

CHAMBER ACTION

1 The Committee on Public Safety & Crime Prevention recommends the
2 following:

3
4 **Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to developmental services and mental
8 health; creating ss. 393.135, 394.4593, and 916.1075,
9 F.S.; defining the terms "employee," "sexual activity,"
10 and "sexual misconduct"; providing that it is a second
11 degree felony for an employee to engage in sexual
12 misconduct with certain developmentally disabled clients,
13 certain mental health patients, or certain forensic
14 clients; providing certain exceptions; requiring certain
15 employees to report sexual misconduct to the central abuse
16 hotline of the Department of Children and Family Services
17 and to the appropriate local law enforcement agency;
18 providing for notification to the inspector general of the
19 Department of Children and Family Services; providing that
20 it is a first degree misdemeanor to knowingly and
21 willfully fail to make a report as required, or to prevent
22 another from doing so, or to submit inaccurate or
23 untruthful information; providing that it is a third

24 degree felony to coerce or threaten another person to
25 alter testimony or a report with respect to an incident of
26 sexual misconduct; providing criminal penalties; amending
27 s. 435.03, F.S.; expanding level 1 screening standards to
28 include criminal offenses related to sexual misconduct
29 with certain developmentally disabled clients, mental
30 health patients, or forensic clients and the reporting of
31 such sexual misconduct; amending s. 435.04, F.S.;
32 expanding level 2 screening standards to include the
33 offenses related to sexual misconduct with certain
34 developmentally disabled clients, mental health patients,
35 or forensic clients and the reporting of such sexual
36 misconduct; amending s. 393.0655, F.S.; requiring the
37 employment screening of direct service providers to
38 include screening as provided under ch. 435, F.S.;
39 amending s. 393.067, F.S.; reenacting paragraphs (a), (b),
40 (c), (d), (f), and (g) of subsection (6) of said section,
41 relating to background screening and licensure of
42 personnel of intermediate care facilities for the
43 developmentally disabled, for the purpose of incorporating
44 the amendment to s. 435.04, F.S., in references thereto;
45 providing that the licenses of residential facilities and
46 comprehensive transitional education programs are not
47 professional licenses of individuals; providing that the
48 receipt of such license does not create a property right;
49 providing a privilege that must guide the finder of fact
50 or trier of law in any administrative proceeding or court
51 action initiated by the Department of Children and Family

52 Services; amending s. 394.4572, F.S.; requiring the
53 employment screening of mental health personnel to include
54 screening as provided under ch. 435, F.S.; amending s.
55 943.0585, F.S., relating to court-ordered expunction of
56 criminal history records, for the purpose of incorporating
57 the amendment to s. 943.059, F.S., in a reference thereto;
58 providing that certain criminal history records relating
59 to sexual misconduct with developmentally disabled
60 clients, mental health patients, or forensic clients, or
61 the reporting of such sexual misconduct, shall not be
62 expunged; providing that the application for eligibility
63 for expunction certify that the criminal history record
64 does not relate to an offense involving sexual misconduct
65 with certain developmentally disabled clients, mental
66 health patients, or forensic clients, or the reporting of
67 such sexual misconduct; amending s. 943.059, F.S.,
68 relating to court-ordered sealing of criminal history
69 records, for the purpose of incorporating the amendment to
70 s. 943.0585, F.S., in a reference thereto; providing that
71 certain criminal history records relating to sexual
72 misconduct with developmentally disabled clients, mental
73 health patients, or forensic clients, or the reporting of
74 such sexual misconduct, shall not be sealed; providing
75 that the application for eligibility for sealing certify
76 that the criminal history record does not relate to an
77 offense involving sexual misconduct with certain
78 developmentally disabled clients, mental health patients,
79 or forensic clients, or the reporting of such sexual

80 misconduct; amending s. 400.215, F.S., and reenacting
81 paragraphs (b) and (c) of subsection (2) and subsection
82 (3), relating to background screening requirements for
83 certain nursing home personnel, for the purpose of
84 incorporating the amendments to ss. 435.03 and 435.04,
85 F.S., in references thereto; correcting a cross reference;
86 amending s. 400.964, F.S., and reenacting subsections (1),
87 (2), and (7), relating to background screening
88 requirements for certain personnel employed by
89 intermediate care facilities for the developmentally
90 disabled, for the purpose of incorporating the amendments
91 to ss. 435.03 and 435.04, F.S., in references thereto;
92 correcting a cross reference; amending s. 435.045, F.S.,
93 and reenacting paragraph (a) of subsection (1), relating
94 to requirements for the placement of dependent children,
95 for the purpose of incorporating the amendment to s.
96 435.04, F.S., in a reference thereto; correcting a cross
97 reference; reenacting ss. 400.414(1)(f) and (g), 400.4174,
98 400.509(4)(a), (b), (c), (d), (f), and (g), 400.556(2)(c),
99 400.6065(1), (2), and (4), 400.980(4)(a), (b), (c), (d),
100 (f), and (g), 409.175(2)(k), 409.907(8)(d), 435.05(1) and
101 (3), 744.3135, and 985.04(2), F.S., relating to denial,
102 revocation, or suspension of license to operate an
103 assisted living facility; background screening
104 requirements for certain personnel employed by assisted
105 living facilities; registration of particular home health
106 care service providers; denial, suspension, or revocation
107 of license to operate adult day care centers; background

108 screening requirements for certain hospice personnel;
 109 background screening requirements for registrants of the
 110 health care service pools; the definition of "screening"
 111 in connection with the licensure of family foster homes,
 112 residential child-caring agencies, and child-placing
 113 agencies; background screening requirements of Medicaid
 114 providers; employment of persons in positions requiring
 115 background screening; credit and criminal investigations
 116 of guardians; oaths, records, and confidential information
 117 pertaining to juvenile offenders, respectively, for the
 118 purpose of incorporating the amendments to ss. 435.03 and
 119 435.04, F.S., in references thereto; reenacting ss.
 120 400.512, 400.619(4), 400.6194(1), 400.953, 409.912(32),
 121 435.07(4), 464.018(1)(e), 744.309(3), 744.474(12), and
 122 985.407(4), F.S., relating to background screening of home
 123 health agency personnel, nurse registry personnel,
 124 companions, and homemakers; application and renewal of
 125 adult family-care home provider licenses; relating to
 126 denial, revocation, or suspension of adult family-care
 127 home provider license; background screening of home
 128 medical equipment provider personnel, background screening
 129 requirements for certain persons responsible for managed
 130 care plans; exemptions from disqualification from
 131 employment; denial of nursing license and disciplinary
 132 actions against such licensees; disqualification of
 133 guardians; removal of guardians; background screening
 134 requirements for certain Department of Juvenile Justice
 135 personnel, respectively, for the purpose of incorporating

