23 contract with the Department of Children and Family Services  
24 or the Department of Juvenile Justice or to be employed or  
25 used by such contractor or licensee in a sensitive position  
26 having direct contact with children, the developmentally  
27 disabled, the aged, or the elderly as provided in s.

28 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.  
29 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.  
30 415.103, s. 916.106(10) and (13), s. 985.407, or chapter 400;

31 or

1           6. Is seeking to be employed or licensed by the Office  
2 of Teacher Education, Certification, Staff Development, and  
3 Professional Practices of the Department of Education, any  
4 district school board, or any local governmental entity which  
5 licenses child care facilities.

6           (b) Subject to the exceptions in paragraph (a), a  
7 person who has been granted a sealing under this section,  
8 former s. 893.14, former s. 901.33, or former s. 943.058 may  
9 not be held under any provision of law of this state to commit  
10 perjury or to be otherwise liable for giving a false statement  
11 by reason of such person's failure to recite or acknowledge a  
12 sealed criminal history record.

13           (c) Information relating to the existence of a sealed  
14 criminal record provided in accordance with the provisions of  
15 paragraph (a) is confidential and exempt from the provisions  
16 of s. 119.07(1) and s. 24(a), Art. I of the State  
17 Constitution, except that the department shall disclose the  
18 sealed criminal history record to the entities set forth in  
19 subparagraphs (a)1., 4., 5., and 6. for their respective  
20 licensing and employment purposes. It is unlawful for any  
21 employee of an entity set forth in subparagraph (a)1.,  
22 subparagraph (a)4., subparagraph (a)5., or subparagraph (a)6.  
23 to disclose information relating to the existence of a sealed  
24 criminal history record of a person seeking employment or  
25 licensure with such entity or contractor, except to the person  
26 to whom the criminal history record relates or to persons  
27 having direct responsibility for employment or licensure  
28 decisions. Any person who violates the provisions of this  
29 paragraph commits a misdemeanor of the first degree,  
30 punishable as provided in s. 775.082 or s. 775.083.  
31

1           (5) STATUTORY REFERENCES.--Any reference to any other  
2 chapter, section, or subdivision of the Florida Statutes in  
3 this section constitutes a general reference under the  
4 doctrine of incorporation by reference.

5           Section 8. Paragraph (a) of subsection (2) of section  
6 400.215, Florida Statutes, is amended, and paragraphs (b) and  
7 (c) of subsection (2) and subsection (3) of that section are  
8 reenacted for the purpose of incorporating the amendments to  
9 sections 435.03 and 435.04, Florida Statutes, in references  
10 thereto, to read:

11           400.215 Personnel screening requirement.--

12           (2) Employers and employees shall comply with the  
13 requirements of s. 435.05.

14           (a) Notwithstanding the provisions of s. 435.05(1),  
15 facilities must have in their possession evidence that level 1  
16 screening has been completed before allowing an employee to  
17 begin working with patients as provided in subsection (1). All  
18 information necessary for conducting background screening  
19 using level 1 standards as specified in s. 435.03~~(1)~~ shall be  
20 submitted by the nursing facility to the agency. Results of  
21 the background screening shall be provided by the agency to  
22 the requesting nursing facility.

23           (b) Employees qualified under the provisions of  
24 paragraph (a) who have not maintained continuous residency  
25 within the state for the 5 years immediately preceding the  
26 date of request for background screening must complete level 2  
27 screening, as provided in chapter 435. Such employees may work  
28 in a conditional status up to 180 days pending the receipt of  
29 written findings evidencing the completion of level 2  
30 screening. Level 2 screening shall not be required of  
31 employees or prospective employees who attest in writing under

1 | penalty of perjury that they meet the residency requirement.  
2 | Completion of level 2 screening shall require the employee or  
3 | prospective employee to furnish to the nursing facility a full  
4 | set of fingerprints to enable a criminal background  
5 | investigation to be conducted. The nursing facility shall  
6 | submit the completed fingerprint card to the agency. The  
7 | agency shall establish a record of the request in the database  
8 | provided for in paragraph (c) and forward the request to the  
9 | Department of Law Enforcement, which is authorized to submit  
10 | the fingerprints to the Federal Bureau of Investigation for a  
11 | national criminal history records check. The results of the  
12 | national criminal history records check shall be returned to  
13 | the agency, which shall maintain the results in the database  
14 | provided for in paragraph (c). The agency shall notify the  
15 | administrator of the requesting nursing facility or the  
16 | administrator of any other facility licensed under chapter  
17 | 393, chapter 394, chapter 395, chapter 397, or this chapter,  
18 | as requested by such facility, as to whether or not the  
19 | employee has qualified under level 1 or level 2 screening. An  
20 | employee or prospective employee who has qualified under level  
21 | 2 screening and has maintained such continuous residency  
22 | within the state shall not be required to complete a  
23 | subsequent level 2 screening as a condition of employment at  
24 | another facility.

25 |       (c) The agency shall establish and maintain a database  
26 | of background screening information which shall include the  
27 | results of both level 1 and level 2 screening. The Department  
28 | of Law Enforcement shall timely provide to the agency,  
29 | electronically, the results of each statewide screening for  
30 | incorporation into the database. The agency shall, upon  
31 | request from any facility, agency, or program required by or



1 authorized by law to screen its employees or applicants,  
2 notify the administrator of the facility, agency, or program  
3 of the qualifying or disqualifying status of the employee or  
4 applicant named in the request.

5 (3) The applicant is responsible for paying the fees  
6 associated with obtaining the required screening. Payment for  
7 the screening shall be submitted to the agency. The agency  
8 shall establish a schedule of fees to cover the costs of level  
9 1 and level 2 screening. Facilities may reimburse employees  
10 for these costs. The Department of Law Enforcement shall  
11 charge the agency for a level 1 or level 2 screening a rate  
12 sufficient to cover the costs of such screening pursuant to s.  
13 943.053(3). The agency shall, as allowable, reimburse nursing  
14 facilities for the cost of conducting background screening as  
15 required by this section. This reimbursement will not be  
16 subject to any rate ceilings or payment targets in the  
17 Medicaid Reimbursement plan.

18 Section 9. For the purpose of incorporating the  
19 amendments to sections 435.03 and 435.04, Florida Statutes, in  
20 references thereto, subsections (1) and (2) of section  
21 400.964, Florida Statutes, are reenacted, and subsection (7)  
22 of that section is amended and reenacted, to read:

23 400.964 Personnel screening requirement.--

24 (1) The agency shall require level 2 background  
25 screening as provided in chapter 435 for all employees or  
26 prospective employees of facilities licensed under this part  
27 who are expected to be, or whose responsibilities are such  
28 that they would be considered to be, a direct service  
29 provider.

30 (2) Employers and employees shall comply with the  
31 requirements of chapter 435.

1           (7) All employees must comply with the requirements of  
2 this section by October 1, 2000. A person employed by a  
3 facility licensed pursuant to this part as of the effective  
4 date of this act is not required to submit to rescreening if  
5 the facility has in its possession written evidence that the  
6 person has been screened and qualified according to level 1  
7 standards as specified in s. 435.03~~(1)~~. Any current employee  
8 who meets the level 1 requirement but does not meet the 5-year  
9 residency requirement must provide to the employing facility  
10 written attestation under penalty of perjury that the employee  
11 has not been convicted of a disqualifying offense in another  
12 state or jurisdiction. All applicants hired on or after  
13 October 1, 1999, must comply with the requirements of this  
14 section.

15           Section 10. For the purposes of incorporating the  
16 amendment to section 435.04, Florida Statutes, in references  
17 thereto, paragraph (a) of subsection (1) of section 435.045,  
18 Florida Statutes, is amended and reenacted to read:

19           435.045 Requirements for placement of dependent  
20 children.--

21           (1)(a) Unless an election provided for in subsection  
22 (2) is made with respect to the state, the department is  
23 authorized to conduct criminal records checks equivalent to  
24 the level 2 screening required in s. 435.04~~(1)~~ for any person  
25 being considered by the department for placement of a child  
26 subject to a placement decision pursuant to chapter 39.  
27 Approval shall not be granted:

28           1. In any case in which a record check reveals a  
29 felony conviction for child abuse, abandonment, or neglect;  
30 for spousal abuse; for a crime against children, including  
31 child pornography, or for a crime involving violence,

1 including rape, sexual assault, or homicide but not including  
2 other physical assault or battery, if the department finds  
3 that a court of competent jurisdiction has determined that the  
4 felony was committed at any time; and

5         2. In any case in which a record check reveals a  
6 felony conviction for physical assault, battery, or a  
7 drug-related offense, if the department finds that a court of  
8 competent jurisdiction has determined that the felony was  
9 committed within the past 5 years.

10         Section 11. For the purpose of incorporating the  
11 amendment to sections 435.03 and 435.04, Florida Statutes, in  
12 references thereto, paragraphs (f) and (g) of subsection (1)  
13 of section 400.414, Florida Statutes, are reenacted to read:

14         400.414 Denial, revocation, or suspension of license;  
15 imposition of administrative fine; grounds.--

16         (1) The agency may deny, revoke, or suspend any  
17 license issued under this part, or impose an administrative  
18 fine in the manner provided in chapter 120, for any of the  
19 following actions by an assisted living facility, for the  
20 actions of any person subject to level 2 background screening  
21 under s. 400.4174, or for the actions of any facility  
22 employee:

23         (f) A determination that a person subject to level 2  
24 background screening under s. 400.4174(1) does not meet the  
25 screening standards of s. 435.04 or that the facility is  
26 retaining an employee subject to level 1 background screening  
27 standards under s. 400.4174(2) who does not meet the screening  
28 standards of s. 435.03 and for whom exemptions from  
29 disqualification have not been provided by the agency.

30         (g) A determination that an employee, volunteer,  
31 administrator, or owner, or person who otherwise has access to

1 | the residents of a facility does not meet the criteria  
2 | specified in s. 435.03(2), and the owner or administrator has  
3 | not taken action to remove the person. Exemptions from  
4 | disqualification may be granted as set forth in s. 435.07. No  
5 | administrative action may be taken against the facility if the  
6 | person is granted an exemption.

7 |  
8 | Administrative proceedings challenging agency action under  
9 | this subsection shall be reviewed on the basis of the facts  
10 | and conditions that resulted in the agency action.

11 |       Section 12. For the purpose of incorporating the  
12 | amendment to sections 435.03 and 435.04, Florida Statutes, in  
13 | references thereto, section 400.4174, Florida Statutes, is  
14 | reenacted to read:

15 |           400.4174 Background screening; exemptions.--

16 |           (1)(a) Level 2 background screening must be conducted  
17 | on each of the following persons, who shall be considered  
18 | employees for the purposes of conducting screening under  
19 | chapter 435:

20 |           1. The facility owner if an individual, the  
21 | administrator, and the financial officer.

22 |           2. An officer or board member if the facility owner is  
23 | a firm, corporation, partnership, or association, or any  
24 | person owning 5 percent or more of the facility if the agency  
25 | has probable cause to believe that such person has been  
26 | convicted of any offense prohibited by s. 435.04. For each  
27 | officer, board member, or person owning 5 percent or more who  
28 | has been convicted of any such offense, the facility shall  
29 | submit to the agency a description and explanation of the  
30 | conviction at the time of license application. This  
31 | subparagraph does not apply to a board member of a

1 not-for-profit corporation or organization if the board member  
2 serves solely in a voluntary capacity, does not regularly take  
3 part in the day-to-day operational decisions of the  
4 corporation or organization, receives no remuneration for his  
5 or her services, and has no financial interest and has no  
6 family members with a financial interest in the corporation or  
7 organization, provided that the board member and facility  
8 submit a statement affirming that the board member's  
9 relationship to the facility satisfies the requirements of  
10 this subparagraph.

11 (b) Proof of compliance with level 2 screening  
12 standards which has been submitted within the previous 5 years  
13 to meet any facility or professional licensure requirements of  
14 the agency or the Department of Health satisfies the  
15 requirements of this subsection, provided that such proof is  
16 accompanied, under penalty of perjury, by an affidavit of  
17 compliance with the provisions of chapter 435. Proof of  
18 compliance with the background screening requirements of the  
19 Financial Services Commission and the Office of Insurance  
20 Regulation for applicants for a certificate of authority to  
21 operate a continuing care retirement community under chapter  
22 651, submitted within the last 5 years, satisfies the  
23 Department of Law Enforcement and Federal Bureau of  
24 Investigation portions of a level 2 background check.

25 (c) The agency may grant a provisional license to a  
26 facility applying for an initial license when each individual  
27 required by this subsection to undergo screening has completed  
28 the Department of Law Enforcement background checks, but has  
29 not yet received results from the Federal Bureau of  
30 Investigation, or when a request for an exemption from  
31

1 disqualification has been submitted to the agency pursuant to  
2 s. 435.07, but a response has not been issued.

3 (2) The owner or administrator of an assisted living  
4 facility must conduct level 1 background screening, as set  
5 forth in chapter 435, on all employees hired on or after  
6 October 1, 1998, who perform personal services as defined in  
7 s. 400.402(17). The agency may exempt an individual from  
8 employment disqualification as set forth in chapter 435. Such  
9 persons shall be considered as having met this requirement if:

10 (a) Proof of compliance with level 1 screening  
11 requirements obtained to meet any professional license  
12 requirements in this state is provided and accompanied, under  
13 penalty of perjury, by a copy of the person's current  
14 professional license and an affidavit of current compliance  
15 with the background screening requirements.

16 (b) The person required to be screened has been  
17 continuously employed in the same type of occupation for which  
18 the person is seeking employment without a breach in service  
19 which exceeds 180 days, and proof of compliance with the level  
20 1 screening requirement which is no more than 2 years old is  
21 provided. Proof of compliance shall be provided directly from  
22 one employer or contractor to another, and not from the person  
23 screened. Upon request, a copy of screening results shall be  
24 provided by the employer retaining documentation of the  
25 screening to the person screened.

26 (c) The person required to be screened is employed by  
27 a corporation or business entity or related corporation or  
28 business entity that owns, operates, or manages more than one  
29 facility or agency licensed under this chapter, and for whom a  
30 level 1 screening was conducted by the corporation or business  
31 entity as a condition of initial or continued employment.

1           Section 13. For the purpose of incorporating the  
2 amendment to sections 435.03 and 435.04, Florida Statutes, in  
3 references thereto, paragraphs (a), (b), (c), (d), (f), and  
4 (g) of subsection (4) of section 400.509, Florida Statutes,  
5 are reenacted to read:

6           400.509 Registration of particular service providers  
7 exempt from licensure; certificate of registration; regulation  
8 of registrants.--

9           (4) Each applicant for registration must comply with  
10 the following requirements:

11           (a) Upon receipt of a completed, signed, and dated  
12 application, the agency shall require background screening, in  
13 accordance with the level 1 standards for screening set forth  
14 in chapter 435, of every individual who will have contact with  
15 the client. The agency shall require background screening of  
16 the managing employee or other similarly titled individual who  
17 is responsible for the operation of the entity, and of the  
18 financial officer or other similarly titled individual who is  
19 responsible for the financial operation of the entity,  
20 including billings for client services in accordance with the  
21 level 2 standards for background screening as set forth in  
22 chapter 435.

23           (b) The agency may require background screening of any  
24 other individual who is affiliated with the applicant if the  
25 agency has a reasonable basis for believing that he or she has  
26 been convicted of a crime or has committed any other offense  
27 prohibited under the level 2 standards for screening set forth  
28 in chapter 435.

29           (c) Proof of compliance with the level 2 background  
30 screening requirements of chapter 435 which has been submitted  
31 within the previous 5 years in compliance with any other

1 health care or assisted living licensure requirements of this  
2 state is acceptable in fulfillment of paragraph (a).

3 (d) A provisional registration may be granted to an  
4 applicant when each individual required by this section to  
5 undergo background screening has met the standards for the  
6 abuse-registry background check through the agency and the  
7 Department of Law Enforcement background check, but the agency  
8 has not yet received background screening results from the  
9 Federal Bureau of Investigation. A standard registration may  
10 be granted to the applicant upon the agency's receipt of a  
11 report of the results of the Federal Bureau of Investigation  
12 background screening for each individual required by this  
13 section to undergo background screening which confirms that  
14 all standards have been met, or upon the granting of a  
15 disqualification exemption by the agency as set forth in  
16 chapter 435. Any other person who is required to undergo level  
17 2 background screening may serve in his or her capacity  
18 pending the agency's receipt of the report from the Federal  
19 Bureau of Investigation. However, the person may not continue  
20 to serve if the report indicates any violation of background  
21 screening standards and if a disqualification exemption has  
22 not been requested of and granted by the agency as set forth  
23 in chapter 435.

24 (f) Each applicant must submit to the agency a  
25 description and explanation of any conviction of an offense  
26 prohibited under the level 2 standards of chapter 435 which  
27 was committed by a member of the board of directors of the  
28 applicant, its officers, or any individual owning 5 percent or  
29 more of the applicant. This requirement does not apply to a  
30 director of a not-for-profit corporation or organization who  
31 serves solely in a voluntary capacity for the corporation or



1 organization, does not regularly take part in the day-to-day  
2 operational decisions of the corporation or organization,  
3 receives no remuneration for his or her services on the  
4 corporation's or organization's board of directors, and has no  
5 financial interest and no family members having a financial  
6 interest in the corporation or organization, if the director  
7 and the not-for-profit corporation or organization include in  
8 the application a statement affirming that the director's  
9 relationship to the corporation satisfies the requirements of  
10 this paragraph.