136 the amendment to s. 435.03, F.S., in references thereto;
 137 reenacting ss. 39.001(2)(b), 39.821(1), 110.1127(3)(a) and
 138 (c), 112.0455(12)(a), 381.0059(1), (2), and (4),
 139 381.60225(1)(a), (b), (c), (d), (f), and (g),
 140 383.305(7)(a), (b), (c), (d), (f), and (g), 390.015(3)(a),
 141 (b), (c), (d), (f), and (g), 394.875(13)(a), (b), (c),
 142 (d), (f), and (g), 395.0055(1), (2), (3), (4), (6), and
 143 (8), 395.0199(4)(a), (b), (c), (d), (f), and (g),
 144 397.451(1)(a), 400.071(4)(a), (b), (c), (d), and (f),
 145 400.471(4)(a), (b), (c), (d), (f), and (g), 400.506(2)(a),
 146 (b), (c), (d), (f), and (g), 400.5572, 400.607(3)(a),
 147 400.801(4)(a), (b), (c), (d), (f), and (g), 400.805(3)(a),
 148 (b), (c), (d), (f), and (g), 400.906(5)(a), (b), (c), (d),
 149 (f), and (g), 400.931(5)(a), (b), (c), (e), and (f),
 150 400.962(10)(a), (b), (c), (d), and (f), 400.991(7)(b) and
 151 (d), 402.302(2)(e), 402.305(2)(a), 402.3054(3),
 152 483.30(2)(a), (b), (c), (d), (f), and (g), 483.101(2)(a),
 153 (b), (c), (d), (f), and (g), 744.1085(5), 984.01(2)(b),
 154 985.01(2)(b), 1002.36(7)(a) and (b), F.S., relating to
 155 background screening requirements for certain Department
 156 of Children and Family Services personnel; qualifications
 157 of guardians ad litem; security checks of certain public
 158 officers and employees; background screening requirements
 159 of certain laboratory personnel in connection with the
 160 Drug-Free Workplace Act; background screening requirements
 161 for school health services personnel; background screening
 162 of certain personnel of the public health system;
 163 background screening and licensure of birth center

164 | personnel; background screening and licensure of abortion
 165 | clinic personnel; background screening of mental health
 166 | personnel; background screening and licensure of personnel
 167 | of crisis stabilization units, residential treatment
 168 | facilities, and residential treatment centers for children
 169 | and adolescents; background screening and licensure of
 170 | personnel of hospitals, ambulatory surgical centers, and
 171 | mobile surgical facilities; background screening of
 172 | certain personnel in connection with registration for
 173 | private utilization reviews; background screening of
 174 | certain service provider personnel; background screening
 175 | and licensure of certain long-term care facility
 176 | personnel; background screening and licensure of certain
 177 | home health agency personnel; background screening and
 178 | licensure of nurse registry applicants; background
 179 | screening of certain adult day care center personnel;
 180 | denial or revocation of hospice license; background
 181 | screening and licensure of certain transitional living
 182 | facility personnel; background screening and licensure of
 183 | certain prescribed pediatric extended care center
 184 | personnel; background screening and licensure of certain
 185 | home medical equipment provider personnel; background
 186 | screening and licensure of certain personnel of
 187 | intermediate care facilities for the developmentally
 188 | disabled; background screening and licensure of health
 189 | care clinic personnel; the definition of "child care
 190 | facility" in connection with background screening of
 191 | operators; background screening requirements for personnel

192 of child care facilities; background screening
 193 requirements for child enrichment service providers;
 194 background screening and licensure of certain personnel of
 195 multiphasic health testing centers; background screening
 196 and licensure of certain clinical laboratory personnel;
 197 regulation of professional guardians; background screening
 198 of certain Department of Juvenile Justice and Department
 199 of Children and Family Services personnel in connection
 200 with programs for children and families in need of
 201 services; background screening of certain Department of
 202 Juvenile Justice and Department of Children and Family
 203 Services personnel in connection with juvenile justice
 204 programs, background screening of personnel of the Florida
 205 School for the Deaf and the Blind, respectively, for the
 206 purposes of incorporating the amendment to s. 435.04,
 207 F.S., in references thereto; reenacting s. 943.0582(2)(a)
 208 and (6), F.S., relating to prearrest, postarrest, or teen
 209 court diversion program expunction for the purpose of
 210 incorporating the amendments to ss. 943.0585 and 943.059,
 211 F.S., in references thereto; reenacting s. 943.053(7),
 212 (8), and (9), F.S., relating to dissemination of criminal
 213 justice information, for the purpose of incorporating the
 214 amendment to s. 943.059, F.S., in references thereto;
 215 providing applicability; providing an effective date.

216
 217 Be It Enacted by the Legislature of the State of Florida:
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219 Section 1. Section 393.135, Florida Statutes, is created
220 to read:

221 393.135 Sexual misconduct prohibited; reporting required;
222 penalties.--

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

224 (a) "Employee" includes any paid staff member, volunteer,
225 or intern of the agency or the department; any person under
226 contract with the agency or the department; and any person
227 providing care or support to a client on behalf of the
228 department or its providers.

229 (b) "Sexual activity" means:

230 1. Fondling the genital area, groin, inner thighs,
231 buttocks, or breasts of a person.

232 2. The oral, anal, or vaginal penetration by or union with
233 the sexual organ of another or the anal or vaginal penetration
234 of another by any other object.

235 3. Intentionally touching in a lewd or lascivious manner
236 the breasts, genitals, the genital area, or buttocks, or the
237 clothing covering them, of a person, or forcing or enticing a
238 person to touch the perpetrator.

239 4. Intentionally masturbating in the presence of another
240 person.

241 5. Intentionally exposing the genitals in a lewd or
242 lascivious manner in the presence of another person.

243 6. Intentionally committing any other sexual act that does
244 not involve actual physical or sexual contact with the victim,
245 including, but not limited to, sadomasochistic abuse, sexual

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

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

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

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

256 (b) Resides in a residential facility, including any
 257 comprehensive transitional education program, developmental
 258 services institution, foster care facility, group home facility,
 259 intermediate care facility for the developmentally disabled, or
 260 residential habilitation center; or

261 (c) Receives services from a family care program

262
 263 commits a felony of the second degree, punishable as provided in
 264 s. 775.082, s. 775.083, or s. 775.084. An employee may be found
 265 guilty of violating this subsection without having committed the
 266 crime of sexual battery.