11 (g) A registration may not be granted to an applicant  
12 if the applicant or managing employee has been found guilty  
13 of, regardless of adjudication, or has entered a plea of nolo  
14 contendere or guilty to, any offense prohibited under the  
15 level 2 standards for screening set forth in chapter 435,  
16 unless an exemption from disqualification has been granted by  
17 the agency as set forth in chapter 435.

18 Section 14. For the purpose of incorporating the  
19 amendment to sections 435.03 and 435.04, Florida Statutes, in  
20 references thereto, paragraph (c) of subsection (2) of section  
21 400.556, Florida Statutes, is reenacted to read:

22 400.556 Denial, suspension, revocation of license;  
23 administrative fines; investigations and inspections.--

24 (2) Each of the following actions by the owner of an  
25 adult day care center or by its operator or employee is a  
26 ground for action by the agency against the owner of the  
27 center or its operator or employee:

28 (c) A failure of persons subject to level 2 background  
29 screening under s. 400.4174(1) to meet the screening standards  
30 of s. 435.04, or the retention by the center of an employee  
31 subject to level 1 background screening standards under s.

1 400.4174(2) who does not meet the screening standards of s.  
2 435.03 and for whom exemptions from disqualification have not  
3 been provided by the agency.

4 Section 15. For the purpose of incorporating the  
5 amendment to sections 435.03 and 435.04, Florida Statutes, in  
6 references thereto, subsections (1), (2), and (4) of section  
7 400.6065, Florida Statutes, are reenacted to read:

8 400.6065 Background screening.--

9 (1) Upon receipt of a completed application under s.  
10 400.606, the agency shall require level 2 background screening  
11 on each of the following persons, who shall be considered  
12 employees for the purposes of conducting screening under  
13 chapter 435:

14 (a) The hospice administrator and financial officer.

15 (b) An officer or board member if the hospice is a  
16 firm, corporation, partnership, or association, or any person  
17 owning 5 percent or more of the hospice if the agency has  
18 probable cause to believe that such officer, board member, or  
19 owner has been convicted of any offense prohibited by s.  
20 435.04. For each officer, board member, or person owning 5  
21 percent or more who has been convicted of any such offense,  
22 the hospice shall submit to the agency a description and  
23 explanation of the conviction at the time of license  
24 application. This paragraph does not apply to a board member  
25 of a not-for-profit corporation or organization if the board  
26 member serves solely in a voluntary capacity, does not  
27 regularly take part in the day-to-day operational decisions of  
28 the corporation or organization, receives no remuneration for  
29 his or her services, and has no financial interest and has no  
30 family members with a financial interest in the corporation or  
31 organization, provided that the board member and the

1 corporation or organization submit a statement affirming that  
2 the board member's relationship to the corporation or  
3 organization satisfies the requirements of this paragraph.

4 (2) Proof of compliance with level 2 screening  
5 standards which has been submitted within the previous 5 years  
6 to meet any facility or professional licensure requirements of  
7 the agency or the Department of Health satisfies the  
8 requirements of this section.

9 (4) The agency shall require employment or contractor  
10 screening as provided in chapter 435, using the level 1  
11 standards for screening set forth in that chapter, for hospice  
12 personnel.

13 Section 16. For the purpose of incorporating the  
14 amendment to sections 435.03 and 435.04, Florida Statutes, in  
15 references thereto, paragraphs (a), (b), (c), (d), (f), and  
16 (g) of subsection (4) of section 400.980, Florida Statutes,  
17 are reenacted to read:

18 400.980 Health care services pools.--

19 (4) Each applicant for registration must comply with  
20 the following requirements:

21 (a) Upon receipt of a completed, signed, and dated  
22 application, the agency shall require background screening, in  
23 accordance with the level 1 standards for screening set forth  
24 in chapter 435, of every individual who will have contact with  
25 patients. The agency shall require background screening of the  
26 managing employee or other similarly titled individual who is  
27 responsible for the operation of the entity, and of the  
28 financial officer or other similarly titled individual who is  
29 responsible for the financial operation of the entity,  
30 including billings for services in accordance with the level 2  
31

1 standards for background screening as set forth in chapter  
2 435.

3 (b) The agency may require background screening of any  
4 other individual who is affiliated with the applicant if the  
5 agency has a reasonable basis for believing that he or she has  
6 been convicted of a crime or has committed any other offense  
7 prohibited under the level 2 standards for screening set forth  
8 in chapter 435.

9 (c) Proof of compliance with the level 2 background  
10 screening requirements of chapter 435 which has been submitted  
11 within the previous 5 years in compliance with any other  
12 health care or assisted living licensure requirements of this  
13 state is acceptable in fulfillment of paragraph (a).

14 (d) A provisional registration may be granted to an  
15 applicant when each individual required by this section to  
16 undergo background screening has met the standards for the  
17 Department of Law Enforcement background check but the agency  
18 has not yet received background screening results from the  
19 Federal Bureau of Investigation. A standard registration may  
20 be granted to the applicant upon the agency's receipt of a  
21 report of the results of the Federal Bureau of Investigation  
22 background screening for each individual required by this  
23 section to undergo background screening which confirms that  
24 all standards have been met, or upon the granting of a  
25 disqualification exemption by the agency as set forth in  
26 chapter 435. Any other person who is required to undergo level  
27 2 background screening may serve in his or her capacity  
28 pending the agency's receipt of the report from the Federal  
29 Bureau of Investigation. However, the person may not continue  
30 to serve if the report indicates any violation of background  
31 screening standards and if a disqualification exemption has

1 not been requested of and granted by the agency as set forth  
2 in chapter 435.

3 (f) Each applicant must submit to the agency a  
4 description and explanation of any conviction of an offense  
5 prohibited under the level 2 standards of chapter 435 which  
6 was committed by a member of the board of directors of the  
7 applicant, its officers, or any individual owning 5 percent or  
8 more of the applicant. This requirement does not apply to a  
9 director of a not-for-profit corporation or organization who  
10 serves solely in a voluntary capacity for the corporation or  
11 organization, does not regularly take part in the day-to-day  
12 operational decisions of the corporation or organization,  
13 receives no remuneration for his or her services on the  
14 corporation's or organization's board of directors, and has no  
15 financial interest and no family members having a financial  
16 interest in the corporation or organization, if the director  
17 and the not-for-profit corporation or organization include in  
18 the application a statement affirming that the director's  
19 relationship to the corporation satisfies the requirements of  
20 this paragraph.

21 (g) A registration may not be granted to an applicant  
22 if the applicant or managing employee has been found guilty  
23 of, regardless of adjudication, or has entered a plea of nolo  
24 contendere or guilty to, any offense prohibited under the  
25 level 2 standards for screening set forth in chapter 435,  
26 unless an exemption from disqualification has been granted by  
27 the agency as set forth in chapter 435.

28 Section 17. For the purpose of incorporating the  
29 amendment to sections 435.03 and 435.04, Florida Statutes, in  
30 references thereto, paragraph (k) of subsection (2) of section  
31 409.175, Florida Statutes, is reenacted to read:

1           409.175 Licensure of family foster homes, residential  
2 child-caring agencies, and child-placing agencies; public  
3 records exemption.--

4           (2) As used in this section, the term:

5           (k) "Screening" means the act of assessing the  
6 background of personnel and includes, but is not limited to,  
7 employment history checks as provided in chapter 435, using  
8 the level 2 standards for screening set forth in that chapter.  
9 Screening for employees and volunteers in summer day camps and  
10 summer 24-hour camps and screening for all volunteers included  
11 under the definition of "personnel" shall be conducted as  
12 provided in chapter 435, using the level 1 standards set forth  
13 in that chapter.

14           Section 18. For the purpose of incorporating the  
15 amendment to sections 435.03 and 435.04, Florida Statutes, in  
16 references thereto, paragraph (d) of subsection (8) of section  
17 409.907, Florida Statutes, is reenacted to read:

18           409.907 Medicaid provider agreements.--The agency may  
19 make payments for medical assistance and related services  
20 rendered to Medicaid recipients only to an individual or  
21 entity who has a provider agreement in effect with the agency,  
22 who is performing services or supplying goods in accordance  
23 with federal, state, and local law, and who agrees that no  
24 person shall, on the grounds of handicap, race, color, or  
25 national origin, or for any other reason, be subjected to  
26 discrimination under any program or activity for which the  
27 provider receives payment from the agency.

28           (8)

29           (d) Proof of compliance with the requirements of level  
30 2 screening under s. 435.04 conducted within 12 months prior  
31 to the date that the Medicaid provider application is

1 submitted to the agency shall fulfill the requirements of this  
2 subsection. Proof of compliance with the requirements of level  
3 1 screening under s. 435.03 conducted within 12 months prior  
4 to the date that the Medicaid provider application is  
5 submitted to the agency shall meet the requirement that the  
6 Department of Law Enforcement conduct a state criminal history  
7 record check.

8 Section 19. For the purpose of incorporating the  
9 amendment to sections 435.03 and 435.04, Florida Statutes, in  
10 references thereto, subsections (1) and (3) of section 435.05,  
11 Florida Statutes, are reenacted to read:

12 435.05 Requirements for covered employees.--Except as  
13 otherwise provided by law, the following requirements shall  
14 apply to covered employees:

15 (1)(a) Every person employed in a position for which  
16 employment screening is required must, within 5 working days  
17 after starting to work, submit to the employer a complete set  
18 of information necessary to conduct a screening under this  
19 section.

20 (b) For level 1 screening, the employer must submit  
21 the information necessary for screening to the Florida  
22 Department of Law Enforcement within 5 working days after  
23 receiving it. The Florida Department of Law Enforcement will  
24 conduct a search of its records and will respond to the  
25 employer agency. The employer will inform the employee whether  
26 screening has revealed any disqualifying information.

27 (c) For level 2 screening, the employer or licensing  
28 agency must submit the information necessary for screening to  
29 the Florida Department of Law Enforcement within 5 working  
30 days after receiving it. The Florida Department of Law  
31 Enforcement will conduct a search of its criminal and juvenile

1 records and will request that the Federal Bureau of  
2 Investigation conduct a search of its records for each  
3 employee for whom the request is made. The Florida Department  
4 of Law Enforcement will respond to the employer or licensing  
5 agency, and the employer or licensing agency will inform the  
6 employee whether screening has revealed disqualifying  
7 information.

8 (d) The person whose background is being checked must  
9 supply any missing criminal or other necessary information to  
10 the employer within 30 days after the employer makes a request  
11 for the information or be subject to automatic  
12 disqualification.

13 (3) Each employer required to conduct level 2  
14 background screening must sign an affidavit annually, under  
15 penalty of perjury, stating that all covered employees have  
16 been screened or are newly hired and are awaiting the results  
17 of the required screening checks.

18 Section 20. For the purpose of incorporating the  
19 amendment to sections 435.03 and 435.04, Florida Statutes, in  
20 references thereto, section 744.3135, Florida Statutes, as  
21 amended by chapter 2003-402, Laws of Florida, is reenacted to  
22 read:

23 744.3135 Credit and criminal investigation.--The court  
24 may require a nonprofessional guardian and shall require a  
25 professional or public guardian, and all employees of a  
26 professional guardian who have a fiduciary responsibility to a  
27 ward, to submit, at their own expense, to an investigation of  
28 the guardian's credit history and to undergo level 2  
29 background screening as required under s. 435.04. The clerk of  
30 the court shall obtain fingerprint cards from the Federal  
31 Bureau of Investigation and make them available to guardians.



1 Any guardian who is so required shall have his or her  
2 fingerprints taken and forward the proper fingerprint card  
3 along with the necessary fee to the Florida Department of Law  
4 Enforcement for processing. The professional guardian shall  
5 pay to the clerk of the court a fee of up to \$7.50 for  
6 handling and processing professional guardian files. The  
7 results of the fingerprint checks shall be forwarded to the  
8 clerk of court who shall maintain the results in a guardian  
9 file and shall make the results available to the court. If  
10 credit or criminal investigations are required, the court must  
11 consider the results of the investigations in appointing a  
12 guardian. Professional guardians and all employees of a  
13 professional guardian who have a fiduciary responsibility to a  
14 ward, so appointed, must resubmit, at their own expense, to an  
15 investigation of credit history, and undergo level 1  
16 background screening as required under s. 435.03, at least  
17 every 2 years after the date of their appointment. At any  
18 time, the court may require guardians or their employees to  
19 submit to an investigation of credit history and undergo level  
20 1 background screening as required under s. 435.03. The court  
21 must consider the results of these investigations in  
22 reappointing a guardian. This section shall not apply to a  
23 professional guardian, or to the employees of a professional  
24 guardian, that is a trust company, a state banking corporation  
25 or state savings association authorized and qualified to  
26 exercise fiduciary powers in this state, or a national banking  
27 association or federal savings and loan association authorized  
28 and qualified to exercise fiduciary powers in this state  
29       Section 21. For the purpose of incorporating the  
30 amendment to sections 435.03 and 435.04, Florida Statutes, in  
31

1 references thereto, subsection (2) of section 985.04, Florida  
2 Statutes, is reenacted to read:

3           985.04 Oaths; records; confidential information.--  
4           (2) Records maintained by the Department of Juvenile  
5 Justice, including copies of records maintained by the court,  
6 which pertain to a child found to have committed a delinquent  
7 act which, if committed by an adult, would be a crime  
8 specified in ss. 435.03 and 435.04 may not be destroyed  
9 pursuant to this section for a period of 25 years after the  
10 youth's final referral to the department, except in cases of  
11 the death of the child. Such records, however, shall be sealed  
12 by the court for use only in meeting the screening  
13 requirements for personnel in s. 402.3055 and the other  
14 sections cited above, or pursuant to departmental rule;  
15 however, current criminal history information must be obtained  
16 from the Department of Law Enforcement in accordance with s.  
17 943.053. The information shall be released to those persons  
18 specified in the above cited sections for the purposes of  
19 complying with those sections. The court may punish by  
20 contempt any person who releases or uses the records for any  
21 unauthorized purpose.

22           Section 22. For the purpose of incorporating the  
23 amendment to section 435.03, Florida Statutes, in references  
24 thereto, section 400.512, Florida Statutes, is reenacted to  
25 read:

26           400.512 Screening of home health agency personnel;  
27 nurse registry personnel; and companions and homemakers.--The  
28 agency shall require employment or contractor screening as  
29 provided in chapter 435, using the level 1 standards for  
30 screening set forth in that chapter, for home health agency  
31 personnel; persons referred for employment by nurse

1 registries; and persons employed by companion or homemaker  
2 services registered under s. 400.509.

3 (1)(a) The Agency for Health Care Administration may,  
4 upon request, grant exemptions from disqualification from  
5 employment or contracting under this section as provided in s.  
6 435.07, except for health care practitioners licensed by the  
7 Department of Health or a regulatory board within that  
8 department.

9 (b) The appropriate regulatory board within the  
10 Department of Health, or that department itself when there is  
11 no board, may, upon request of the licensed health care  
12 practitioner, grant exemptions from disqualification from  
13 employment or contracting under this section as provided in s.  
14 435.07.

15 (2) The administrator of each home health agency, the  
16 managing employee of each nurse registry, and the managing  
17 employee of each companion or homemaker service registered  
18 under s. 400.509 must sign an affidavit annually, under  
19 penalty of perjury, stating that all personnel hired,  
20 contracted with, or registered on or after October 1, 1994,  
21 who enter the home of a patient or client in their service  
22 capacity have been screened and that its remaining personnel  
23 have worked for the home health agency or registrant  
24 continuously since before October 1, 1994.

25 (3) As a prerequisite to operating as a home health  
26 agency, nurse registry, or companion or homemaker service  
27 under s. 400.509, the administrator or managing employee,  
28 respectively, must submit to the agency his or her name and  
29 any other information necessary to conduct a complete  
30 screening according to this section. The agency shall submit  
31 the information to the Department of Law Enforcement for state

1 | processing. The agency shall review the record of the  
2 | administrator or manager with respect to the offenses  
3 | specified in this section and shall notify the owner of its  
4 | findings. If disposition information is missing on a criminal  
5 | record, the administrator or manager, upon request of the  
6 | agency, must obtain and supply within 30 days the missing  
7 | disposition information to the agency. Failure to supply  
8 | missing information within 30 days or to show reasonable  
9 | efforts to obtain such information will result in automatic  
10 | disqualification.

11 |         (4) Proof of compliance with the screening  
12 | requirements of chapter 435 shall be accepted in lieu of the  
13 | requirements of this section if the person has been  
14 | continuously employed or registered without a breach in  
15 | service that exceeds 180 days, the proof of compliance is not  
16 | more than 2 years old, and the person has been screened by the  
17 | Department of Law Enforcement. A home health agency, nurse  
18 | registry, or companion or homemaker service registered under  
19 | s. 400.509 shall directly provide proof of compliance to  
20 | another home health agency, nurse registry, or companion or  
21 | homemaker service registered under s. 400.509. The recipient  
22 | home health agency, nurse registry, or companion or homemaker  
23 | service registered under s. 400.509 may not accept any proof  
24 | of compliance directly from the person who requires screening.  
25 | Proof of compliance with the screening requirements of this  
26 | section shall be provided upon request to the person screened  
27 | by the home health agencies; nurse registries; or companion or  
28 | homemaker services registered under s. 400.509.

29 |         (5) There is no monetary liability on the part of, and  
30 | no cause of action for damages arises against, a licensed home  
31 | health agency, licensed nurse registry, or companion or

1 | homemaker service registered under s. 400.509, that, upon  
2 | notice that the employee or contractor has been found guilty  
3 | of, regardless of adjudication, or entered a plea of nolo  
4 | contendere or guilty to, any offense prohibited under s.  
5 | 435.03 or under any similar statute of another jurisdiction,  
6 | terminates the employee or contractor, whether or not the  
7 | employee or contractor has filed for an exemption with the  
8 | agency in accordance with chapter 435 and whether or not the  
9 | time for filing has expired.

10 |         (6) The costs of processing the statewide  
11 | correspondence criminal records checks must be borne by the  
12 | home health agency; the nurse registry; or the companion or  
13 | homemaker service registered under s. 400.509, or by the  
14 | person being screened, at the discretion of the home health  
15 | agency, nurse registry, or s. 400.509 registrant.

16 |         (7)(a) It is a misdemeanor of the first degree,  
17 | punishable under s. 775.082 or s. 775.083, for any person  
18 | willfully, knowingly, or intentionally to:

19 |             1. Fail, by false statement, misrepresentation,  
20 | impersonation, or other fraudulent means, to disclose in any  
21 | application for voluntary or paid employment a material fact  
22 | used in making a determination as to such person's  
23 | qualifications to be an employee under this section;

24 |             2. Operate or attempt to operate an entity licensed or  
25 | registered under this part with persons who do not meet the  
26 | minimum standards for good moral character as contained in  
27 | this section; or

28 |             3. Use information from the criminal records obtained  
29 | under this section for any purpose other than screening that  
30 | person for employment as specified in this section or release  
31 |

1 such information to any other person for any purpose other  
2 than screening for employment under this section.

3 (b) It is a felony of the third degree, punishable  
4 under s. 775.082, s. 775.083, or s. 775.084, for any person  
5 willfully, knowingly, or intentionally to use information from  
6 the juvenile records of a person obtained under this section  
7 for any purpose other than screening for employment under this  
8 section.

9 Section 23. For the purpose of incorporating the  
10 amendment to section 435.03, Florida Statutes, in references  
11 thereto, subsection (4) of section 400.619, Florida Statutes,  
12 is reenacted to read:

13 400.619 Licensure application and renewal.--

14 (4) Upon receipt of a completed license application or  
15 license renewal, and the fee, the agency shall initiate a  
16 level 1 background screening as provided under chapter 435 on  
17 the adult family-care home provider, the designated relief  
18 person, all adult household members, and all staff members.  
19 The agency shall conduct an onsite visit to the home that is  
20 to be licensed.

21 (a) Proof of compliance with level 1 screening  
22 standards which has been submitted within the previous 5 years  
23 to meet any facility or professional licensure requirements of  
24 the agency or the Department of Health satisfies the  
25 requirements of this subsection. Such proof must be  
26 accompanied, under penalty of perjury, by a copy of the  
27 person's current professional license and an affidavit of  
28 current compliance with the background screening requirements.

29 (b) The person required to be screened must have been  
30 continuously employed in the same type of occupation for which  
31 the person is seeking employment without a breach in service

1 that exceeds 180 days, and proof of compliance with the level  
2 1 screening requirement which is no more than 2 years old must  
3 be provided. Proof of compliance shall be provided directly  
4 from one employer or contractor to another, and not from the  
5 person screened. Upon request, a copy of screening results  
6 shall be provided to the person screened by the employer  
7 retaining documentation of the screening.

8 Section 24. For the purpose of incorporating the  
9 amendment to section 435.03, Florida Statutes, in references  
10 thereto, subsection (1) of section 400.6194, Florida Statutes,  
11 is reenacted to read:

12 400.6194 Denial, revocation, or suspension of a  
13 license.--The agency may deny, suspend, or revoke a license  
14 for any of the following reasons:

15 (1) Failure of any of the persons required to undergo  
16 background screening under s. 400.619 to meet the level 1  
17 screening standards of s. 435.03, unless an exemption from  
18 disqualification has been provided by the agency.

19 Section 25. For the purpose of incorporating the  
20 amendment to section 435.03, Florida Statutes, in references  
21 thereto, section 400.953, Florida Statutes, is reenacted to  
22 read:

23 400.953 Background screening of home medical equipment  
24 provider personnel.--The agency shall require employment  
25 screening as provided in chapter 435, using the level 1  
26 standards for screening set forth in that chapter, for home  
27 medical equipment provider personnel.

28 (1) The agency may grant exemptions from  
29 disqualification from employment under this section as  
30 provided in s. 435.07.

31

1           (2) The general manager of each home medical equipment  
2 provider must sign an affidavit annually, under penalty of  
3 perjury, stating that all home medical equipment provider  
4 personnel hired on or after July 1, 1999, who enter the home  
5 of a patient in the capacity of their employment have been  
6 screened and that its remaining personnel have worked for the  
7 home medical equipment provider continuously since before July  
8 1, 1999.

9           (3) Proof of compliance with the screening  
10 requirements of s. 110.1127, s. 393.0655, s. 394.4572, s.  
11 397.451, s. 402.305, s. 402.313, s. 409.175, s. 464.008, or s.  
12 985.407 or this part must be accepted in lieu of the  
13 requirements of this section if the person has been  
14 continuously employed in the same type of occupation for which  
15 he or she is seeking employment without a breach in service  
16 that exceeds 180 days, the proof of compliance is not more  
17 than 2 years old, and the person has been screened by the  
18 Department of Law Enforcement. An employer or contractor shall  
19 directly provide proof of compliance to another employer or  
20 contractor, and a potential employer or contractor may not  
21 accept any proof of compliance directly from the person  
22 requiring screening. Proof of compliance with the screening  
23 requirements of this section shall be provided, upon request,  
24 to the person screened by the home medical equipment provider.

25           (4) There is no monetary liability on the part of, and  
26 no cause of action for damages arising against, a licensed  
27 home medical equipment provider that, upon notice that an  
28 employee has been found guilty of, regardless of adjudication,  
29 or entered a plea of nolo contendere or guilty to, any offense  
30 prohibited under s. 435.03 or under any similar statute of  
31 another jurisdiction, terminates the employee, whether or not



1 | the employee has filed for an exemption with the agency and  
2 | whether or not the time for filing has expired.

3 |         (5) The costs of processing the statewide  
4 | correspondence criminal records checks must be borne by the  
5 | home medical equipment provider or by the person being  
6 | screened, at the discretion of the home medical equipment  
7 | provider.

8 |         (6) Neither the agency nor the home medical equipment  
9 | provider may use the criminal records or juvenile records of a  
10 | person for any purpose other than determining whether that  
11 | person meets minimum standards of good moral character for  
12 | home medical equipment provider personnel.

13 |         (7)(a) It is a misdemeanor of the first degree,  
14 | punishable as provided in s. 775.082 or s. 775.083, for any  
15 | person willfully, knowingly, or intentionally to:

16 |             1. Fail, by false statement, misrepresentation,  
17 | impersonation, or other fraudulent means, to disclose in any  
18 | application for paid employment a material fact used in making  
19 | a determination as to the person's qualifications to be an  
20 | employee under this section;

21 |             2. Operate or attempt to operate an entity licensed  
22 | under this part with persons who do not meet the minimum  
23 | standards for good moral character as contained in this  
24 | section; or

25 |             3. Use information from the criminal records obtained  
26 | under this section for any purpose other than screening that  
27 | person for employment as specified in this section, or release  
28 | such information to any other person for any purpose other  
29 | than screening for employment under this section.

30 |         (b) It is a felony of the third degree, punishable as  
31 | provided in s. 775.082, s. 775.083, or s. 775.084, for any

1 person willfully, knowingly, or intentionally to use  
2 information from the juvenile records of a person obtained  
3 under this section for any purpose other than screening for  
4 employment under this section.

5 Section 26. For the purpose of incorporating the  
6 amendment to section 435.03, Florida Statutes, in references  
7 thereto, subsection (32) of section 409.912, Florida Statutes,  
8 is reenacted to read:

9 409.912 Cost-effective purchasing of health care.--The  
10 agency shall purchase goods and services for Medicaid  
11 recipients in the most cost-effective manner consistent with  
12 the delivery of quality medical care. The agency shall  
13 maximize the use of prepaid per capita and prepaid aggregate  
14 fixed-sum basis services when appropriate and other  
15 alternative service delivery and reimbursement methodologies,  
16 including competitive bidding pursuant to s. 287.057, designed  
17 to facilitate the cost-effective purchase of a case-managed  
18 continuum of care. The agency shall also require providers to  
19 minimize the exposure of recipients to the need for acute  
20 inpatient, custodial, and other institutional care and the  
21 inappropriate or unnecessary use of high-cost services. The  
22 agency may establish prior authorization requirements for  
23 certain populations of Medicaid beneficiaries, certain drug  
24 classes, or particular drugs to prevent fraud, abuse, overuse,  
25 and possible dangerous drug interactions. The Pharmaceutical  
26 and Therapeutics Committee shall make recommendations to the  
27 agency on drugs for which prior authorization is required. The  
28 agency shall inform the Pharmaceutical and Therapeutics  
29 Committee of its decisions regarding drugs subject to prior  
30 authorization.

31

1           (32) Each managed care plan that is under contract  
2 with the agency to provide health care services to Medicaid  
3 recipients shall annually conduct a background check with the  
4 Florida Department of Law Enforcement of all persons with  
5 ownership interest of 5 percent or more or executive  
6 management responsibility for the managed care plan and shall  
7 submit to the agency information concerning any such person  
8 who has been found guilty of, regardless of adjudication, or  
9 has entered a plea of nolo contendere or guilty to, any of the  
10 offenses listed in s. 435.03.

11           Section 27. For the purpose of incorporating the  
12 amendment to section 435.03, Florida Statutes, in references  
13 thereto, subsection (4) of section 435.07, Florida Statutes,  
14 is reenacted to read:

15           435.07 Exemptions from disqualification.--Unless  
16 otherwise provided by law, the provisions of this section  
17 shall apply to exemptions from disqualification.

18           (4) Disqualification from employment under subsection  
19 (1) may not be removed from, nor may an exemption be granted  
20 to, any personnel who is found guilty of, regardless of  
21 adjudication, or who has entered a plea of nolo contendere or  
22 guilty to, any felony covered by s. 435.03 solely by reason of  
23 any pardon, executive clemency, or restoration of civil  
24 rights.

25           Section 28. For the purpose of incorporating the  
26 amendment to section 435.03, Florida Statutes, in references  
27 thereto, paragraph (e) of subsection (1) of section 464.018,  
28 Florida Statutes, is reenacted to read:

29           464.018 Disciplinary actions.--  
30  
31

1           (1) The following acts constitute grounds for denial  
2 of a license or disciplinary action, as specified in s.  
3 456.072(2):

4           (e) Having been found guilty of, regardless of  
5 adjudication, or entered a plea of nolo contendere or guilty  
6 to, any offense prohibited under s. 435.03 or under any  
7 similar statute of another jurisdiction; or having committed  
8 an act which constitutes domestic violence as defined in s.  
9 741.28.

10           Section 29. For the purpose of incorporating the  
11 amendment to section 435.03, Florida Statutes, in references  
12 thereto, subsection (3) of section 744.309, Florida Statutes,  
13 is reenacted to read:

14           744.309 Who may be appointed guardian of a resident  
15 ward.--

16           (3) DISQUALIFIED PERSONS.--No person who has been  
17 convicted of a felony or who, from any incapacity or illness,  
18 is incapable of discharging the duties of a guardian, or who  
19 is otherwise unsuitable to perform the duties of a guardian,  
20 shall be appointed to act as guardian. Further, no person who  
21 has been judicially determined to have committed abuse,  
22 abandonment, or neglect against a child as defined in s. 39.01  
23 or s. 984.03(1), (2), and (37), or who has been found guilty  
24 of, regardless of adjudication, or entered a plea of nolo  
25 contendere or guilty to, any offense prohibited under s.  
26 435.03 or under any similar statute of another jurisdiction,  
27 shall be appointed to act as a guardian. Except as provided in  
28 subsection (5) or subsection (6), a person who provides  
29 substantial services to the proposed ward in a professional or  
30 business capacity, or a creditor of the proposed ward, may not  
31 be appointed guardian and retain that previous professional or

1 | business relationship. A person may not be appointed a  
2 | guardian if he or she is in the employ of any person, agency,  
3 | government, or corporation that provides service to the  
4 | proposed ward in a professional or business capacity, except  
5 | that a person so employed may be appointed if he or she is the  
6 | spouse, adult child, parent, or sibling of the proposed ward  
7 | or the court determines that the potential conflict of  
8 | interest is insubstantial and that the appointment would  
9 | clearly be in the proposed ward's best interest. The court may  
10 | not appoint a guardian in any other circumstance in which a  
11 | conflict of interest may occur.

12 |         Section 30. For the purpose of incorporating the  
13 | amendment to section 435.03, Florida Statutes, in references  
14 | thereto, subsection (12) of section 744.474, Florida Statutes,  
15 | is reenacted to read:

16 |             744.474 Reasons for removal of guardian.--A guardian  
17 | may be removed for any of the following reasons, and the  
18 | removal shall be in addition to any other penalties prescribed  
19 | by law:

20 |             (12) Having been found guilty of, regardless of  
21 | adjudication, or entered a plea of nolo contendere or guilty  
22 | to, any offense prohibited under s. 435.03 or under any  
23 | similar statute of another jurisdiction.

24 |         Section 31. For the purpose of incorporating the  
25 | amendment to section 435.03, Florida Statutes, in references  
26 | thereto, subsection (4) of section 985.407, Florida Statutes,  
27 | is reenacted to read:

28 |             985.407 Departmental contracting powers; personnel  
29 | standards and screening.--

30 |             (4) The department shall require employment screening  
31 | pursuant to chapter 435, using the level 1 standards for

1 screening set forth in that chapter, for personnel in  
2 delinquency facilities, services, and programs.

3 Section 32. For the purpose of incorporating the  
4 amendment to section 435.04, Florida Statutes, in references  
5 thereto, paragraph (b) of subsection (2) of section 39.001,  
6 Florida Statutes, is reenacted to read:

7 39.001 Purposes and intent; personnel standards and  
8 screening.--

9 (2) DEPARTMENT CONTRACTS.--The department may contract  
10 with the Federal Government, other state departments and  
11 agencies, county and municipal governments and agencies,  
12 public and private agencies, and private individuals and  
13 corporations in carrying out the purposes of, and the  
14 responsibilities established in, this chapter.

15 (b) The department shall require employment screening,  
16 and rescreening no less frequently than once every 5 years,  
17 pursuant to chapter 435, using the level 2 standards set forth  
18 in that chapter for personnel in programs for children or  
19 youths.

20 Section 33. For the purpose of incorporating the  
21 amendment to section 435.04, Florida Statutes, in references  
22 thereto, subsection (1) of section 39.821, Florida Statutes,  
23 is reenacted to read:

24 39.821 Qualifications of guardians ad litem.--

25 (1) Because of the special trust or responsibility  
26 placed in a guardian ad litem, the Guardian Ad Litem Program  
27 may use any private funds collected by the program, or any  
28 state funds so designated, to conduct a security background  
29 investigation before certifying a volunteer to serve. A  
30 security background investigation must include, but need not  
31 be limited to, employment history checks, checks of

1 | references, local criminal records checks through local law  
2 | enforcement agencies, and statewide criminal records checks  
3 | through the Department of Law Enforcement. Upon request, an  
4 | employer shall furnish a copy of the personnel record for the  
5 | employee or former employee who is the subject of a security  
6 | background investigation conducted under this section. The  
7 | information contained in the personnel record may include, but  
8 | need not be limited to, disciplinary matters and the reason  
9 | why the employee was terminated from employment. An employer  
10 | who releases a personnel record for purposes of a security  
11 | background investigation is presumed to have acted in good  
12 | faith and is not liable for information contained in the  
13 | record without a showing that the employer maliciously  
14 | falsified the record. A security background investigation  
15 | conducted under this section must ensure that a person is not  
16 | certified as a guardian ad litem if the person has been  
17 | convicted of, regardless of adjudication, or entered a plea of  
18 | nolo contendere or guilty to, any offense prohibited under the  
19 | provisions of the Florida Statutes specified in s. 435.04(2)  
20 | or under any similar law in another jurisdiction. Before  
21 | certifying an applicant to serve as a guardian ad litem, the  
22 | chief judge of the circuit court may request a federal  
23 | criminal records check of the applicant through the Federal  
24 | Bureau of Investigation. In analyzing and evaluating the  
25 | information obtained in the security background investigation,  
26 | the program must give particular emphasis to past activities  
27 | involving children, including, but not limited to,  
28 | child-related criminal offenses or child abuse. The program  
29 | has the sole discretion in determining whether to certify a  
30 | person based on his or her security background investigation.

31 |

1 The information collected pursuant to the security background  
2 investigation is confidential and exempt from s. 119.07(1).

3 Section 34. For the purpose of incorporating the  
4 amendment to section 435.04, Florida Statutes, in references  
5 thereto, paragraphs (a) and (c) of subsection (3) of section  
6 110.1127, Florida Statutes, are reenacted to read:

7 110.1127 Employee security checks.--

8 (3)(a) All positions in programs providing care to  
9 children, the developmentally disabled, or vulnerable adults  
10 for 15 hours or more per week; all permanent and temporary  
11 employee positions of the central abuse hotline; and all  
12 persons working under contract who have access to abuse  
13 records are deemed to be persons and positions of special  
14 trust or responsibility, and require employment screening  
15 pursuant to chapter 435, using the level 2 standards set forth  
16 in that chapter.