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

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

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

271 (b) Has no reason to believe that the person with whom the
 272 employee engaged in sexual misconduct is a client receiving
 273 services as described in subsection (2).

274 (5) An employee who witnesses sexual misconduct, or who
275 otherwise knows or has reasonable cause to suspect that a person
276 has engaged in sexual misconduct, shall immediately report the
277 incident to the department's central abuse hotline and to the
278 appropriate local law enforcement agency. Such employee shall
279 also prepare, date, and sign an independent report that
280 specifically describes the nature of the sexual misconduct, the
281 location and time of the incident, and the persons involved. The
282 employee shall deliver the report to the supervisor or program
283 director, who is responsible for providing copies to the
284 department's inspector general. The inspector general shall
285 immediately conduct an appropriate administrative investigation,
286 and, if there is probable cause to believe that sexual
287 misconduct has occurred, the inspector general shall notify the
288 state attorney in the circuit in which the incident occurred.

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

294 (b) Any person who knowingly or willfully submits
295 inaccurate, incomplete, or untruthful information with respect
296 to a report required under this section commits a misdemeanor of
297 the first degree, punishable as provided in s. 775.082 or s.
298 775.083.

299 (c) Any person who knowingly or willfully coerces or
300 threatens any other person with the intent to alter testimony or
301 a written report regarding an incident of sexual misconduct

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302 commits a felony of the third degree, punishable as provided in
 303 s. 775.082, s. 775.083, or s. 775.084.

304 Section 2. Section 394.4593, Florida Statutes, is created
 305 to read:

306 394.4593 Sexual misconduct prohibited; reporting required;
 307 penalties.--

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

309 (a) "Employee" includes any paid staff member, volunteer,
 310 or intern of the department; any person under contract with the
 311 department; and any person providing care or support to a client
 312 on behalf of the department or its providers.

313 (b) "Sexual activity" means:

314 1. Fondling the genital area, groin, inner thighs,
 315 buttocks, or breasts of a person.

316 2. The oral, anal, or vaginal penetration by or union with
 317 the sexual organ of another or the anal or vaginal penetration
 318 of another by any other object.

319 3. Intentionally touching in a lewd or lascivious manner
 320 the breasts, genitals, the genital area, or buttocks, or the
 321 clothing covering them, of a person, or forcing or enticing a
 322 person to touch the perpetrator.

323 4. Intentionally masturbating in the presence of another
 324 person.

325 5. Intentionally exposing the genitals in a lewd or
 326 lascivious manner in the presence of another person.

327 6. Intentionally committing any other sexual act that does
 328 not involve actual physical or sexual contact with the victim,
 329 including, but not limited to, sadomasochistic abuse, sexual

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

332 (c) "Sexual misconduct" means any sexual activity between
 333 an employee and a patient, regardless of the consent of the
 334 patient. The term does not include an act done for a bona fide
 335 medical purpose or an internal search conducted in the lawful
 336 performance of duty by an employee.

337 (2) An employee who engages in sexual misconduct with a
 338 patient who:

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

340 (b) Resides in a receiving facility or a treatment
 341 facility, as those terms are defined in s. 394.455,

342
 343 commits a felony of the second degree, punishable as provided in
 344 s. 775.082, s. 775.083, or s. 775.084. An employee may be found
 345 guilty of violating this subsection without having committed the
 346 crime of sexual battery.

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

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

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

351 (b) Has no reason to believe that the person with whom the
 352 employee engaged in sexual misconduct is a patient receiving
 353 services as described in subsection (2).

354 (5) An employee who witnesses sexual misconduct, or who
 355 otherwise knows or has reasonable cause to suspect that a person
 356 has engaged in sexual misconduct, shall immediately report the
 357 incident to the department's central abuse hotline and to the

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358 appropriate local law enforcement agency. Such employee shall
359 also prepare, date, and sign an independent report that
360 specifically describes the nature of the sexual misconduct, the
361 location and time of the incident, and the persons involved. The
362 employee shall deliver the report to the supervisor or program
363 director, who is responsible for providing copies to the
364 department's inspector general. The inspector general shall
365 immediately conduct an appropriate administrative investigation,
366 and, if there is probable cause to believe that sexual
367 misconduct has occurred, the inspector general shall notify the
368 state attorney in the circuit in which the incident occurred.

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

374 (b) Any person who knowingly or willfully submits
375 inaccurate, incomplete, or untruthful information with respect
376 to a report required under this section commits a misdemeanor of
377 the first degree, punishable as provided in s. 775.082 or s.
378 775.083.

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

384 Section 3. Section 916.1075, Florida Statutes, is created
385 to read:

386 916.1075 Sexual misconduct prohibited; reporting required;
 387 penalties.--

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

389 (a) "Employee" includes any paid staff member, volunteer,
 390 or intern of the department; any person under contract with the
 391 department; and any person providing care or support to a client
 392 on behalf of the department or its providers.

393 (b) "Sexual activity" means:

394 1. Fondling the genital area, groin, inner thighs,
 395 buttocks, or breasts of a person.

396 2. The oral, anal, or vaginal penetration by or union with
 397 the sexual organ of another or the anal or vaginal penetration
 398 of another by any other object.

399 3. Intentionally touching in a lewd or lascivious manner
 400 the breasts, genitals, the genital area, or buttocks, or the
 401 clothing covering them, of a person, or forcing or enticing a
 402 person to touch the perpetrator.

403 4. Intentionally masturbating in the presence of another
 404 person.

405 5. Intentionally exposing the genitals in a lewd or
 406 lascivious manner in the presence of another person.

407 6. Intentionally committing any other sexual act that does
 408 not involve actual physical or sexual contact with the victim,
 409 including, but not limited to, sadomasochistic abuse, sexual
 410 bestiality, or the simulation of any act involving sexual
 411 activity in the presence of a victim.

412 (c) "Sexual misconduct" means any sexual activity between
 413 an employee and a client, regardless of the consent of the

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414 client. The term does not include an act done for a bona fide
415 medical purpose or an internal search conducted in the lawful
416 performance of duty by an employee.

417 (2) An employee who engages in sexual misconduct with a
418 client who resides in a civil or forensic facility commits a
419 felony of the second degree, punishable as provided in s.
420 775.082, s. 775.083, or s. 775.084. An employee may be found
421 guilty of violating this subsection without having committed the
422 crime of sexual battery.