17 (c) All persons and employees in such positions of  
18 trust or responsibility shall be required to undergo security  
19 background investigations as a condition of employment and  
20 continued employment. For the purposes of this subsection,  
21 security background investigations shall be conducted as  
22 provided in chapter 435, using the level 2 standards for  
23 screening set forth in that chapter.

24 Section 35. For the purpose of incorporating the  
25 amendment to section 435.04, Florida Statutes, in references  
26 thereto, paragraph (a) of subsection (12) of section 112.0455,  
27 Florida Statutes, is reenacted to read:

28 112.0455 Drug-Free Workplace Act.--

29 (12) DRUG-TESTING STANDARDS; LABORATORIES.--

30 (a) A laboratory may analyze initial or confirmation  
31 drug specimens only if:



1           1. The laboratory is licensed and approved by the  
2 Agency for Health Care Administration using criteria  
3 established by the United States Department of Health and  
4 Human Services as general guidelines for modeling the state  
5 drug testing program. Each applicant for licensure must comply  
6 with the following requirements:

7           a. Upon receipt of a completed, signed, and dated  
8 application, the agency shall require background screening, in  
9 accordance with the level 2 standards for screening set forth  
10 in chapter 435, of the managing employee, or other similarly  
11 titled individual responsible for the daily operation of the  
12 laboratory, and of the financial officer, or other similarly  
13 titled individual who is responsible for the financial  
14 operation of the laboratory, including billings for services.  
15 The applicant must comply with the procedures for level 2  
16 background screening as set forth in chapter 435, as well as  
17 the requirements of s. 435.03(3).

18           b. The agency may require background screening of any  
19 other individual who is an applicant if the agency has  
20 probable cause to believe that he or she has been convicted of  
21 an offense prohibited under the level 2 standards for  
22 screening set forth in chapter 435.

23           c. Proof of compliance with the level 2 background  
24 screening requirements of chapter 435 which has been submitted  
25 within the previous 5 years in compliance with any other  
26 health care licensure requirements of this state is acceptable  
27 in fulfillment of screening requirements.

28           d. A provisional license may be granted to an  
29 applicant when each individual required by this section to  
30 undergo background screening has met the standards for the  
31 Department of Law Enforcement background check, but the agency

1 | has not yet received background screening results from the  
2 | Federal Bureau of Investigation, or a request for a  
3 | disqualification exemption has been submitted to the agency as  
4 | set forth in chapter 435, but a response has not yet been  
5 | issued. A license may be granted to the applicant upon the  
6 | agency's receipt of a report of the results of the Federal  
7 | Bureau of Investigation background screening for each  
8 | individual required by this section to undergo background  
9 | screening which confirms that all standards have been met, or  
10 | upon the granting of a disqualification exemption by the  
11 | agency as set forth in chapter 435. Any other person who is  
12 | required to undergo level 2 background screening may serve in  
13 | his or her capacity pending the agency's receipt of the report  
14 | from the Federal Bureau of Investigation. However, the person  
15 | may not continue to serve if the report indicates any  
16 | violation of background screening standards and a  
17 | disqualification exemption has not been requested of and  
18 | granted by the agency as set forth in chapter 435.

19 |       e. Each applicant must submit to the agency, with its  
20 | application, a description and explanation of any exclusions,  
21 | permanent suspensions, or terminations of the applicant from  
22 | the Medicare or Medicaid programs. Proof of compliance with  
23 | the requirements for disclosure of ownership and control  
24 | interests under the Medicaid or Medicare programs shall be  
25 | accepted in lieu of this submission.

26 |       f. Each applicant must submit to the agency a  
27 | description and explanation of any conviction of an offense  
28 | prohibited under the level 2 standards of chapter 435 by a  
29 | member of the board of directors of the applicant, its  
30 | officers, or any individual owning 5 percent or more of the  
31 | applicant. This requirement does not apply to a director of a

1 not-for-profit corporation or organization if the director  
2 serves solely in a voluntary capacity for the corporation or  
3 organization, does not regularly take part in the day-to-day  
4 operational decisions of the corporation or organization,  
5 receives no remuneration for his or her services on the  
6 corporation or organization's board of directors, and has no  
7 financial interest and has no family members with a financial  
8 interest in the corporation or organization, provided that the  
9 director and the not-for-profit corporation or organization  
10 include in the application a statement affirming that the  
11 director's relationship to the corporation satisfies the  
12 requirements of this sub-subparagraph.

13 g. A license may not be granted to any applicant if  
14 the applicant or managing employee has been found guilty of,  
15 regardless of adjudication, or has entered a plea of nolo  
16 contendere or guilty to, any offense prohibited under the  
17 level 2 standards for screening set forth in chapter 435,  
18 unless an exemption from disqualification has been granted by  
19 the agency as set forth in chapter 435.

20 h. The agency may deny or revoke licensure if the  
21 applicant:

22 (I) Has falsely represented a material fact in the  
23 application required by sub-subparagraph e. or  
24 sub-subparagraph f., or has omitted any material fact from the  
25 application required by sub-subparagraph e. or  
26 sub-subparagraph f.; or

27 (II) Has had prior action taken against the applicant  
28 under the Medicaid or Medicare program as set forth in  
29 sub-subparagraph e.

30 i. An application for license renewal must contain the  
31 information required under sub-subparagraphs e. and f.

1           2. The laboratory has written procedures to ensure  
2 chain of custody.

3           3. The laboratory follows proper quality control  
4 procedures, including, but not limited to:

5           a. The use of internal quality controls including the  
6 use of samples of known concentrations which are used to check  
7 the performance and calibration of testing equipment, and  
8 periodic use of blind samples for overall accuracy.

9           b. An internal review and certification process for  
10 drug test results, conducted by a person qualified to perform  
11 that function in the testing laboratory.

12           c. Security measures implemented by the testing  
13 laboratory to preclude adulteration of specimens and drug test  
14 results.

15           d. Other necessary and proper actions taken to ensure  
16 reliable and accurate drug test results.

17           Section 36. For the purpose of incorporating the  
18 amendment to section 435.04, Florida Statutes, in references  
19 thereto, subsections (1), (2), and (4) of section 381.0059,  
20 Florida Statutes, are reenacted to read:

21           381.0059 Background screening requirements for school  
22 health services personnel.--

23           (1) Pursuant to the provisions of chapter 435, any  
24 person who provides services under a school health services  
25 plan pursuant to s. 381.0056 must meet level 2 screening  
26 requirements as described in s. 435.04. A person may satisfy  
27 the requirements of this subsection by submitting proof of  
28 compliance with the requirements of level 2 screening  
29 conducted within 12 months before the date that person  
30 initially provides services under a school health services  
31 plan.

1           (2) A person may provide services under a school  
2 health services plan pursuant to s. 381.0056 prior to the  
3 completion of level 2 screening. However, pending the results  
4 of the screening, such person may not be alone with a minor.

5           (4) Under penalty of perjury, each person who provides  
6 services under a school health plan pursuant to s. 381.0056  
7 must attest to meeting the level 2 screening requirements for  
8 participation under the plan and agree to inform his or her  
9 employer immediately if convicted of any disqualifying offense  
10 while providing services under a plan.

11           Section 37. For the purpose of incorporating the  
12 amendment to section 435.04, Florida Statutes, in references  
13 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
14 subsection (1) of section 381.60225, Florida Statutes, are  
15 reenacted to read:

16           381.60225 Background screening.--

17           (1) Each applicant for certification must comply with  
18 the following requirements:

19           (a) Upon receipt of a completed, signed, and dated  
20 application, the Agency for Health Care Administration shall  
21 require background screening, in accordance with the level 2  
22 standards for screening set forth in chapter 435, of the  
23 managing employee, or other similarly titled individual  
24 responsible for the daily operation of the organization,  
25 agency, or entity, and financial officer, or other similarly  
26 titled individual who is responsible for the financial  
27 operation of the organization, agency, or entity, including  
28 billings for services. The applicant must comply with the  
29 procedures for level 2 background screening as set forth in  
30 chapter 435, as well as the requirements of s. 435.03(3).  
31

1           (b) The Agency for Health Care Administration may  
2 require background screening of any other individual who is an  
3 applicant if the Agency for Health Care Administration has  
4 probable cause to believe that he or she has been convicted of  
5 a crime or has committed any other offense prohibited under  
6 the level 2 standards for screening set forth in chapter 435.

7           (c) Proof of compliance with the level 2 background  
8 screening requirements of chapter 435 which has been submitted  
9 within the previous 5 years in compliance with any other  
10 health care licensure requirements of this state is acceptable  
11 in fulfillment of the requirements of paragraph (a).

12           (d) A provisional certification may be granted to the  
13 organization, agency, or entity when each individual required  
14 by this section to undergo background screening has met the  
15 standards for the Department of Law Enforcement background  
16 check, but the agency has not yet received background  
17 screening results from the Federal Bureau of Investigation, or  
18 a request for a disqualification exemption has been submitted  
19 to the agency as set forth in chapter 435, but a response has  
20 not yet been issued. A standard certification may be granted  
21 to the organization, agency, or entity upon the agency's  
22 receipt of a report of the results of the Federal Bureau of  
23 Investigation background screening for each individual  
24 required by this section to undergo background screening which  
25 confirms that all standards have been met, or upon the  
26 granting of a disqualification exemption by the agency as set  
27 forth in chapter 435. Any other person who is required to  
28 undergo level 2 background screening may serve in his or her  
29 capacity pending the agency's receipt of the report from the  
30 Federal Bureau of Investigation. However, the person may not  
31 continue to serve if the report indicates any violation of

1 background screening standards and a disqualification  
2 exemption has not been requested of and granted by the agency  
3 as set forth in chapter 435.

4 (f) Each applicant must submit to the agency a  
5 description and explanation of any conviction of an offense  
6 prohibited under the level 2 standards of chapter 435 by a  
7 member of the board of directors of the applicant, its  
8 officers, or any individual owning 5 percent or more of the  
9 applicant. This requirement does not apply to a director of a  
10 not-for-profit corporation or organization if the director  
11 serves solely in a voluntary capacity for the corporation or  
12 organization, does not regularly take part in the day-to-day  
13 operational decisions of the corporation or organization,  
14 receives no remuneration for his or her services on the  
15 corporation or organization's board of directors, and has no  
16 financial interest and has no family members with a financial  
17 interest in the corporation or organization, provided that the  
18 director and the not-for-profit corporation or organization  
19 include in the application a statement affirming that the  
20 director's relationship to the corporation satisfies the  
21 requirements of this paragraph.

22 (g) The agency may not certify any organization,  
23 agency, or entity if any applicant or managing employee has  
24 been found guilty of, regardless of adjudication, or has  
25 entered a plea of nolo contendere or guilty to, any offense  
26 prohibited under the level 2 standards for screening set forth  
27 in chapter 435, unless an exemption from disqualification has  
28 been granted by the agency as set forth in chapter 435.

29 Section 38. For the purpose of incorporating the  
30 amendment to section 435.04, Florida Statutes, in references  
31 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of

1 subsection (7) of section 383.305, Florida Statutes, are  
2 reenacted to read:

3           383.305 Licensure; issuance, renewal, denial,  
4 suspension, revocation; fees; background screening.--

5           (7) Each applicant for licensure must comply with the  
6 following requirements:

7           (a) Upon receipt of a completed, signed, and dated  
8 application, the agency shall require background screening, in  
9 accordance with the level 2 standards for screening set forth  
10 in chapter 435, of the managing employee, or other similarly  
11 titled individual who is responsible for the daily operation  
12 of the center, and of the financial officer, or other  
13 similarly titled individual who is responsible for the  
14 financial operation of the center, including billings for  
15 patient care and services. The applicant must comply with the  
16 procedures for level 2 background screening as set forth in  
17 chapter 435 as well as the requirements of s. 435.03(3).

18           (b) The agency may require background screening of any  
19 other individual who is an applicant if the agency has  
20 probable cause to believe that he or she has been convicted of  
21 a crime or has committed any other offense prohibited under  
22 the level 2 standards for screening set forth in chapter 435.

23           (c) Proof of compliance with the level 2 background  
24 screening requirements of chapter 435 which has been submitted  
25 within the previous 5 years in compliance with any other  
26 health care licensure requirements of this state is acceptable  
27 in fulfillment of the requirements of paragraph (a).

28           (d) A provisional license may be granted to an  
29 applicant when each individual required by this section to  
30 undergo background screening has met the standards for the  
31 Department of Law Enforcement background check, but the agency



1 | has not yet received background screening results from the  
2 | Federal Bureau of Investigation, or a request for a  
3 | disqualification exemption has been submitted to the agency as  
4 | set forth in chapter 435 but a response has not yet been  
5 | issued. A standard license may be granted to the applicant  
6 | upon the agency's receipt of a report of the results of the  
7 | Federal Bureau of Investigation background screening for each  
8 | individual required by this section to undergo background  
9 | screening which confirms that all standards have been met, or  
10 | upon the granting of a disqualification exemption by the  
11 | agency as set forth in chapter 435. Any other person who is  
12 | required to undergo level 2 background screening may serve in  
13 | his or her capacity pending the agency's receipt of the report  
14 | from the Federal Bureau of Investigation. However, the person  
15 | may not continue to serve if the report indicates any  
16 | violation of background screening standards and a  
17 | disqualification exemption has not been requested of and  
18 | granted by the agency as set forth in chapter 435.

19 |       (f) Each applicant must submit to the agency a  
20 | description and explanation of any conviction of an offense  
21 | prohibited under the level 2 standards of chapter 435 by a  
22 | member of the board of directors of the applicant, its  
23 | officers, or any individual owning 5 percent or more of the  
24 | applicant. This requirement does not apply to a director of a  
25 | not-for-profit corporation or organization if the director  
26 | serves solely in a voluntary capacity for the corporation or  
27 | organization, does not regularly take part in the day-to-day  
28 | operational decisions of the corporation or organization,  
29 | receives no remuneration for his or her services on the  
30 | corporation or organization's board of directors, and has no  
31 | financial interest and has no family members with a financial

1 interest in the corporation or organization, provided that the  
2 director and the not-for-profit corporation or organization  
3 include in the application a statement affirming that the  
4 director's relationship to the corporation satisfies the  
5 requirements of this paragraph.

6 (g) A license may not be granted to an applicant if  
7 the applicant or managing employee has been found guilty of,  
8 regardless of adjudication, or has entered a plea of nolo  
9 contendere or guilty to, any offense prohibited under the  
10 level 2 standards for screening set forth in chapter 435,  
11 unless an exemption from disqualification has been granted by  
12 the agency as set forth in chapter 435.

13 Section 39. For the purpose of incorporating the  
14 amendment to section 435.04, Florida Statutes, in references  
15 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
16 subsection (3) of section 390.015, Florida Statutes, are  
17 reenacted to read:

18 390.015 Application for license.--

19 (3) Each applicant for licensure must comply with the  
20 following requirements:

21 (a) Upon receipt of a completed, signed, and dated  
22 application, the agency shall require background screening, in  
23 accordance with the level 2 standards for screening set forth  
24 in chapter 435, of the managing employee, or other similarly  
25 titled individual who is responsible for the daily operation  
26 of the clinic, and financial officer, or other similarly  
27 titled individual who is responsible for the financial  
28 operation of the clinic, including billings for patient care  
29 and services. The applicant must comply with the procedures  
30 for level 2 background screening as set forth in chapter 435,  
31 as well as the requirements of s. 435.03(3).

1           (b) The agency may require background screening of any  
2 other individual who is an applicant if the agency has  
3 probable cause to believe that he or she has been convicted of  
4 a crime or has committed any other offense prohibited under  
5 the level 2 standards for screening set forth in chapter 435.

6           (c) Proof of compliance with the level 2 background  
7 screening requirements of chapter 435 which has been submitted  
8 within the previous 5 years in compliance with any other  
9 health care licensure requirements of this state is acceptable  
10 in fulfillment of the requirements of paragraph (a).

11           (d) A provisional license may be granted to an  
12 applicant when each individual required by this section to  
13 undergo background screening has met the standards for the  
14 Department of Law Enforcement background check, but the agency  
15 has not yet received background screening results from the  
16 Federal Bureau of Investigation, or a request for a  
17 disqualification exemption has been submitted to the agency as  
18 set forth in chapter 435 but a response has not yet been  
19 issued. A standard license may be granted to the applicant  
20 upon the agency's receipt of a report of the results of the  
21 Federal Bureau of Investigation background screening for each  
22 individual required by this section to undergo background  
23 screening which confirms that all standards have been met, or  
24 upon the granting of a disqualification exemption by the  
25 agency as set forth in chapter 435. Any other person who is  
26 required to undergo level 2 background screening may serve in  
27 his or her capacity pending the agency's receipt of the report  
28 from the Federal Bureau of Investigation. However, the person  
29 may not continue to serve if the report indicates any  
30 violation of background screening standards and a  
31

1 disqualification exemption has not been requested of and  
2 granted by the agency as set forth in chapter 435.