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

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

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

427 (b) Has no reason to believe that the person with whom the
428 employee engaged in sexual misconduct is a client receiving
429 services as described in subsection (2).

430 (5) An employee who witnesses sexual misconduct, or who
431 otherwise knows or has reasonable cause to suspect that a person
432 has engaged in sexual misconduct, shall immediately report the
433 incident to the department's central abuse hotline and to the
434 appropriate local law enforcement agency. Such employee shall
435 also prepare, date, and sign an independent report that
436 specifically describes the nature of the sexual misconduct, the
437 location and time of the incident, and the persons involved. The
438 employee shall deliver the report to the supervisor or program
439 director, who is responsible for providing copies to the
440 department's inspector general. The inspector general shall
441 immediately conduct an appropriate administrative investigation,

442 and, if there is probable cause to believe that sexual
 443 misconduct has occurred, the inspector general shall notify the
 444 state attorney in the circuit in which the incident occurred.

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

450 (b) Any person who knowingly or willfully submits
 451 inaccurate, incomplete, or untruthful information with respect
 452 to a report required under this section commits a misdemeanor of
 453 the first degree, punishable as provided in s. 775.082 or s.
 454 775.083.

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

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

462 435.03 Level 1 screening standards.--

463 (2) Any person for whom employment screening is required
 464 by statute must not have been found guilty of, regardless of
 465 adjudication, or entered a plea of nolo contendere or guilty to,
 466 any offense prohibited under any of the following provisions of
 467 the Florida Statutes or under any similar statute of another
 468 jurisdiction:

469 (a) Section 393.135, relating to sexual misconduct with
 470 certain developmentally disabled clients and reporting of such
 471 sexual misconduct.

472 (b) Section 394.4593, relating to sexual misconduct with
 473 certain mental health patients and reporting of such sexual
 474 misconduct.

475 ~~(c)(a)~~ Section 415.111, relating to abuse, neglect, or
 476 exploitation of a vulnerable adult.

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

478 ~~(e)(e)~~ Section 782.07, relating to manslaughter,
 479 aggravated manslaughter of an elderly person or disabled adult,
 480 or aggravated manslaughter of a child.

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

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

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

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

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

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

490 ~~(l)(j)~~ Section 787.01, relating to kidnapping.

491 ~~(m)(k)~~ Section 787.02, relating to false imprisonment.

492 ~~(n)(l)~~ Section 794.011, relating to sexual battery.

493 ~~(o)(m)~~ Former s. 794.041, relating to prohibited acts of
 494 persons in familial or custodial authority.

495 ~~(p)(n)~~ Chapter 796, relating to prostitution.

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496 (q)~~(e)~~ Section 798.02, relating to lewd and lascivious
 497 behavior.
 498 (r)~~(p)~~ Chapter 800, relating to lewdness and indecent
 499 exposure.
 500 (s)~~(q)~~ Section 806.01, relating to arson.
 501 (t)~~(r)~~ Chapter 812, relating to theft, robbery, and
 502 related crimes, if the offense was a felony.
 503 (u)~~(s)~~ Section 817.563, relating to fraudulent sale of
 504 controlled substances, only if the offense was a felony.
 505 (v)~~(t)~~ Section 825.102, relating to abuse, aggravated
 506 abuse, or neglect of an elderly person or disabled adult.
 507 (w)~~(u)~~ Section 825.1025, relating to lewd or lascivious
 508 offenses committed upon or in the presence of an elderly person
 509 or disabled adult.
 510 (x)~~(v)~~ Section 825.103, relating to exploitation of an
 511 elderly person or disabled adult, if the offense was a felony.
 512 (y)~~(w)~~ Section 826.04, relating to incest.
 513 (z)~~(x)~~ Section 827.03, relating to child abuse, aggravated
 514 child abuse, or neglect of a child.
 515 (aa)~~(y)~~ Section 827.04, relating to contributing to the
 516 delinquency or dependency of a child.
 517 (bb)~~(z)~~ Former s. 827.05, relating to negligent treatment
 518 of children.
 519 (cc)~~(aa)~~ Section 827.071, relating to sexual performance
 520 by a child.
 521 (dd)~~(bb)~~ Chapter 847, relating to obscene literature.

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

525 (ff) Section 916.0175, relating to sexual misconduct with
526 certain forensic clients and reporting of such sexual
527 misconduct.

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

530 435.04 Level 2 screening standards.--

531 (2) The security background investigations under this
532 section must ensure that no persons subject to the provisions of
533 this section have been found guilty of, regardless of
534 adjudication, or entered a plea of nolo contendere or guilty to,
535 any offense prohibited under any of the following provisions of
536 the Florida Statutes or under any similar statute of another
537 jurisdiction:

538 (a) Section 393.135, relating to sexual misconduct with
539 certain developmentally disabled clients and reporting of such
540 sexual misconduct.

541 (b) Section 394.4593, relating to sexual misconduct with
542 certain mental health patients and reporting of such sexual
543 misconduct.

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

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

547 (e)~~(e)~~ Section 782.07, relating to manslaughter,
548 aggravated manslaughter of an elderly person or disabled adult,
549 or aggravated manslaughter of a child.

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550 (f)~~(d)~~ Section 782.071, relating to vehicular homicide.
 551 (g)~~(e)~~ Section 782.09, relating to killing of an unborn
 552 child by injury to the mother.
 553 (h)~~(f)~~ Section 784.011, relating to assault, if the victim
 554 of the offense was a minor.
 555 (i)~~(g)~~ Section 784.021, relating to aggravated assault.
 556 (j)~~(h)~~ Section 784.03, relating to battery, if the victim
 557 of the offense was a minor.
 558 (k)~~(i)~~ Section 784.045, relating to aggravated battery.
 559 (l)~~(j)~~ Section 784.075, relating to battery on a detention
 560 or commitment facility staff.
 561 (m)~~(k)~~ Section 787.01, relating to kidnapping.
 562 (n)~~(l)~~ Section 787.02, relating to false imprisonment.
 563 (o)~~(m)~~ Section 787.04(2), relating to taking, enticing, or
 564 removing a child beyond the state limits with criminal intent
 565 pending custody proceedings.
 566 (p)~~(n)~~ Section 787.04(3), relating to carrying a child
 567 beyond the state lines with criminal intent to avoid producing a
 568 child at a custody hearing or delivering the child to the
 569 designated person.
 570 (q)~~(o)~~ Section 790.115(1), relating to exhibiting firearms
 571 or weapons within 1,000 feet of a school.
 572 (r)~~(p)~~ Section 790.115(2)(b), relating to possessing an
 573 electric weapon or device, destructive device, or other weapon
 574 on school property.
 575 (s)~~(q)~~ Section 794.011, relating to sexual battery.
 576 (t)~~(r)~~ Former s. 794.041, relating to prohibited acts of
 577 persons in familial or custodial authority.