3 (f) Each applicant must submit to the agency a  
4 description and explanation of any conviction of an offense  
5 prohibited under the level 2 standards of chapter 435 by a  
6 member of the board of directors of the applicant, its  
7 officers, or any individual owning 5 percent or more of the  
8 applicant. This requirement does not apply to a director of a  
9 not-for-profit corporation or organization if the director  
10 serves solely in a voluntary capacity for the corporation or  
11 organization, does not regularly take part in the day-to-day  
12 operational decisions of the corporation or organization,  
13 receives no remuneration for his or her services on the  
14 corporation or organization's board of directors, and has no  
15 financial interest and has no family members with a financial  
16 interest in the corporation or organization, provided that the  
17 director and the not-for-profit corporation or organization  
18 include in the application a statement affirming that the  
19 director's relationship to the corporation satisfies the  
20 requirements of this paragraph.

21 (g) A license may not be granted to an applicant if  
22 the applicant or managing employee has been found guilty of,  
23 regardless of adjudication, or has entered a plea of nolo  
24 contendere or guilty to, any offense prohibited under the  
25 level 2 standards for screening set forth in chapter 435,  
26 unless an exemption from disqualification has been granted by  
27 the agency as set forth in chapter 435.

28 Section 40. For the purpose of incorporating the  
29 amendment to section 435.04, Florida Statutes, in references  
30 thereto, subsection (1) of section 393.0655, Florida Statutes,  
31 is reenacted to read:

1           393.0655 Screening of direct service providers.--

2           (1) MINIMUM STANDARDS.--The department shall require  
3 employment screening pursuant to chapter 435, using the level  
4 2 standards for screening set forth in that chapter, for  
5 direct service providers who are unrelated to their clients.

6           Section 41. For the purpose of incorporating the  
7 amendment to section 435.04, Florida Statutes, in references  
8 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
9 subsection (6) of section 393.067, Florida Statutes, are  
10 reenacted to read:

11           393.067 Licensure of residential facilities and  
12 comprehensive transitional education programs.--

13           (6) Each applicant for licensure as an intermediate  
14 care facility for the developmentally disabled must comply  
15 with the following requirements:

16           (a) Upon receipt of a completed, signed, and dated  
17 application, the agency shall require background screening, in  
18 accordance with the level 2 standards for screening set forth  
19 in chapter 435, of the managing employee, or other similarly  
20 titled individual who is responsible for the daily operation  
21 of the facility, and of the financial officer, or other  
22 similarly titled individual who is responsible for the  
23 financial operation of the center, including billings for  
24 resident care and services. The applicant must comply with the  
25 procedures for level 2 background screening as set forth in  
26 chapter 435, as well as the requirements of s. 435.03(3).

27           (b) The agency may require background screening of any  
28 other individual who is an applicant if the agency has  
29 probable cause to believe that he or she has been convicted of  
30 a crime or has committed any other offense prohibited under  
31 the level 2 standards for screening set forth in chapter 435.

1 (c) Proof of compliance with the level 2 background  
2 screening requirements of chapter 435 which has been submitted  
3 within the previous 5 years in compliance with any other  
4 health care licensure requirements of this state is acceptable  
5 in fulfillment of the requirements of paragraph (a).

6 (d) A provisional license may be granted to an  
7 applicant when each individual required by this section to  
8 undergo background screening has met the standards for the  
9 Department of Law Enforcement background check, but the agency  
10 has not yet received background screening results from the  
11 Federal Bureau of Investigation, or a request for a  
12 disqualification exemption has been submitted to the agency as  
13 set forth in chapter 435, but a response has not yet been  
14 issued. A standard license may be granted to the applicant  
15 upon the agency's receipt of a report of the results of the  
16 Federal Bureau of Investigation background screening for each  
17 individual required by this section to undergo background  
18 screening which confirms that all standards have been met, or  
19 upon the granting of a disqualification exemption by the  
20 agency as set forth in chapter 435. Any other person who is  
21 required to undergo level 2 background screening may serve in  
22 his or her capacity pending the agency's receipt of the report  
23 from the Federal Bureau of Investigation. However, the person  
24 may not continue to serve if the report indicates any  
25 violation of background screening standards and a  
26 disqualification exemption has not been requested of and  
27 granted by the agency as set forth in chapter 435.

28 (f) Each applicant must submit to the agency a  
29 description and explanation of any conviction of an offense  
30 prohibited under the level 2 standards of chapter 435 by a  
31 member of the board of directors of the applicant, its

1 officers, or any individual owning 5 percent or more of the  
2 applicant. This requirement does not apply to a director of a  
3 not-for-profit corporation or organization if the director  
4 serves solely in a voluntary capacity for the corporation or  
5 organization, does not regularly take part in the day-to-day  
6 operational decisions of the corporation or organization,  
7 receives no remuneration for his or her services on the  
8 corporation or organization's board of directors, and has no  
9 financial interest and has no family members with a financial  
10 interest in the corporation or organization, provided that the  
11 director and the not-for-profit corporation or organization  
12 include in the application a statement affirming that the  
13 director's relationship to the corporation satisfies the  
14 requirements of this paragraph.

15 (g) A license may not be granted to an applicant if  
16 the applicant or managing employee has been found guilty of,  
17 regardless of adjudication, or has entered a plea of nolo  
18 contendere or guilty to, any offense prohibited under the  
19 level 2 standards for screening set forth in chapter 435,  
20 unless an exemption from disqualification has been granted by  
21 the agency as set forth in chapter 435.

22 Section 42. Paragraph (a) of subsection (1) of section  
23 394.4572, Florida Statutes, is amended to read:

24 394.4572 Screening of mental health personnel.--

25 (1)(a) The department and the Agency for Health Care  
26 Administration shall require employment screening for mental  
27 health personnel using the standards for level 2 screening set  
28 forth in chapter 435. "Mental health personnel" includes all  
29 program directors, professional clinicians, staff members, and  
30 volunteers working in public or private mental health programs  
31 and facilities who have direct contact with unmarried patients

1 | under the age of 18 years. For the purpose of this chapter,  
2 | employment screening of mental health personnel also includes,  
3 | but is not limited to, employment history checks as provided  
4 | in chapter 435.

5 |         Section 43. For the purpose of incorporating the  
6 | amendment to section 435.04, Florida Statutes, in references  
7 | thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
8 | subsection (13) of section 394.875, Florida Statutes, are  
9 | reenacted to read:

10 |         394.875 Crisis stabilization units, residential  
11 | treatment facilities, and residential treatment centers for  
12 | children and adolescents; authorized services; license  
13 | required; penalties.--

14 |         (13) Each applicant for licensure must comply with the  
15 | following requirements:

16 |         (a) Upon receipt of a completed, signed, and dated  
17 | application, the agency shall require background screening, in  
18 | accordance with the level 2 standards for screening set forth  
19 | in chapter 435, of the managing employee and financial  
20 | officer, or other similarly titled individual who is  
21 | responsible for the financial operation of the facility,  
22 | including billings for client care and services. The applicant  
23 | must comply with the procedures for level 2 background  
24 | screening as set forth in chapter 435, as well as the  
25 | requirements of s. 435.03(3).

26 |         (b) The agency may require background screening of any  
27 | other individual who is an applicant if the agency has  
28 | probable cause to believe that he or she has been convicted of  
29 | a crime or has committed any other offense prohibited under  
30 | the level 2 standards for screening set forth in chapter 435.

31 |



1 (c) Proof of compliance with the level 2 background  
2 screening requirements of chapter 435 which has been submitted  
3 within the previous 5 years in compliance with any other  
4 health care licensure requirements of this state is acceptable  
5 in fulfillment of the requirements of paragraph (a).

6 (d) A provisional license may be granted to an  
7 applicant when each individual required by this section to  
8 undergo background screening has met the standards for the  
9 Department of Law Enforcement background check, but the agency  
10 has not yet received background screening results from the  
11 Federal Bureau of Investigation, or a request for a  
12 disqualification exemption has been submitted to the agency as  
13 set forth in chapter 435, but a response has not yet been  
14 issued. A standard license may be granted to the applicant  
15 upon the agency's receipt of a report of the results of the  
16 Federal Bureau of Investigation background screening for each  
17 individual required by this section to undergo background  
18 screening which confirms that all standards have been met, or  
19 upon the granting of a disqualification exemption by the  
20 agency as set forth in chapter 435. Any other person who is  
21 required to undergo level 2 background screening may serve in  
22 his or her capacity pending the agency's receipt of the report  
23 from the Federal Bureau of Investigation. However, the person  
24 may not continue to serve if the report indicates any  
25 violation of background screening standards and a  
26 disqualification exemption has not been requested of and  
27 granted by the agency as set forth in chapter 435.

28 (f) Each applicant must submit to the agency a  
29 description and explanation of any conviction of an offense  
30 prohibited under the level 2 standards of chapter 435 by a  
31 member of the board of directors of the applicant, its

1 officers, or any individual owning 5 percent or more of the  
2 applicant. This requirement does not apply to a director of a  
3 not-for-profit corporation or organization if the director  
4 serves solely in a voluntary capacity for the corporation or  
5 organization, does not regularly take part in the day-to-day  
6 operational decisions of the corporation or organization,  
7 receives no remuneration for his or her services on the  
8 corporation or organization's board of directors, and has no  
9 financial interest and has no family members with a financial  
10 interest in the corporation or organization, provided that the  
11 director and the not-for-profit corporation or organization  
12 include in the application a statement affirming that the  
13 director's relationship to the corporation satisfies the  
14 requirements of this paragraph.

15 (g) A license may not be granted to an applicant if  
16 the applicant or managing employee has been found guilty of,  
17 regardless of adjudication, or has entered a plea of nolo  
18 contendere or guilty to, any offense prohibited under the  
19 level 2 standards for screening set forth in chapter 435,  
20 unless an exemption from disqualification has been granted by  
21 the agency as set forth in chapter 435.

22 Section 44. For the purpose of incorporating the  
23 amendment to section 435.04, Florida Statutes, in references  
24 thereto, subsections (1), (2), (3), (4), (6), and (8) of  
25 section 395.0055, Florida Statutes, are reenacted to read:

26 395.0055 Background screening.--Each applicant for  
27 licensure must comply with the following requirements:

28 (1) Upon receipt of a completed, signed, and dated  
29 application, the agency shall require background screening of  
30 the managing employee in accordance with the level 2 standards  
31

1 | for screening set forth in chapter 435, as well as the  
2 | requirements of s. 435.03(3).

3 |         (2) The agency may require background screening for a  
4 | member of the board of directors of the licensee, or an  
5 | officer or an individual owning 5 percent or more of the  
6 | licensee, if the agency has probable cause to believe that  
7 | such individual has been convicted of an offense prohibited  
8 | under the level 2 standards for screening set forth in chapter  
9 | 435.

10 |         (3) Proof of compliance with the level 2 background  
11 | screening requirements of chapter 435 which has been submitted  
12 | within the previous 5 years in compliance with any other  
13 | health care licensure requirements of this state is acceptable  
14 | in fulfillment of subsection (1).

15 |         (4) A provisional license may be granted to an  
16 | applicant when each individual required by this section to  
17 | undergo background screening has met the standards for the  
18 | Department of Law Enforcement background check, but the agency  
19 | has not yet received background screening results from the  
20 | Federal Bureau of Investigation, or a request for a  
21 | disqualification exemption has been submitted to the agency as  
22 | set forth in chapter 435 but a response has not yet been  
23 | issued. A standard license may be granted to the applicant  
24 | upon the agency's receipt of a report of the results of the  
25 | Federal Bureau of Investigation background screening for each  
26 | individual required by this section to undergo background  
27 | screening which confirms that all standards have been met, or  
28 | upon the granting of a disqualification exemption by the  
29 | agency as set forth in chapter 435. Any other person who is  
30 | required to undergo level 2 background screening may serve in  
31 | his or her capacity pending the agency's receipt of the report

1 from the Federal Bureau of Investigation; however, the person  
2 may not continue to serve if the report indicates any  
3 violation of background screening standards and a  
4 disqualification exemption has not been requested of and  
5 granted by the agency as set forth in chapter 435.

6 (6) Each applicant must submit to the agency a  
7 description and explanation of any conviction of an offense  
8 prohibited under the level 2 standards of chapter 435 by a  
9 member of the board of directors of the applicant, its  
10 officers, or any individual owning 5 percent or more of the  
11 applicant.

12 (8) A license may not be granted to an applicant if  
13 the applicant or managing employee has been found guilty of,  
14 regardless of adjudication, or has entered a plea of nolo  
15 contendere or guilty to, any offense prohibited under the  
16 level 2 standards for screening set forth in chapter 435,  
17 unless an exemption from disqualification has been granted by  
18 the agency as set forth in chapter 435.

19 Section 45. For the purpose of incorporating the  
20 amendment to section 435.04, Florida Statutes, in references  
21 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
22 subsection (4) of section 395.0199, Florida Statutes, are  
23 reenacted to read:

24 395.0199 Private utilization review.--

25 (4) Each applicant for registration must comply with  
26 the following requirements:

27 (a) Upon receipt of a completed, signed, and dated  
28 application, the agency shall require background screening, in  
29 accordance with the level 2 standards for screening set forth  
30 in chapter 435, of the managing employee or other similarly  
31 titled individual who is responsible for the operation of the

1 | entity. The applicant must comply with the procedures for  
2 | level 2 background screening as set forth in chapter 435, as  
3 | well as the requirements of s. 435.03(3).

4 |       (b) The agency may require background screening of any  
5 | other individual who is an applicant, if the agency has  
6 | probable cause to believe that he or she has been convicted of  
7 | a crime or has committed any other offense prohibited under  
8 | the level 2 standards for screening set forth in chapter 435.

9 |       (c) Proof of compliance with the level 2 background  
10 | screening requirements of chapter 435 which has been submitted  
11 | within the previous 5 years in compliance with any other  
12 | health care licensure requirements of this state is acceptable  
13 | in fulfillment of the requirements of paragraph (a).

14 |       (d) A provisional registration may be granted to an  
15 | applicant when each individual required by this section to  
16 | undergo background screening has met the standards for the  
17 | Department of Law Enforcement background check, but the agency  
18 | has not yet received background screening results from the  
19 | Federal Bureau of Investigation, or a request for a  
20 | disqualification exemption has been submitted to the agency as  
21 | set forth in chapter 435 but a response has not yet been  
22 | issued. A standard registration may be granted to the  
23 | applicant upon the agency's receipt of a report of the results  
24 | of the Federal Bureau of Investigation background screening  
25 | for each individual required by this section to undergo  
26 | background screening which confirms that all standards have  
27 | been met, or upon the granting of a disqualification exemption  
28 | by the agency as set forth in chapter 435. Any other person  
29 | who is required to undergo level 2 background screening may  
30 | serve in his or her capacity pending the agency's receipt of  
31 | the report from the Federal Bureau of Investigation. However,

1 | the person may not continue to serve if the report indicates  
2 | any violation of background screening standards and a  
3 | disqualification exemption has not been requested of and  
4 | granted by the agency as set forth in chapter 435.

5 |         (f) Each applicant must submit to the agency a  
6 | description and explanation of any conviction of an offense  
7 | prohibited under the level 2 standards of chapter 435 by a  
8 | member of the board of directors of the applicant, its  
9 | officers, or any individual owning 5 percent or more of the  
10 | applicant. This requirement does not apply to a director of a  
11 | not-for-profit corporation or organization if the director  
12 | serves solely in a voluntary capacity for the corporation or  
13 | organization, does not regularly take part in the day-to-day  
14 | operational decisions of the corporation or organization,  
15 | receives no remuneration for his or her services on the  
16 | corporation or organization's board of directors, and has no  
17 | financial interest and has no family members with a financial  
18 | interest in the corporation or organization, provided that the  
19 | director and the not-for-profit corporation or organization  
20 | include in the application a statement affirming that the  
21 | director's relationship to the corporation satisfies the  
22 | requirements of this paragraph.

23 |         (g) A registration may not be granted to an applicant  
24 | if the applicant or managing employee has been found guilty  
25 | of, regardless of adjudication, or has entered a plea of nolo  
26 | contendere or guilty to, any offense prohibited under the  
27 | level 2 standards for screening set forth in chapter 435,  
28 | unless an exemption from disqualification has been granted by  
29 | the agency as set forth in chapter 435.

30 |         Section 46. For the purpose of incorporating the  
31 | amendment to section 435.04, Florida Statutes, in references

1 thereto, paragraph (a) of subsection (1) of section 397.451,  
2 Florida Statutes, is reenacted to read:

3           397.451 Background checks of service provider  
4 personnel.--

5           (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND  
6 EXCEPTIONS.--

7           (a) Background checks shall apply as follows:

8           1. All owners, directors, and chief financial officers  
9 of service providers are subject to level 2 background  
10 screening as provided under chapter 435.

11           2. All service provider personnel who have direct  
12 contact with children receiving services or with adults who  
13 are developmentally disabled receiving services are subject to  
14 level 2 background screening as provided under chapter 435.

15           Section 47. For the purpose of incorporating the  
16 amendment to section 435.04, Florida Statutes, in references  
17 thereto, paragraphs (a), (b), (c), (d), and (f) of subsection  
18 (4) of section 400.071, Florida Statutes, are reenacted to  
19 read:

20           400.071 Application for license.--

21           (4) Each applicant for licensure must comply with the  
22 following requirements:

23           (a) Upon receipt of a completed, signed, and dated  
24 application, the agency shall require background screening of  
25 the applicant, in accordance with the level 2 standards for  
26 screening set forth in chapter 435. As used in this  
27 subsection, the term "applicant" means the facility  
28 administrator, or similarly titled individual who is  
29 responsible for the day-to-day operation of the licensed  
30 facility, and the facility financial officer, or similarly  
31

1 | titled individual who is responsible for the financial  
2 | operation of the licensed facility.

3 |         (b) The agency may require background screening for a  
4 | member of the board of directors of the licensee or an officer  
5 | or an individual owning 5 percent or more of the licensee if  
6 | the agency has probable cause to believe that such individual  
7 | has been convicted of an offense prohibited under the level 2  
8 | standards for screening set forth in chapter 435.

9 |         (c) Proof of compliance with the level 2 background  
10 | screening requirements of chapter 435 which has been submitted  
11 | within the previous 5 years in compliance with any other  
12 | health care or assisted living licensure requirements of this  
13 | state is acceptable in fulfillment of paragraph (a). Proof of  
14 | compliance with background screening which has been submitted  
15 | within the previous 5 years to fulfill the requirements of the  
16 | Financial Services Commission and the Office of Insurance  
17 | Regulation pursuant to chapter 651 as part of an application  
18 | for a certificate of authority to operate a continuing care  
19 | retirement community is acceptable in fulfillment of the  
20 | Department of Law Enforcement and Federal Bureau of  
21 | Investigation background check.

22 |         (d) A provisional license may be granted to an  
23 | applicant when each individual required by this section to  
24 | undergo background screening has met the standards for the  
25 | Department of Law Enforcement background check, but the agency  
26 | has not yet received background screening results from the  
27 | Federal Bureau of Investigation, or a request for a  
28 | disqualification exemption has been submitted to the agency as  
29 | set forth in chapter 435, but a response has not yet been  
30 | issued. A license may be granted to the applicant upon the  
31 | agency's receipt of a report of the results of the Federal



1 Bureau of Investigation background screening for each  
2 individual required by this section to undergo background  
3 screening which confirms that all standards have been met, or  
4 upon the granting of a disqualification exemption by the  
5 agency as set forth in chapter 435. Any other person who is  
6 required to undergo level 2 background screening may serve in  
7 his or her capacity pending the agency's receipt of the report  
8 from the Federal Bureau of Investigation; however, the person  
9 may not continue to serve if the report indicates any  
10 violation of background screening standards and a  
11 disqualification exemption has not been requested of and  
12 granted by the agency as set forth in chapter 435.

13 (f) Each applicant must submit to the agency a  
14 description and explanation of any conviction of an offense  
15 prohibited under the level 2 standards of chapter 435 by a  
16 member of the board of directors of the applicant, its  
17 officers, or any individual owning 5 percent or more of the  
18 applicant. This requirement shall not apply to a director of a  
19 not-for-profit corporation or organization if the director  
20 serves solely in a voluntary capacity for the corporation or  
21 organization, does not regularly take part in the day-to-day  
22 operational decisions of the corporation or organization,  
23 receives no remuneration for his or her services on the  
24 corporation or organization's board of directors, and has no  
25 financial interest and has no family members with a financial  
26 interest in the corporation or organization, provided that the  
27 director and the not-for-profit corporation or organization  
28 include in the application a statement affirming that the  
29 director's relationship to the corporation satisfies the  
30 requirements of this paragraph.

31

1           Section 48. For the purpose of incorporating the  
2 amendment to section 435.04, Florida Statutes, in references  
3 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
4 subsection (4) of section 400.471, Florida Statutes, are  
5 reenacted to read:

6           400.471 Application for license; fee; provisional  
7 license; temporary permit.--

8           (4) Each applicant for licensure must comply with the  
9 following requirements:

10           (a) Upon receipt of a completed, signed, and dated  
11 application, the agency shall require background screening of  
12 the applicant, in accordance with the level 2 standards for  
13 screening set forth in chapter 435. As used in this  
14 subsection, the term "applicant" means the administrator, or a  
15 similarly titled person who is responsible for the day-to-day  
16 operation of the licensed home health agency, and the  
17 financial officer, or similarly titled individual who is  
18 responsible for the financial operation of the licensed home  
19 health agency.

20           (b) The agency may require background screening for a  
21 member of the board of directors of the licensee or an officer  
22 or an individual owning 5 percent or more of the licensee if  
23 the agency reasonably suspects that such individual has been  
24 convicted of an offense prohibited under the level 2 standards  
25 for screening set forth in chapter 435.

26           (c) Proof of compliance with the level 2 background  
27 screening requirements of chapter 435 which has been submitted  
28 within the previous 5 years in compliance with any other  
29 health care or assisted living licensure requirements of this  
30 state is acceptable in fulfillment of paragraph (a). Proof of  
31 compliance with background screening which has been submitted

1 | within the previous 5 years to fulfill the requirements of the  
2 | Financial Services Commission and the Office of Insurance  
3 | Regulation pursuant to chapter 651 as part of an application  
4 | for a certificate of authority to operate a continuing care  
5 | retirement community is acceptable in fulfillment of the  
6 | Department of Law Enforcement and Federal Bureau of  
7 | Investigation background check.

8 |         (d) A provisional license may be granted to an  
9 | applicant when each individual required by this section to  
10 | undergo background screening has met the standards for the  
11 | Department of Law Enforcement background check, but the agency  
12 | has not yet received background screening results from the  
13 | Federal Bureau of Investigation. A standard license may be  
14 | granted to the licensee upon the agency's receipt of a report  
15 | of the results of the Federal Bureau of Investigation  
16 | background screening for each individual required by this  
17 | section to undergo background screening which confirms that  
18 | all standards have been met, or upon the granting of a  
19 | disqualification exemption by the agency as set forth in  
20 | chapter 435. Any other person who is required to undergo level  
21 | 2 background screening may serve in his or her capacity  
22 | pending the agency's receipt of the report from the Federal  
23 | Bureau of Investigation. However, the person may not continue  
24 | to serve if the report indicates any violation of background  
25 | screening standards and a disqualification exemption has not  
26 | been requested of and granted by the agency as set forth in  
27 | chapter 435.

28 |         (f) Each applicant must submit to the agency a  
29 | description and explanation of any conviction of an offense  
30 | prohibited under the level 2 standards of chapter 435 by a  
31 | member of the board of directors of the applicant, its

1 officers, or any individual owning 5 percent or more of the  
2 applicant. This requirement does not apply to a director of a  
3 not-for-profit corporation or organization if the director  
4 serves solely in a voluntary capacity for the corporation or  
5 organization, does not regularly take part in the day-to-day  
6 operational decisions of the corporation or organization,  
7 receives no remuneration for his or her services on the  
8 corporation or organization's board of directors, and has no  
9 financial interest and has no family members with a financial  
10 interest in the corporation or organization, provided that the  
11 director and the not-for-profit corporation or organization  
12 include in the application a statement affirming that the  
13 director's relationship to the corporation satisfies the  
14 requirements of this paragraph.

15 (g) A license may not be granted to an applicant if  
16 the applicant, administrator, or financial officer has been  
17 found guilty of, regardless of adjudication, or has entered a  
18 plea of nolo contendere or guilty to, any offense prohibited  
19 under the level 2 standards for screening set forth in chapter  
20 435, unless an exemption from disqualification has been  
21 granted by the agency as set forth in chapter 435.

22 Section 49. For the purpose of incorporating the  
23 amendment to section 435.04, Florida Statutes, in references  
24 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
25 subsection (2) of section 400.506, Florida Statutes, are  
26 reenacted to read:

27 400.506 Licensure of nurse registries; requirements;  
28 penalties.--

29 (2) Each applicant for licensure must comply with the  
30 following requirements:

31

1           (a) Upon receipt of a completed, signed, and dated  
2 application, the agency shall require background screening, in  
3 accordance with the level 2 standards for screening set forth  
4 in chapter 435, of the managing employee, or other similarly  
5 titled individual who is responsible for the daily operation  
6 of the nurse registry, and of the financial officer, or other  
7 similarly titled individual who is responsible for the  
8 financial operation of the registry, including billings for  
9 patient care and services. The applicant shall comply with the  
10 procedures for level 2 background screening as set forth in  
11 chapter 435.

12           (b) The agency may require background screening of any  
13 other individual who is an applicant if the agency has  
14 probable cause to believe that he or she has been convicted of  
15 a crime or has committed any other offense prohibited under  
16 the level 2 standards for screening set forth in chapter 435.

17           (c) Proof of compliance with the level 2 background  
18 screening requirements of chapter 435 which has been submitted  
19 within the previous 5 years in compliance with any other  
20 health care or assisted living licensure requirements of this  
21 state is acceptable in fulfillment of the requirements of  
22 paragraph (a).

23           (d) A provisional license may be granted to an  
24 applicant when each individual required by this section to  
25 undergo background screening has met the standards for the  
26 Department of Law Enforcement background check but the agency  
27 has not yet received background screening results from the  
28 Federal Bureau of Investigation. A standard license may be  
29 granted to the applicant upon the agency's receipt of a report  
30 of the results of the Federal Bureau of Investigation  
31 background screening for each individual required by this

1 | section to undergo background screening which confirms that  
2 | all standards have been met, or upon the granting of a  
3 | disqualification exemption by the agency as set forth in  
4 | chapter 435. Any other person who is required to undergo level  
5 | 2 background screening may serve in his or her capacity  
6 | pending the agency's receipt of the report from the Federal  
7 | Bureau of Investigation. However, the person may not continue  
8 | to serve if the report indicates any violation of background  
9 | screening standards and a disqualification exemption has not  
10 | been requested of and granted by the agency as set forth in  
11 | chapter 435.

12 |         (f) Each applicant must submit to the agency a  
13 | description and explanation of any conviction of an offense  
14 | prohibited under the level 2 standards of chapter 435 by a  
15 | member of the board of directors of the applicant, its  
16 | officers, or any individual owning 5 percent or more of the  
17 | applicant. This requirement does not apply to a director of a  
18 | not-for-profit corporation or organization if the director  
19 | serves solely in a voluntary capacity for the corporation or  
20 | organization, does not regularly take part in the day-to-day  
21 | operational decisions of the corporation or organization,  
22 | receives no remuneration for his or her services on the  
23 | corporation or organization's board of directors, and has no  
24 | financial interest and has no family members with a financial  
25 | interest in the corporation or organization, provided that the  
26 | director and the not-for-profit corporation or organization  
27 | include in the application a statement affirming that the  
28 | director's relationship to the corporation satisfies the  
29 | requirements of this paragraph.

30 |         (g) A license may not be granted to an applicant if  
31 | the applicant or managing employee has been found guilty of,

1 | regardless of adjudication, or has entered a plea of nolo  
2 | contendere or guilty to, any offense prohibited under the  
3 | level 2 standards for screening set forth in chapter 435,  
4 | unless an exemption from disqualification has been granted by  
5 | the agency as set forth in chapter 435.

6 |       Section 50. For the purpose of incorporating the  
7 | amendment to section 435.04, Florida Statutes, in references  
8 | thereto, section 400.5572, Florida Statutes, is reenacted to  
9 | read:

10 |           400.5572 Background screening.--

11 |           (1)(a) Level 2 background screening must be conducted  
12 | on each of the following persons, who shall be considered  
13 | employees for the purposes of conducting screening under  
14 | chapter 435:

15 |           1. The adult day care center owner if an individual,  
16 | the operator, and the financial officer.

17 |           2. An officer or board member if the owner of the  
18 | adult day care center is a firm, corporation, partnership, or  
19 | association, or any person owning 5 percent or more of the  
20 | facility, if the agency has probable cause to believe that  
21 | such person has been convicted of any offense prohibited by s.  
22 | 435.04. For each officer, board member, or person owning 5  
23 | percent or more who has been convicted of any such offense,  
24 | the facility shall submit to the agency a description and  
25 | explanation of the conviction at the time of license  
26 | application. This subparagraph does not apply to a board  
27 | member of a not-for-profit corporation or organization if the  
28 | board member serves solely in a voluntary capacity, does not  
29 | regularly take part in the day-to-day operational decisions of  
30 | the corporation or organization, receives no remuneration for  
31 | his or her services, and has no financial interest and has no

1 family members with a financial interest in the corporation or  
2 organization, provided that the board member and facility  
3 submit a statement affirming that the board member's  
4 relationship to the facility satisfies the requirements of  
5 this subparagraph.

6 (b) Proof of compliance with level 2 screening  
7 standards which has been submitted within the previous 5 years  
8 to meet any facility or professional licensure requirements of  
9 the agency or the Department of Health satisfies the  
10 requirements of this subsection.

11 (c) The agency may grant a provisional license to an  
12 adult day care center applying for an initial license when  
13 each individual required by this subsection to undergo  
14 screening has completed the Department of Law Enforcement  
15 background check, but has not yet received results from the  
16 Federal Bureau of Investigation, or when a request for an  
17 exemption from disqualification has been submitted to the  
18 agency pursuant to s. 435.07, but a response has not been  
19 issued.

20 (2) The owner or administrator of an adult day care  
21 center must conduct level 1 background screening as set forth  
22 in chapter 435 on all employees hired on or after October 1,  
23 1998, who provide basic services or supportive and optional  
24 services to the participants. Such persons satisfy this  
25 requirement if:

26 (a) Proof of compliance with level 1 screening  
27 requirements obtained to meet any professional license  
28 requirements in this state is provided and accompanied, under  
29 penalty of perjury, by a copy of the person's current  
30 professional license and an affidavit of current compliance  
31 with the background screening requirements.



1           (b) The person required to be screened has been  
2 continuously employed, without a breach in service that  
3 exceeds 180 days, in the same type of occupation for which the  
4 person is seeking employment and provides proof of compliance  
5 with the level 1 screening requirement which is no more than 2  
6 years old. Proof of compliance must be provided directly from  
7 one employer or contractor to another, and not from the person  
8 screened. Upon request, a copy of screening results shall be  
9 provided to the person screened by the employer retaining  
10 documentation of the screening.

11           (c) The person required to be screened is employed by  
12 a corporation or business entity or related corporation or  
13 business entity that owns, operates, or manages more than one  
14 facility or agency licensed under this chapter, and for whom a  
15 level 1 screening was conducted by the corporation or business  
16 entity as a condition of initial or continued employment.

17           Section 51. For the purpose of incorporating the  
18 amendment to section 435.04, Florida Statutes, in references  
19 thereto, paragraph (a) of subsection (3) of section 400.607,  
20 Florida Statutes, is reenacted to read:

21           400.607 Denial, suspension, or revocation of license;  
22 imposition of administrative fine; grounds; injunctions.--

23           (3) The agency may deny or revoke a license upon a  
24 determination that:

25           (a) Persons subject to level 2 background screening  
26 under s. 400.6065 do not meet the screening standards of s.  
27 435.04, and exemptions from disqualification have not been  
28 provided by the agency.

29           Section 52. For the purpose of incorporating the  
30 amendment to section 435.04, Florida Statutes, in references  
31 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of

1 subsection (4) of section 400.801, Florida Statutes, are  
2 reenacted to read:

3 400.801 Homes for special services.--

4 (4) Each applicant for licensure must comply with the  
5 following requirements:

6 (a) Upon receipt of a completed, signed, and dated  
7 application, the agency shall require background screening, in  
8 accordance with the level 2 standards for screening set forth  
9 in chapter 435, of the managing employee, or other similarly  
10 titled individual who is responsible for the daily operation  
11 of the facility, and of the financial officer, or other  
12 similarly titled individual who is responsible for the  
13 financial operation of the facility, including billings for  
14 client care and services, in accordance with the level 2  
15 standards for screening set forth in chapter 435. The  
16 applicant must comply with the procedures for level 2  
17 background screening as set forth in chapter 435.

18 (b) The agency may require background screening of any  
19 other individual who is an applicant if the agency has  
20 probable cause to believe that he or she has been convicted of  
21 a crime or has committed any other offense prohibited under  
22 the level 2 standards for screening set forth in chapter 435.

23 (c) Proof of compliance with the level 2 background  
24 screening requirements of chapter 435 which has been submitted  
25 within the previous 5 years in compliance with any other  
26 health care or assisted living licensure requirements of this  
27 state is acceptable in fulfillment of the requirements of  
28 paragraph (a).

29 (d) A provisional license may be granted to an  
30 applicant when each individual required by this section to  
31 undergo background screening has met the standards for the

1 Department of Law Enforcement background check, but the agency  
2 has not yet received background screening results from the  
3 Federal Bureau of Investigation, or a request for a  
4 disqualification exemption has been submitted to the agency as  
5 set forth in chapter 435, but a response has not yet been  
6 issued. A standard license may be granted to the applicant  
7 upon the agency's receipt of a report of the results of the  
8 Federal Bureau of Investigation background screening for each  
9 individual required by this section to undergo background  
10 screening which confirms that all standards have been met, or  
11 upon the granting of a disqualification exemption by the  
12 agency as set forth in chapter 435. Any other person who is  
13 required to undergo level 2 background screening may serve in  
14 his or her capacity pending the agency's receipt of the report  
15 from the Federal Bureau of Investigation. However, the person  
16 may not continue to serve if the report indicates any  
17 violation of background screening standards and a  
18 disqualification exemption has not been requested of and  
19 granted by the agency as set forth in chapter 435.