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578 (u)~~(s)~~ Chapter 796, relating to prostitution.

579 (v)~~(t)~~ Section 798.02, relating to lewd and lascivious
580 behavior.

581 (w)~~(u)~~ Chapter 800, relating to lewdness and indecent
582 exposure.

583 (x)~~(v)~~ Section 806.01, relating to arson.

584 (y)~~(w)~~ Chapter 812, relating to theft, robbery, and
585 related crimes, if the offense is a felony.

586 (z)~~(x)~~ Section 817.563, relating to fraudulent sale of
587 controlled substances, only if the offense was a felony.

588 (aa)~~(y)~~ Section 825.102, relating to abuse, aggravated
589 abuse, or neglect of an elderly person or disabled adult.

590 (bb)~~(z)~~ Section 825.1025, relating to lewd or lascivious
591 offenses committed upon or in the presence of an elderly person
592 or disabled adult.

593 (cc)~~(aa)~~ Section 825.103, relating to exploitation of an
594 elderly person or disabled adult, if the offense was a felony.

595 (dd)~~(bb)~~ Section 826.04, relating to incest.

596 (ee)~~(ee)~~ Section 827.03, relating to child abuse,
597 aggravated child abuse, or neglect of a child.

598 (ff)~~(dd)~~ Section 827.04, relating to contributing to the
599 delinquency or dependency of a child.

600 (gg)~~(ee)~~ Former s. 827.05, relating to negligent treatment
601 of children.

602 (hh)~~(ff)~~ Section 827.071, relating to sexual performance
603 by a child.

604 (ii)~~(gg)~~ Section 843.01, relating to resisting arrest with
605 violence.

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606 (jj)~~(hh)~~ Section 843.025, relating to depriving a law
607 enforcement, correctional, or correctional probation officer
608 means of protection or communication.

609 (kk)~~(ii)~~ Section 843.12, relating to aiding in an escape.

610 (ll)~~(jj)~~ Section 843.13, relating to aiding in the escape
611 of juvenile inmates in correctional institutions.

612 (mm)~~(kk)~~ Chapter 847, relating to obscene literature.

613 (nn)~~(ll)~~ Section 874.05(1), relating to encouraging or
614 recruiting another to join a criminal gang.

615 (oo)~~(mm)~~ Chapter 893, relating to drug abuse prevention
616 and control, only if the offense was a felony or if any other
617 person involved in the offense was a minor.

618 (pp) Section 916.0175, relating to sexual misconduct with
619 certain forensic clients and reporting of such sexual
620 misconduct.

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

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

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

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

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

632 Section 6. Subsection (1) of section 393.0655, Florida
633 Statutes, is amended to read:

634 393.0655 Screening of direct service providers.--
 635 (1) MINIMUM STANDARDS.--The department shall require
 636 employment screening pursuant to chapter 435, using the level 2
 637 standards for screening set forth in that chapter, for direct
 638 service providers who are unrelated to their clients. For
 639 purposes of this chapter, employment screening of direct service
 640 providers shall also include, but is not limited to, employment
 641 screening as provided under chapter 435.

642 Section 7. Subsection (3) of section 393.067, Florida
 643 Statutes, is amended and for the purpose of incorporating the
 644 amendment to section 435.04, Florida Statutes, in references
 645 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of
 646 subsection (6) of said section are reenacted, to read:

647 393.067 Licensure of residential facilities and
 648 comprehensive transitional education programs.--

649 (3) An application for a license for a residential
 650 facility or a comprehensive transitional education program shall
 651 be made to the Department of Children and Family Services on a
 652 form furnished by it and shall be accompanied by the appropriate
 653 license fee. A license issued to a residential facility or a
 654 comprehensive transitional education program, as described in
 655 this section, is not a professional license of any individual.
 656 Receipt of a license under this section shall not create a
 657 property right in the recipient of such license. A license under
 658 this section is a public trust and a privilege and is not an
 659 entitlement. This privilege must guide the finder of fact or
 660 trier of law at any administrative proceeding or court action
 661 initiated by the department.

662 (6) Each applicant for licensure as an intermediate care
 663 facility for the developmentally disabled must comply with the
 664 following requirements:

665 (a) Upon receipt of a completed, signed, and dated
 666 application, the agency shall require background screening, in
 667 accordance with the level 2 standards for screening set forth in
 668 chapter 435, of the managing employee, or other similarly titled
 669 individual who is responsible for the daily operation of the
 670 facility, and of the financial officer, or other similarly
 671 titled individual who is responsible for the financial operation
 672 of the center, including billings for resident care and
 673 services. The applicant must comply with the procedures for
 674 level 2 background screening as set forth in chapter 435, as
 675 well as the requirements of s. 435.03(3).

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

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

686 (d) A provisional license may be granted to an applicant
 687 when each individual required by this section to undergo
 688 background screening has met the standards for the Department of
 689 Law Enforcement background check, but the agency has not yet

690 received background screening results from the Federal Bureau of
691 Investigation, or a request for a disqualification exemption has
692 been submitted to the agency as set forth in chapter 435, but a
693 response has not yet been issued. A standard license may be
694 granted to the applicant upon the agency's receipt of a report
695 of the results of the Federal Bureau of Investigation background
696 screening for each individual required by this section to
697 undergo background screening which confirms that all standards
698 have been met, or upon the granting of a disqualification
699 exemption by the agency as set forth in chapter 435. Any other
700 person who is required to undergo level 2 background screening
701 may serve in his or her capacity pending the agency's receipt of
702 the report from the Federal Bureau of Investigation. However,
703 the person may not continue to serve if the report indicates any
704 violation of background screening standards and a
705 disqualification exemption has not been requested of and granted
706 by the agency as set forth in chapter 435.

707 (f) Each applicant must submit to the agency a description
708 and explanation of any conviction of an offense prohibited under
709 the level 2 standards of chapter 435 by a member of the board of
710 directors of the applicant, its officers, or any individual
711 owning 5 percent or more of the applicant. This requirement does
712 not apply to a director of a not-for-profit corporation or
713 organization if the director serves solely in a voluntary
714 capacity for the corporation or organization, does not regularly
715 take part in the day-to-day operational decisions of the
716 corporation or organization, receives no remuneration for his or
717 her services on the corporation or organization's board of

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718 directors, and has no financial interest and has no family
 719 members with a financial interest in the corporation or
 720 organization, provided that the director and the not-for-profit
 721 corporation or organization include in the application a
 722 statement affirming that the director's relationship to the
 723 corporation satisfies the requirements of this paragraph.

724 (g) A license may not be granted to an applicant if the
 725 applicant or managing employee has been found guilty of,
 726 regardless of adjudication, or has entered a plea of nolo
 727 contendere or guilty to, any offense prohibited under the level
 728 2 standards for screening set forth in chapter 435, unless an
 729 exemption from disqualification has been granted by the agency
 730 as set forth in chapter 435.

731 Section 8. Paragraph (a) of subsection (1) of section
 732 394.4572, Florida Statutes, is amended to read:

733 394.4572 Screening of mental health personnel.--

734 (1)(a) The department and the Agency for Health Care
 735 Administration shall require employment screening for mental
 736 health personnel using the standards for level 2 screening set
 737 forth in chapter 435. "Mental health personnel" includes all
 738 program directors, professional clinicians, staff members, and
 739 volunteers working in public or private mental health programs
 740 and facilities who have direct contact with unmarried patients
 741 under the age of 18 years. For purposes of this chapter,
 742 employment screening of mental health personnel shall also
 743 include, but is not limited to, employment screening as provided
 744 under chapter 435.

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745 Section 9. Section 943.0585, Florida Statutes, is amended
746 to read:
747 943.0585 Court-ordered expunction of criminal history
748 records.--The courts of this state have jurisdiction over their
749 own procedures, including the maintenance, expunction, and
750 correction of judicial records containing criminal history
751 information to the extent such procedures are not inconsistent
752 with the conditions, responsibilities, and duties established by
753 this section. Any court of competent jurisdiction may order a
754 criminal justice agency to expunge the criminal history record
755 of a minor or an adult who complies with the requirements of
756 this section. The court shall not order a criminal justice
757 agency to expunge a criminal history record until the person
758 seeking to expunge a criminal history record has applied for and
759 received a certificate of eligibility for expunction pursuant to
760 subsection (2). A criminal history record that relates to a
761 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
762 s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s. 827.071,
763 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,
764 s. 916.1075, or a violation enumerated in s. 907.041 may not be
765 expunged, without regard to whether adjudication was withheld,
766 if the defendant was found guilty of or pled guilty or nolo
767 contendere to the offense, or if the defendant, as a minor, was
768 found to have committed, or pled guilty or nolo contendere to
769 committing, the offense as a delinquent act. The court may only
770 order expunction of a criminal history record pertaining to one
771 arrest or one incident of alleged criminal activity, except as
772 provided in this section. The court may, at its sole discretion,

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773 | order the expunction of a criminal history record pertaining to
774 | more than one arrest if the additional arrests directly relate
775 | to the original arrest. If the court intends to order the
776 | expunction of records pertaining to such additional arrests,
777 | such intent must be specified in the order. A criminal justice
778 | agency may not expunge any record pertaining to such additional
779 | arrests if the order to expunge does not articulate the
780 | intention of the court to expunge a record pertaining to more
781 | than one arrest. This section does not prevent the court from
782 | ordering the expunction of only a portion of a criminal history
783 | record pertaining to one arrest or one incident of alleged
784 | criminal activity. Notwithstanding any law to the contrary, a
785 | criminal justice agency may comply with laws, court orders, and
786 | official requests of other jurisdictions relating to expunction,
787 | correction, or confidential handling of criminal history records
788 | or information derived therefrom. This section does not confer
789 | any right to the expunction of any criminal history record, and
790 | any request for expunction of a criminal history record may be
791 | denied at the sole discretion of the court.

792 | (1) PETITION TO EXPUNGE A CRIMINAL HISTORY RECORD.--Each
793 | petition to a court to expunge a criminal history record is
794 | complete only when accompanied by:

795 | (a) A certificate of eligibility for expunction issued by
796 | the department pursuant to subsection (2).

797 | (b) The petitioner's sworn statement attesting that the
798 | petitioner:

799 | 1. Has never, prior to the date on which the petition is
800 | filed, been adjudicated guilty of a criminal offense or

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801 comparable ordinance violation or adjudicated delinquent for
 802 committing a felony or a misdemeanor specified in s.
 803 943.051(3)(b).

804 2. Has not been adjudicated guilty of, or adjudicated
 805 delinquent for committing, any of the acts stemming from the
 806 arrest or alleged criminal activity to which the petition
 807 pertains.

808 3. Has never secured a prior sealing or expunction of a
 809 criminal history record under this section, former s. 893.14,
 810 former s. 901.33, or former s. 943.058, or from any jurisdiction
 811 outside the state.

812 4. Is eligible for such an expunction to the best of his
 813 or her knowledge or belief and does not have any other petition
 814 to expunge or any petition to seal pending before any court.

815
 816 Any person who knowingly provides false information on such
 817 sworn statement to the court commits a felony of the third
 818 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 819 775.084.

820 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.--Prior to
 821 petitioning the court to expunge a criminal history record, a
 822 person seeking to expunge a criminal history record shall apply
 823 to the department for a certificate of eligibility for
 824 expunction. The department shall, by rule adopted pursuant to
 825 chapter 120, establish procedures pertaining to the application
 826 for and issuance of certificates of eligibility for expunction.
 827 The department shall issue a certificate of eligibility for

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828 | expunction to a person who is the subject of a criminal history
829 | record if that person:

830 | (a) Has obtained, and submitted to the department, a
831 | written, certified statement from the appropriate state attorney
832 | or statewide prosecutor which indicates:

833 | 1. That an indictment, information, or other charging
834 | document was not filed or issued in the case.

835 | 2. That an indictment, information, or other charging
836 | document, if filed or issued in the case, was dismissed or nolle
837 | prosequi by the state attorney or statewide prosecutor, or was
838 | dismissed by a court of competent jurisdiction.

839 | 3. That the criminal history record does not relate to a
840 | violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
841 | s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s. 827.071,
842 | chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,
843 | s. 916.1075, or a violation enumerated in s. 907.041, where the
844 | defendant was found guilty of, or pled guilty or nolo contendere
845 | to any such offense, or that the defendant, as a minor, was
846 | found to have committed, or pled guilty or nolo contendere to
847 | committing, such an offense as a delinquent act, without regard
848 | to whether adjudication was withheld.