20 (f) Each applicant must submit to the agency a  
21 description and explanation of any conviction of an offense  
22 prohibited under the level 2 standards of chapter 435 by a  
23 member of the board of directors of the applicant, its  
24 officers, or any individual owning 5 percent or more of the  
25 applicant. This requirement does not apply to a director of a  
26 not-for-profit corporation or organization if the director  
27 serves solely in a voluntary capacity for the corporation or  
28 organization, does not regularly take part in the day-to-day  
29 operational decisions of the corporation or organization,  
30 receives no remuneration for his or her services on the  
31 corporation or organization's board of directors, and has no

1 financial interest and has no family members with a financial  
2 interest in the corporation or organization, provided that the  
3 director and the not-for-profit corporation or organization  
4 include in the application a statement affirming that the  
5 director's relationship to the corporation satisfies the  
6 requirements of this paragraph.

7 (g) A license may not be granted to an applicant if  
8 the applicant or managing employee has been found guilty of,  
9 regardless of adjudication, or has entered a plea of nolo  
10 contendere or guilty to, any offense prohibited under the  
11 level 2 standards for screening set forth in chapter 435,  
12 unless an exemption from disqualification has been granted by  
13 the agency as set forth in chapter 435.

14 Section 53. For the purpose of incorporating the  
15 amendment to section 435.04, Florida Statutes, in references  
16 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
17 subsection (3) of section 400.805, Florida Statutes, are  
18 reenacted to read:

19 400.805 Transitional living facilities.--

20 (3) Each applicant for licensure must comply with the  
21 following requirements:

22 (a) Upon receipt of a completed, signed, and dated  
23 application, the agency shall require background screening, in  
24 accordance with the level 2 standards for screening set forth  
25 in chapter 435, of the managing employee, or other similarly  
26 titled individual who is responsible for the daily operation  
27 of the facility, and of the financial officer, or other  
28 similarly titled individual who is responsible for the  
29 financial operation of the facility, including billings for  
30 client care and services. The applicant must comply with the  
31

1 | procedures for level 2 background screening as set forth in  
2 | chapter 435.

3 |           (b) The agency may require background screening of any  
4 | other individual who is an applicant if the agency has  
5 | probable cause to believe that he or she has been convicted of  
6 | a crime or has committed any other offense prohibited under  
7 | the level 2 standards for screening set forth in chapter 435.

8 |           (c) Proof of compliance with the level 2 background  
9 | screening requirements of chapter 435 which has been submitted  
10 | within the previous 5 years in compliance with any other  
11 | health care or assisted living licensure requirements of this  
12 | state is acceptable in fulfillment of the requirements of  
13 | paragraph (a).

14 |           (d) A provisional license may be granted to an  
15 | applicant when each individual required by this section to  
16 | undergo background screening has met the standards for the  
17 | Department of Law Enforcement background check, but the agency  
18 | has not yet received background screening results from the  
19 | Federal Bureau of Investigation, or a request for a  
20 | disqualification exemption has been submitted to the agency as  
21 | set forth in chapter 435, but a response has not yet been  
22 | issued. A standard license may be granted to the applicant  
23 | upon the agency's receipt of a report of the results of the  
24 | Federal Bureau of Investigation background screening for each  
25 | individual required by this section to undergo background  
26 | screening which confirms that all standards have been met, or  
27 | upon the granting of a disqualification exemption by the  
28 | agency as set forth in chapter 435. Any other person who is  
29 | required to undergo level 2 background screening may serve in  
30 | his or her capacity pending the agency's receipt of the report  
31 | from the Federal Bureau of Investigation. However, the person

1 | may not continue to serve if the report indicates any  
2 | violation of background screening standards and a  
3 | disqualification exemption has not been requested of and  
4 | granted by the agency as set forth in chapter 435.

5 |         (f) Each applicant must submit to the agency a  
6 | description and explanation of any conviction of an offense  
7 | prohibited under the level 2 standards of chapter 435 by a  
8 | member of the board of directors of the applicant, its  
9 | officers, or any individual owning 5 percent or more of the  
10 | applicant. This requirement does not apply to a director of a  
11 | not-for-profit corporation or organization if the director  
12 | serves solely in a voluntary capacity for the corporation or  
13 | organization, does not regularly take part in the day-to-day  
14 | operational decisions of the corporation or organization,  
15 | receives no remuneration for his or her services on the  
16 | corporation or organization's board of directors, and has no  
17 | financial interest and has no family members with a financial  
18 | interest in the corporation or organization, provided that the  
19 | director and the not-for-profit corporation or organization  
20 | include in the application a statement affirming that the  
21 | director's relationship to the corporation satisfies the  
22 | requirements of this paragraph.

23 |         (g) A license may not be granted to an applicant if  
24 | the applicant or managing employee has been found guilty of,  
25 | regardless of adjudication, or has entered a plea of nolo  
26 | contendere or guilty to, any offense prohibited under the  
27 | level 2 standards for screening set forth in chapter 435,  
28 | unless an exemption from disqualification has been granted by  
29 | the agency as set forth in chapter 435.

30 |         Section 54. For the purpose of incorporating the  
31 | amendment to section 435.04, Florida Statutes, in references

1 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
2 subsection (5) of section 400.906, Florida Statutes, are  
3 reenacted to read:

4 400.906 Initial application for license.--

5 (5) Each applicant for licensure must comply with the  
6 following requirements:

7 (a) Upon receipt of a completed, signed, and dated  
8 application, the agency shall require background screening, in  
9 accordance with the level 2 standards for screening set forth  
10 in chapter 435, of the operator, and of the financial officer,  
11 or other similarly titled individual who is responsible for  
12 the financial operation of the center, including billings for  
13 patient care and services. The applicant must comply with the  
14 procedures for level 2 background screening as set forth in  
15 chapter 435, as well as the requirements of s. 435.03(3).

16 (b) The agency may require background screening of any  
17 other individual who is an applicant if the agency has a  
18 reasonable basis for believing that he or she has been  
19 convicted of a crime or has committed any other offense  
20 prohibited under the level 2 standards for screening set forth  
21 in chapter 435.

22 (c) Proof of compliance with the level 2 background  
23 screening requirements of chapter 435 which has been submitted  
24 within the previous 5 years in compliance with any other  
25 health care licensure requirements of this state is acceptable  
26 in fulfillment of the requirements of paragraph (a).

27 (d) A provisional license may be granted to an  
28 applicant when each individual required by this section to  
29 undergo background screening has met the standards for the  
30 Department of Law Enforcement background check, but the agency  
31 has not yet received background screening results from the

1 Federal Bureau of Investigation, or a request for a  
2 disqualification exemption has been submitted to the agency as  
3 set forth in chapter 435, but a response has not yet been  
4 issued. A standard license may be granted to the applicant  
5 upon the agency's receipt of a report of the results of the  
6 Federal Bureau of Investigation background screening for each  
7 individual required by this section to undergo background  
8 screening which confirms that all standards have been met, or  
9 upon the granting of a disqualification exemption by the  
10 agency as set forth in chapter 435. Any other person who is  
11 required to undergo level 2 background screening may serve in  
12 his or her capacity pending the agency's receipt of the report  
13 from the Federal Bureau of Investigation. However, the person  
14 may not continue to serve if the report indicates any  
15 violation of background screening standards and a  
16 disqualification exemption has not been requested of and  
17 granted by the agency as set forth in chapter 435.

18 (f) Each applicant must submit to the agency a  
19 description and explanation of any conviction of an offense  
20 prohibited under the level 2 standards of chapter 435 by a  
21 member of the board of directors of the applicant, its  
22 officers, or any individual owning 5 percent or more of the  
23 applicant. This requirement does not apply to a director of a  
24 not-for-profit corporation or organization if the director  
25 serves solely in a voluntary capacity for the corporation or  
26 organization, does not regularly take part in the day-to-day  
27 operational decisions of the corporation or organization,  
28 receives no remuneration for his or her services on the  
29 corporation or organization's board of directors, and has no  
30 financial interest and has no family members with a financial  
31 interest in the corporation or organization, provided that the



1 | director and the not-for-profit corporation or organization  
2 | include in the application a statement affirming that the  
3 | director's relationship to the corporation satisfies the  
4 | requirements of this paragraph.

5 |         (g) A license may not be granted to an applicant if  
6 | the applicant or managing employee has been found guilty of,  
7 | regardless of adjudication, or has entered a plea of nolo  
8 | contendere or guilty to, any offense prohibited under the  
9 | level 2 standards for screening set forth in chapter 435,  
10 | unless an exemption from disqualification has been granted by  
11 | the agency as set forth in chapter 435.

12 |         Section 55. For the purpose of incorporating the  
13 | amendment to section 435.04, Florida Statutes, in references  
14 | thereto, paragraphs (a), (b), (c), (e), and (f) of subsection  
15 | (5) of section 400.931, Florida Statutes, are reenacted to  
16 | read:

17 |             400.931 Application for license; fee; provisional  
18 | license; temporary permit.--

19 |         (5) Each applicant for licensure must comply with the  
20 | following requirements:

21 |             (a) Upon receipt of a completed, signed, and dated  
22 | application, the agency shall require background screening of  
23 | the applicant, in accordance with the level 2 standards for  
24 | screening set forth in chapter 435. As used in this  
25 | subsection, the term "applicant" means the general manager and  
26 | the financial officer or similarly titled individual who is  
27 | responsible for the financial operation of the licensed  
28 | facility.

29 |             (b) The agency may require background screening for a  
30 | member of the board of directors of the licensee or an officer  
31 | or an individual owning 5 percent or more of the licensee if

1 | the agency has probable cause to believe that such individual  
2 | has been convicted of an offense prohibited under the level 2  
3 | standards for screening set forth in chapter 435.

4 |         (c) Proof of compliance with the level 2 background  
5 | screening requirements of chapter 435 which has been submitted  
6 | within the previous 5 years in compliance with any other  
7 | health care licensure requirements of this state is acceptable  
8 | in fulfillment of paragraph (a).

9 |         (e) Each applicant must submit to the agency a  
10 | description and explanation of any conviction of an offense  
11 | prohibited under the level 2 standards of chapter 435 by a  
12 | member of the board of directors of the applicant, its  
13 | officers, or any individual owning 5 percent or more of the  
14 | applicant. This requirement does not apply to a director of a  
15 | not-for-profit corporation or organization if the director  
16 | serves solely in a voluntary capacity for the corporation or  
17 | organization, does not regularly take part in the day-to-day  
18 | operational decisions of the corporation or organization,  
19 | receives no remuneration for his or her services on the  
20 | corporation's or organization's board of directors, and has no  
21 | financial interest and has no family members with a financial  
22 | interest in the corporation or organization, provided that the  
23 | director and the not-for-profit corporation or organization  
24 | include in the application a statement affirming that the  
25 | director's relationship to the corporation satisfies the  
26 | requirements of this provision.

27 |         (f) A license may not be granted to any potential  
28 | licensee if any applicant, administrator, or financial officer  
29 | has been found guilty of, regardless of adjudication, or has  
30 | entered a plea of nolo contendere or guilty to, any offense  
31 | prohibited under the level 2 standards for screening set forth

1 in chapter 435, unless an exemption from disqualification has  
2 been granted by the agency as set forth in chapter 435.

3 Section 56. For the purpose of incorporating the  
4 amendment to section 435.04, Florida Statutes, in references  
5 thereto, paragraphs (a), (b), (c), (d), and (f) of subsection  
6 (10) of section 400.962, Florida Statutes, are reenacted to  
7 read:

8 400.962 License required; license application.--

9 (10)(a) Upon receipt of a completed, signed, and dated  
10 application, the agency shall require background screening of  
11 the applicant, in accordance with the level 2 standards for  
12 screening set forth in chapter 435. As used in this  
13 subsection, the term "applicant" means the facility  
14 administrator, or similarly titled individual who is  
15 responsible for the day-to-day operation of the licensed  
16 facility, and the facility financial officer, or similarly  
17 titled individual who is responsible for the financial  
18 operation of the licensed facility.

19 (b) The agency may require background screening for a  
20 member of the board of directors of the licensee or an officer  
21 or an individual owning 5 percent or more of the licensee if  
22 the agency has probable cause to believe that such individual  
23 has been convicted of an offense prohibited under the level 2  
24 standards for screening set forth in chapter 435.

25 (c) Proof of compliance with the level 2 background  
26 screening requirements of chapter 435 which has been submitted  
27 within the previous 5 years in compliance with any other  
28 licensure requirements under this chapter satisfies the  
29 requirements of paragraph (a). Proof of compliance with  
30 background screening which has been submitted within the  
31 previous 5 years to fulfill the requirements of the Financial

1 Services Commission and the Office of Insurance Regulation  
2 under chapter 651 as part of an application for a certificate  
3 of authority to operate a continuing care retirement community  
4 satisfies the requirements for the Department of Law  
5 Enforcement and Federal Bureau of Investigation background  
6 checks.

7 (d) A provisional license may be granted to an  
8 applicant when each individual required by this section to  
9 undergo background screening has met the standards for the  
10 Department of Law Enforcement background check, but the agency  
11 has not yet received background screening results from the  
12 Federal Bureau of Investigation, or a request for a  
13 disqualification exemption has been submitted to the agency as  
14 set forth in chapter 435, but a response has not yet been  
15 issued. A license may be granted to the applicant upon the  
16 agency's receipt of a report of the results of the Federal  
17 Bureau of Investigation background screening for each  
18 individual required by this section to undergo background  
19 screening which confirms that all standards have been met, or  
20 upon the granting of a disqualification exemption by the  
21 agency as set forth in chapter 435. Any other person who is  
22 required to undergo level 2 background screening may serve in  
23 his or her capacity pending the agency's receipt of the report  
24 from the Federal Bureau of Investigation; however, the person  
25 may not continue to serve if the report indicates any  
26 violation of background screening standards and a  
27 disqualification exemption has not been granted by the agency  
28 as set forth in chapter 435.

29 (f) Each applicant must submit to the agency a  
30 description and explanation of any conviction of an offense  
31 prohibited under the level 2 standards of chapter 435 by a

1 member of the board of directors of the applicant, its  
2 officers, or any individual owning 5 percent or more of the  
3 applicant. This requirement does not apply to a director of a  
4 not-for-profit corporation or organization if the director  
5 serves solely in a voluntary capacity for the corporation or  
6 organization, does not regularly take part in the day-to-day  
7 operational decisions of the corporation or organization,  
8 receives no remuneration for his or her services on the  
9 corporation's or organization's board of directors, and has no  
10 financial interest and has no family members with a financial  
11 interest in the corporation or organization, provided that the  
12 director and the not-for-profit corporation or organization  
13 include in the application a statement affirming that the  
14 director's relationship to the corporation satisfies the  
15 requirements of this paragraph.

16 Section 57. For the purpose of incorporating the  
17 amendment to section 435.04, Florida Statutes, in references  
18 thereto, paragraphs (b) and (d) of subsection (7) of section  
19 400.991, Florida Statutes, are reenacted to read:

20 400.991 License requirements; background screenings;  
21 prohibitions.--

22 (7) Each applicant for licensure shall comply with the  
23 following requirements:

24 (b) Upon receipt of a completed, signed, and dated  
25 application, the agency shall require background screening of  
26 the applicant, in accordance with the level 2 standards for  
27 screening set forth in chapter 435. Proof of compliance with  
28 the level 2 background screening requirements of chapter 435  
29 which has been submitted within the previous 5 years in  
30 compliance with any other health care licensure requirements  
31 of this state is acceptable in fulfillment of this paragraph.

1 (d) A license may not be granted to a clinic if the  
2 applicant has been found guilty of, regardless of  
3 adjudication, or has entered a plea of nolo contendere or  
4 guilty to, any offense prohibited under the level 2 standards  
5 for screening set forth in chapter 435, or a violation of  
6 insurance fraud under s. 817.234, within the past 5 years. If  
7 the applicant has been convicted of an offense prohibited  
8 under the level 2 standards or insurance fraud in any  
9 jurisdiction, the applicant must show that his or her civil  
10 rights have been restored prior to submitting an application.

11 Section 58. For the purpose of incorporating the  
12 amendment to section 435.04, Florida Statutes, in references  
13 thereto, paragraph (e) of subsection (2) of section 402.302,  
14 Florida Statutes, is reenacted to read:

15 402.302 Definitions.--

16 (2) "Child care facility" includes any child care  
17 center or child care arrangement which provides child care for  
18 more than five children unrelated to the operator and which  
19 receives a payment, fee, or grant for any of the children  
20 receiving care, wherever operated, and whether or not operated  
21 for profit. The following are not included:

22 (e) Operators of transient establishments, as defined  
23 in chapter 509, which provide child care services solely for  
24 the guests of their establishment or resort, provided that all  
25 child care personnel of the establishment are screened  
26 according to the level 2 screening requirements of chapter  
27 435.

28 Section 59. For the purpose of incorporating the  
29 amendment to section 435.04, Florida Statutes, in references  
30 thereto, paragraph (a) of subsection (2) of section 402.305,  
31 Florida Statutes, is reenacted to read:

1           402.305 Licensing standards; child care facilities.--

2           (2) PERSONNEL.--Minimum standards for child care  
3 personnel shall include minimum requirements as to:

4           (a) Good moral character based upon screening. This  
5 screening shall be conducted as provided in chapter 435, using  
6 the level 2 standards for screening set forth in that chapter.

7           Section 60. For the purpose of incorporating the  
8 amendment to section 435.04, Florida Statutes, in references  
9 thereto, subsection (3) of section 402.3054, Florida Statutes,  
10 is reenacted to read:

11           402.3054 Child enrichment service providers.--

12           (3) A child enrichment service provider shall be of  
13 good moral character based upon screening. This screening  
14 shall be conducted as provided in chapter 435, using the level  
15 2 standards for screening set forth in that chapter. A child  
16 enrichment service provider must meet the screening  
17 requirements prior to providing services to a child in a child  
18 care facility. A child enrichment service provider who has met  
19 the screening standards shall not be required to be under the  
20 direct and constant supervision of child care personnel.