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

852 | (c) Has submitted to the department a certified copy of
853 | the disposition of the charge to which the petition to expunge
854 | pertains.

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

860 (e) Has not been adjudicated guilty of, or adjudicated
 861 delinquent for committing, any of the acts stemming from the
 862 arrest or alleged criminal activity to which the petition to
 863 expunge pertains.

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

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

870 (h) Is not required to wait a minimum of 10 years prior to
 871 being eligible for an expunction of such records because all
 872 charges related to the arrest or criminal activity to which the
 873 petition to expunge pertains were dismissed prior to trial,
 874 adjudication, or the withholding of adjudication. Otherwise,
 875 such criminal history record must be sealed under this section,
 876 former s. 893.14, former s. 901.33, or former s. 943.058 for at
 877 least 10 years before such record is eligible for expunction.

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

879 (a) In judicial proceedings under this section, a copy of
 880 the completed petition to expunge shall be served upon the
 881 appropriate state attorney or the statewide prosecutor and upon
 882 the arresting agency; however, it is not necessary to make any

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883 | agency other than the state a party. The appropriate state
884 | attorney or the statewide prosecutor and the arresting agency
885 | may respond to the court regarding the completed petition to
886 | expunge.

887 | (b) If relief is granted by the court, the clerk of the
888 | court shall certify copies of the order to the appropriate state
889 | attorney or the statewide prosecutor and the arresting agency.
890 | The arresting agency is responsible for forwarding the order to
891 | any other agency to which the arresting agency disseminated the
892 | criminal history record information to which the order pertains.
893 | The department shall forward the order to expunge to the Federal
894 | Bureau of Investigation. The clerk of the court shall certify a
895 | copy of the order to any other agency which the records of the
896 | court reflect has received the criminal history record from the
897 | court.

898 | (c) For an order to expunge entered by a court prior to
899 | July 1, 1992, the department shall notify the appropriate state
900 | attorney or statewide prosecutor of an order to expunge which is
901 | contrary to law because the person who is the subject of the
902 | record has previously been convicted of a crime or comparable
903 | ordinance violation or has had a prior criminal history record
904 | sealed or expunged. Upon receipt of such notice, the appropriate
905 | state attorney or statewide prosecutor shall take action, within
906 | 60 days, to correct the record and petition the court to void
907 | the order to expunge. The department shall seal the record until
908 | such time as the order is voided by the court.

909 | (d) On or after July 1, 1992, the department or any other
910 | criminal justice agency is not required to act on an order to

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911 expunge entered by a court when such order does not comply with
 912 the requirements of this section. Upon receipt of such an order,
 913 the department must notify the issuing court, the appropriate
 914 state attorney or statewide prosecutor, the petitioner or the
 915 petitioner's attorney, and the arresting agency of the reason
 916 for noncompliance. The appropriate state attorney or statewide
 917 prosecutor shall take action within 60 days to correct the
 918 record and petition the court to void the order. No cause of
 919 action, including contempt of court, shall arise against any
 920 criminal justice agency for failure to comply with an order to
 921 expunge when the petitioner for such order failed to obtain the
 922 certificate of eligibility as required by this section or such
 923 order does not otherwise comply with the requirements of this
 924 section.

925 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
 926 criminal history record of a minor or an adult which is ordered
 927 expunged by a court of competent jurisdiction pursuant to this
 928 section must be physically destroyed or obliterated by any
 929 criminal justice agency having custody of such record; except
 930 that any criminal history record in the custody of the
 931 department must be retained in all cases. A criminal history
 932 record ordered expunged that is retained by the department is
 933 confidential and exempt from the provisions of s. 119.07(1) and
 934 s. 24(a), Art. I of the State Constitution and not available to
 935 any person or entity except upon order of a court of competent
 936 jurisdiction. A criminal justice agency may retain a notation
 937 indicating compliance with an order to expunge.

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938 (a) The person who is the subject of a criminal history
 939 record that is expunged under this section or under other
 940 provisions of law, including former s. 893.14, former s. 901.33,
 941 and former s. 943.058, may lawfully deny or fail to acknowledge
 942 the arrests covered by the expunged record, except when the
 943 subject of the record:

- 944 1. Is a candidate for employment with a criminal justice
 945 agency;
- 946 2. Is a defendant in a criminal prosecution;
- 947 3. Concurrently or subsequently petitions for relief under
 948 this section or s. 943.059;
- 949 4. Is a candidate for admission to The Florida Bar;
- 950 5. Is seeking to be employed or licensed by or to contract
 951 with the Department of Children and Family Services or the
 952 Department of Juvenile Justice or to be employed or used by such
 953 contractor or licensee in a sensitive position having direct
 954 contact with children, the developmentally disabled, the aged,
 955 or the elderly as provided in s. 110.1127(3), s. 393.063(15), s.
 956 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.
 957 409.175(2)(i), s. 415.102(4), s. 916.106(10) and (13), s.
 958 985.407, or chapter 400; or
- 959 6. Is seeking to be employed or licensed by the Office of
 960 Teacher Education, Certification, Staff Development, and
 961 Professional Practices of the Department of Education, any
 962 district school board, or any local governmental entity that
 963 licenses child care facilities.

964 (b) Subject to the exceptions in paragraph (a), a person
 965 who has been granted an expunction under this section, former s.

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966 893.14, former s. 901.33, or former s. 943.058 may not be held
967 under any provision of law of this state to commit perjury or to
968 be otherwise liable for giving a false statement by reason of
969 such person's failure to recite or acknowledge an expunged
970 criminal history record.

971 (c) Information relating to the existence of an expunged
972 criminal history record which is provided in accordance with
973 paragraph (a) is confidential and exempt from the provisions of
974 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
975 except that the department shall disclose the existence of a
976 criminal history record ordered expunged to the entities set
977 forth in subparagraphs (a)1., 4., 5., and 6. for their
978 respective licensing and employment purposes, and to criminal
979 justice agencies for their respective criminal justice purposes.
980 It is unlawful for any employee of an entity set forth in
981 subparagraph (a)1., subparagraph (a)4., subparagraph (a)5., or
982 subparagraph (a)6. to disclose information relating to the
983 existence of an expunged criminal history record of a person
984 seeking employment or licensure with such entity or contractor,
985 except to the person to whom the criminal history record relates
986 or to persons having direct responsibility for employment or
987 licensure decisions. Any person who violates this paragraph
988 commits a misdemeanor of the first degree, punishable as
989 provided in s. 775.082 or s. 775.083.