21           Section 61. For the purpose of incorporating the  
22 amendment to section 435.04, Florida Statutes, in references  
23 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
24 subsection (2) of section 483.30, Florida Statutes, are  
25 reenacted to read:

26           483.30 Licensing of centers.--

27           (2) Each applicant for licensure must comply with the  
28 following requirements:

29           (a) Upon receipt of a completed, signed, and dated  
30 application, the agency shall require background screening, in  
31 accordance with the level 2 standards for screening set forth

1 | in chapter 435, of the managing employee, or other similarly  
2 | titled individual who is responsible for the daily operation  
3 | of the center, and of the financial officer, or other  
4 | similarly titled individual who is responsible for the  
5 | financial operation of the center, including billings for  
6 | patient services. The applicant must comply with the  
7 | procedures for level 2 background screening as set forth in  
8 | chapter 435, as well as the requirements of s. 435.03(3).

9 |       (b) The agency may require background screening of any  
10 | other individual who is an applicant if the agency has  
11 | probable cause to believe that he or she has been convicted of  
12 | a crime or has committed any other offense prohibited under  
13 | the level 2 standards for screening set forth in chapter 435.

14 |       (c) Proof of compliance with the level 2 background  
15 | screening requirements of chapter 435 which has been submitted  
16 | within the previous 5 years in compliance with any other  
17 | health care licensure requirements of this state is acceptable  
18 | in fulfillment of the requirements of paragraph (a).

19 |       (d) A provisional license may be granted to an  
20 | applicant when each individual required by this section to  
21 | undergo background screening has met the standards for the  
22 | Department of Law Enforcement background check, but the agency  
23 | has not yet received background screening results from the  
24 | Federal Bureau of Investigation, or a request for a  
25 | disqualification exemption has been submitted to the agency as  
26 | set forth in chapter 435 but a response has not yet been  
27 | issued. A license may be granted to the applicant upon the  
28 | agency's receipt of a report of the results of the Federal  
29 | Bureau of Investigation background screening for each  
30 | individual required by this section to undergo background  
31 | screening which confirms that all standards have been met, or



1 upon the granting of a disqualification exemption by the  
2 agency as set forth in chapter 435. Any other person who is  
3 required to undergo level 2 background screening may serve in  
4 his or her capacity pending the agency's receipt of the report  
5 from the Federal Bureau of Investigation. However, the person  
6 may not continue to serve if the report indicates any  
7 violation of background screening standards and a  
8 disqualification exemption has not been requested of and  
9 granted by the agency as set forth in chapter 435.

10 (f) Each applicant must submit to the agency a  
11 description and explanation of any conviction of an offense  
12 prohibited under the level 2 standards of chapter 435 by a  
13 member of the board of directors of the applicant, its  
14 officers, or any individual owning 5 percent or more of the  
15 applicant. This requirement does not apply to a director of a  
16 not-for-profit corporation or organization if the director  
17 serves solely in a voluntary capacity for the corporation or  
18 organization, does not regularly take part in the day-to-day  
19 operational decisions of the corporation or organization,  
20 receives no remuneration for his or her services on the  
21 corporation or organization's board of directors, and has no  
22 financial interest and has no family members with a financial  
23 interest in the corporation or organization, provided that the  
24 director and the not-for-profit corporation or organization  
25 include in the application a statement affirming that the  
26 director's relationship to the corporation satisfies the  
27 requirements of this paragraph.

28 (g) A license may not be granted to an applicant if  
29 the applicant or managing employee has been found guilty of,  
30 regardless of adjudication, or has entered a plea of nolo  
31 contendere or guilty to, any offense prohibited under the

1 level 2 standards for screening set forth in chapter 435,  
2 unless an exemption from disqualification has been granted by  
3 the agency as set forth in chapter 435.

4 Section 62. For the purpose of incorporating the  
5 amendment to section 435.04, Florida Statutes, in references  
6 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
7 subsection (2) of section 483.101, Florida Statutes, are  
8 reenacted to read:

9 483.101 Application for clinical laboratory license.--

10 (2) Each applicant for licensure must comply with the  
11 following requirements:

12 (a) Upon receipt of a completed, signed, and dated  
13 application, the agency shall require background screening, in  
14 accordance with the level 2 standards for screening set forth  
15 in chapter 435, of the managing director or other similarly  
16 titled individual who is responsible for the daily operation  
17 of the laboratory and of the financial officer, or other  
18 similarly titled individual who is responsible for the  
19 financial operation of the laboratory, including billings for  
20 patient services. The applicant must comply with the  
21 procedures for level 2 background screening as set forth in  
22 chapter 435, as well as the requirements of s. 435.03(3).

23 (b) The agency may require background screening of any  
24 other individual who is an applicant if the agency has  
25 probable cause to believe that he or she has been convicted of  
26 a crime or has committed any other offense prohibited under  
27 the level 2 standards for screening set forth in chapter 435.

28 (c) Proof of compliance with the level 2 background  
29 screening requirements of chapter 435 which has been submitted  
30 within the previous 5 years in compliance with any other  
31

1 health care licensure requirements of this state is acceptable  
2 in fulfillment of the requirements of paragraph (a).

3 (d) A provisional license may be granted to an  
4 applicant when each individual required by this section to  
5 undergo background screening has met the standards for the  
6 Department of Law Enforcement background check but the agency  
7 has not yet received background screening results from the  
8 Federal Bureau of Investigation, or a request for a  
9 disqualification exemption has been submitted to the agency as  
10 set forth in chapter 435 but a response has not yet been  
11 issued. A license may be granted to the applicant upon the  
12 agency's receipt of a report of the results of the Federal  
13 Bureau of Investigation background screening for each  
14 individual required by this section to undergo background  
15 screening which confirms that all standards have been met, or  
16 upon the granting of a disqualification exemption by the  
17 agency as set forth in chapter 435. Any other person who is  
18 required to undergo level 2 background screening may serve in  
19 his or her capacity pending the agency's receipt of the report  
20 from the Federal Bureau of Investigation. However, the person  
21 may not continue to serve if the report indicates any  
22 violation of background screening standards and a  
23 disqualification exemption has not been requested of and  
24 granted by the agency as set forth in chapter 435.

25 (f) Each applicant must submit to the agency a  
26 description and explanation of any conviction of an offense  
27 prohibited under the level 2 standards of chapter 435 by a  
28 member of the board of directors of the applicant, its  
29 officers, or any individual owning 5 percent or more of the  
30 applicant. This requirement does not apply to a director of a  
31 not-for-profit corporation or organization if the director

1 serves solely in a voluntary capacity for the corporation or  
2 organization, does not regularly take part in the day-to-day  
3 operational decisions of the corporation or organization,  
4 receives no remuneration for his or her services on the  
5 corporation or organization's board of directors, and has no  
6 financial interest and has no family members with a financial  
7 interest in the corporation or organization, provided that the  
8 director and the not-for-profit corporation or organization  
9 include in the application a statement affirming that the  
10 director's relationship to the corporation satisfies the  
11 requirements of this paragraph.

12 (g) A license may not be granted to an applicant if  
13 the applicant or managing employee has been found guilty of,  
14 regardless of adjudication, or has entered a plea of nolo  
15 contendere or guilty to, any offense prohibited under the  
16 level 2 standards for screening set forth in chapter 435,  
17 unless an exemption from disqualification has been granted by  
18 the agency as set forth in chapter 435.

19 Section 63. For the purpose of incorporating the  
20 amendment to section 435.04, Florida Statutes, in references  
21 thereto, subsection (5) of section 744.1085, Florida Statutes,  
22 is reenacted to read:

23 744.1085 Regulation of professional guardians;  
24 application; bond required; educational requirements.--

25 (5) As required in s. 744.3135, each professional  
26 guardian shall allow a level 2 background screening of the  
27 guardian and employees of the guardian in accordance with the  
28 provisions of s. 435.04.

29 Section 64. For the purpose of incorporating the  
30 amendment to section 435.04, Florida Statutes, in references  
31

1 thereto, paragraph (b) of subsection (2) of section 984.01,  
2 Florida Statutes, is reenacted to read:

3           984.01 Purposes and intent; personnel standards and  
4 screening.--

5           (2) The Department of Juvenile Justice or the  
6 Department of Children and Family Services, as appropriate,  
7 may contract with the Federal Government, other state  
8 departments and agencies, county and municipal governments and  
9 agencies, public and private agencies, and private individuals  
10 and corporations in carrying out the purposes of, and the  
11 responsibilities established in, this chapter.

12           (b) The Department of Juvenile Justice and the  
13 Department of Children and Family Services shall require  
14 employment screening pursuant to chapter 435, using the level  
15 2 standards set forth in that chapter for personnel in  
16 programs for children or youths.

17           Section 65. For the purpose of incorporating the  
18 amendment to section 435.04, Florida Statutes, in references  
19 thereto, paragraph (b) of subsection (2) of section 985.01,  
20 Florida Statutes, is reenacted to read:

21           985.01 Purposes and intent; personnel standards and  
22 screening.--

23           (2) The Department of Juvenile Justice or the  
24 Department of Children and Family Services, as appropriate,  
25 may contract with the Federal Government, other state  
26 departments and agencies, county and municipal governments and  
27 agencies, public and private agencies, and private individuals  
28 and corporations in carrying out the purposes of, and the  
29 responsibilities established in, this chapter.

30           (b) The Department of Juvenile Justice and the  
31 Department of Children and Family Services shall require

1 employment screening pursuant to chapter 435, using the level  
2 2 standards set forth in that chapter for personnel in  
3 programs for children or youths.

4 Section 66. For the purpose of incorporating the  
5 amendment to section 435.04, Florida Statutes, in references  
6 thereto, paragraphs (a) and (b) of subsection (7) of section  
7 1002.36, Florida Statutes, are reenacted to read:

8 1002.36 Florida School for the Deaf and the Blind.--

9 (7) PERSONNEL SCREENING.--

10 (a) The Board of Trustees of the Florida School for  
11 the Deaf and the Blind shall, because of the special trust or  
12 responsibility of employees of the school, require all  
13 employees and applicants for employment to undergo personnel  
14 screening and security background investigations as provided  
15 in chapter 435, using the level 2 standards for screening set  
16 forth in that chapter, as a condition of employment and  
17 continued employment. The cost of a personnel screening and  
18 security background investigation for an employee of the  
19 school shall be paid by the school. The cost of such a  
20 screening and investigation for an applicant for employment  
21 may be paid by the school.

22 (b) As a prerequisite for initial and continuing  
23 employment at the Florida School for the Deaf and the Blind:

24 1. The applicant or employee shall submit to the  
25 Florida School for the Deaf and the Blind a complete set of  
26 fingerprints taken by an authorized law enforcement agency or  
27 an employee of the Florida School for the Deaf and the Blind  
28 who is trained to take fingerprints. The Florida School for  
29 the Deaf and the Blind shall submit the fingerprints to the  
30 Department of Law Enforcement for state processing and the  
31 Federal Bureau of Investigation for federal processing.

1           2.a. The applicant or employee shall attest to the  
2 minimum standards for good moral character as contained in  
3 chapter 435, using the level 2 standards set forth in that  
4 chapter under penalty of perjury.

5           b. New personnel shall be on a probationary status  
6 pending a determination of compliance with such minimum  
7 standards for good moral character. This paragraph is in  
8 addition to any probationary status provided for by Florida  
9 law or Florida School for the Deaf and the Blind rules or  
10 collective bargaining contracts.

11           3. The Florida School for the Deaf and the Blind shall  
12 review the record of the applicant or employee with respect to  
13 the crimes contained in s. 435.04 and shall notify the  
14 applicant or employee of its findings. When disposition  
15 information is missing on a criminal record, it shall be the  
16 responsibility of the applicant or employee, upon request of  
17 the Florida School for the Deaf and the Blind, to obtain and  
18 supply within 30 days the missing disposition information to  
19 the Florida School for the Deaf and the Blind. Failure to  
20 supply missing information within 30 days or to show  
21 reasonable efforts to obtain such information shall result in  
22 automatic disqualification of an applicant and automatic  
23 termination of an employee.

24           4. After an initial personnel screening and security  
25 background investigation, written notification shall be given  
26 to the affected employee within a reasonable time prior to any  
27 subsequent screening and investigation.

28           Section 67. For the purpose of incorporating the  
29 amendments to sections 943.0585 and 943.059, Florida Statutes,  
30 in references thereto, paragraph (a) of subsection (2) and  
31

1 subsection (6) of section 943.0582, Florida Statutes, are  
2 reenacted to read:

3           943.0582 Prearrest, postarrest, or teen court  
4 diversion program expunction.--

5           (2)(a) As used in this section, the term "expunction"  
6 has the same meaning ascribed in and effect as s. 943.0585,  
7 except that:

8           1. The provisions of s. 943.0585(4)(a) do not apply,  
9 except that the criminal history record of a person whose  
10 record is expunged pursuant to this section shall be made  
11 available only to criminal justice agencies for the purpose of  
12 determining eligibility for prearrest, postarrest, or teen  
13 court diversion programs; when the record is sought as part of  
14 a criminal investigation; or when the subject of the record is  
15 a candidate for employment with a criminal justice agency. For  
16 all other purposes, a person whose record is expunged under  
17 this section may lawfully deny or fail to acknowledge the  
18 arrest and the charge covered by the expunged record.

19           2. Records maintained by local criminal justice  
20 agencies in the county in which the arrest occurred that are  
21 eligible for expunction pursuant to this section shall be  
22 sealed as the term is used in s. 943.059.

23           (6) Expunction or sealing granted under this section  
24 does not prevent the minor who receives such relief from  
25 petitioning for the expunction or sealing of a later criminal  
26 history record as provided for in ss. 943.0585 and 943.059, if  
27 the minor is otherwise eligible under those sections.

28           Section 68. For the purpose of incorporating the  
29 amendment to section 943.059, Florida Statutes, in references  
30 thereto, subsections (7), (8), and (9) of section 943.053,  
31 Florida Statutes, are reenacted to read:



1           943.053 Dissemination of criminal justice information;  
2 fees.--

3           (7) Notwithstanding the provisions of s. 943.0525, and  
4 any user agreements adopted pursuant thereto, and  
5 notwithstanding the confidentiality of sealed records as  
6 provided for in s. 943.059, the sheriff of any county that has  
7 contracted with a private entity to operate a county detention  
8 facility pursuant to the provisions of s. 951.062 shall  
9 provide that private entity, in a timely manner, copies of the  
10 Florida criminal history records for its inmates. The sheriff  
11 may assess a charge for the Florida criminal history records  
12 pursuant to the provisions of chapter 119. Sealed records  
13 received by the private entity under this section remain  
14 confidential and exempt from the provisions of s. 119.07(1).

15           (8) Notwithstanding the provisions of s. 943.0525, and  
16 any user agreements adopted pursuant thereto, and  
17 notwithstanding the confidentiality of sealed records as  
18 provided for in s. 943.059, the Department of Corrections  
19 shall provide, in a timely manner, copies of the Florida  
20 criminal history records for inmates housed in a private state  
21 correctional facility to the private entity under contract to  
22 operate the facility pursuant to the provisions of s. 944.105  
23 or s. 957.03. The department may assess a charge for the  
24 Florida criminal history records pursuant to the provisions of  
25 chapter 119. Sealed records received by the private entity  
26 under this section remain confidential and exempt from the  
27 provisions of s. 119.07(1).

28           (9) Notwithstanding the provisions of s. 943.0525 and  
29 any user agreements adopted pursuant thereto, and  
30 notwithstanding the confidentiality of sealed records as  
31 provided for in s. 943.059, the Department of Juvenile Justice

1 | or any other state or local criminal justice agency may  
2 | provide copies of the Florida criminal history records for  
3 | juvenile offenders currently or formerly detained or housed in  
4 | a contracted juvenile assessment center or detention facility  
5 | or serviced in a contracted treatment program and for  
6 | employees or other individuals who will have access to these  
7 | facilities, only to the entity under direct contract with the  
8 | Department of Juvenile Justice to operate these facilities or  
9 | programs pursuant to the provisions of s. 985.411. The  
10 | criminal justice agency providing such data may assess a  
11 | charge for the Florida criminal history records pursuant to  
12 | the provisions of chapter 119. Sealed records received by the  
13 | private entity under this section remain confidential and  
14 | exempt from the provisions of s. 119.07(1). Information  
15 | provided under this section shall be used only for the  
16 | criminal justice purpose for which it was requested and may  
17 | not be further disseminated.

18 |       Section 69. The creation of sections 393.135,  
19 | 394.4593, and 916.1075, Florida Statutes, by this act shall  
20 | apply to offenses committed on or after the effective date of  
21 | this act.

22 |       Section 70. This act shall take effect July 1, 2004.

23 |  
24 |                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
25 |                   COMMITTEE SUBSTITUTE FOR  
26 |                   CS/SB 1772

- 27 | - Deletes provisions that state that sexual misconduct  
28 |     violation constitutes sufficient case for employee's  
29 |     dismissal and bars further employment in regard to  
30 |     certain DCF services.  
31 | - Provides that provisions and penalties for sexual  
   misconduct violation are in addition to any other civil,  
   administrative, or criminal action that may be applied  
   against an employee.