990 (5) STATUTORY REFERENCES.--Any reference to any other
991 chapter, section, or subdivision of the Florida Statutes in this
992 section constitutes a general reference under the doctrine of
993 incorporation by reference.

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994 Section 10. Section 943.059, Florida Statutes, is amended
 995 to read:
 996 943.059 Court-ordered sealing of criminal history
 997 records.--The courts of this state shall continue to have
 998 jurisdiction over their own procedures, including the
 999 maintenance, sealing, and correction of judicial records
 1000 containing criminal history information to the extent such
 1001 procedures are not inconsistent with the conditions,
 1002 responsibilities, and duties established by this section. Any
 1003 court of competent jurisdiction may order a criminal justice
 1004 agency to seal the criminal history record of a minor or an
 1005 adult who complies with the requirements of this section. The
 1006 court shall not order a criminal justice agency to seal a
 1007 criminal history record until the person seeking to seal a
 1008 criminal history record has applied for and received a
 1009 certificate of eligibility for sealing pursuant to subsection
 1010 (2). A criminal history record that relates to a violation of s.
 1011 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
 1012 800.04, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s.
 1013 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s. 916.1075, or
 1014 a violation enumerated in s. 907.041 may not be sealed, without
 1015 regard to whether adjudication was withheld, if the defendant
 1016 was found guilty of or pled guilty or nolo contendere to the
 1017 offense, or if the defendant, as a minor, was found to have
 1018 committed or pled guilty or nolo contendere to committing the
 1019 offense as a delinquent act. The court may only order sealing of
 1020 a criminal history record pertaining to one arrest or one
 1021 incident of alleged criminal activity, except as provided in

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1022 | this section. The court may, at its sole discretion, order the
 1023 | sealing of a criminal history record pertaining to more than one
 1024 | arrest if the additional arrests directly relate to the original
 1025 | arrest. If the court intends to order the sealing of records
 1026 | pertaining to such additional arrests, such intent must be
 1027 | specified in the order. A criminal justice agency may not seal
 1028 | any record pertaining to such additional arrests if the order to
 1029 | seal does not articulate the intention of the court to seal
 1030 | records pertaining to more than one arrest. This section does
 1031 | not prevent the court from ordering the sealing of only a
 1032 | portion of a criminal history record pertaining to one arrest or
 1033 | one incident of alleged criminal activity. Notwithstanding any
 1034 | law to the contrary, a criminal justice agency may comply with
 1035 | laws, court orders, and official requests of other jurisdictions
 1036 | relating to sealing, correction, or confidential handling of
 1037 | criminal history records or information derived therefrom. This
 1038 | section does not confer any right to the sealing of any criminal
 1039 | history record, and any request for sealing a criminal history
 1040 | record may be denied at the sole discretion of the court.

1041 | (1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.--Each
 1042 | petition to a court to seal a criminal history record is
 1043 | complete only when accompanied by:

1044 | (a) A certificate of eligibility for sealing issued by the
 1045 | department pursuant to subsection (2).

1046 | (b) The petitioner's sworn statement attesting that the
 1047 | petitioner:

1048 | 1. Has never, prior to the date on which the petition is
 1049 | filed, been adjudicated guilty of a criminal offense or

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1050 comparable ordinance violation or adjudicated delinquent for
 1051 committing a felony or a misdemeanor specified in s.
 1052 943.051(3)(b).

1053 2. Has not been adjudicated guilty of or adjudicated
 1054 delinquent for committing any of the acts stemming from the
 1055 arrest or alleged criminal activity to which the petition to
 1056 seal pertains.

1057 3. Has never secured a prior sealing or expunction of a
 1058 criminal history record under this section, former s. 893.14,
 1059 former s. 901.33, former s. 943.058, or from any jurisdiction
 1060 outside the state.

1061 4. Is eligible for such a sealing to the best of his or
 1062 her knowledge or belief and does not have any other petition to
 1063 seal or any petition to expunge pending before any court.

1064
 1065 Any person who knowingly provides false information on such
 1066 sworn statement to the court commits a felony of the third
 1067 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 1068 775.084.

1069 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.--Prior to
 1070 petitioning the court to seal a criminal history record, a
 1071 person seeking to seal a criminal history record shall apply to
 1072 the department for a certificate of eligibility for sealing. The
 1073 department shall, by rule adopted pursuant to chapter 120,
 1074 establish procedures pertaining to the application for and
 1075 issuance of certificates of eligibility for sealing. The
 1076 department shall issue a certificate of eligibility for sealing

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1077 to a person who is the subject of a criminal history record
1078 provided that such person:

1079 (a) Has submitted to the department a certified copy of
1080 the disposition of the charge to which the petition to seal
1081 pertains.

1082 (b) Remits a \$75 processing fee to the department for
1083 placement in the Department of Law Enforcement Operating Trust
1084 Fund, unless such fee is waived by the executive director.

1085 (c) Has never, prior to the date on which the application
1086 for a certificate of eligibility is filed, been adjudicated
1087 guilty of a criminal offense or comparable ordinance violation
1088 or adjudicated delinquent for committing a felony or a
1089 misdemeanor specified in s. 943.051(3)(b).

1090 (d) Has not been adjudicated guilty of or adjudicated
1091 delinquent for committing any of the acts stemming from the
1092 arrest or alleged criminal activity to which the petition to
1093 seal pertains.

1094 (e) Has never secured a prior sealing or expunction of a
1095 criminal history record under this section, former s. 893.14,
1096 former s. 901.33, or former s. 943.058.

1097 (f) Is no longer under court supervision applicable to the
1098 disposition of the arrest or alleged criminal activity to which
1099 the petition to seal pertains.

1100 (3) PROCESSING OF A PETITION OR ORDER TO SEAL.--

1101 (a) In judicial proceedings under this section, a copy of
1102 the completed petition to seal shall be served upon the
1103 appropriate state attorney or the statewide prosecutor and upon
1104 the arresting agency; however, it is not necessary to make any

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1105 | agency other than the state a party. The appropriate state
 1106 | attorney or the statewide prosecutor and the arresting agency
 1107 | may respond to the court regarding the completed petition to
 1108 | seal.

1109 | (b) If relief is granted by the court, the clerk of the
 1110 | court shall certify copies of the order to the appropriate state
 1111 | attorney or the statewide prosecutor and to the arresting
 1112 | agency. The arresting agency is responsible for forwarding the
 1113 | order to any other agency to which the arresting agency
 1114 | disseminated the criminal history record information to which
 1115 | the order pertains. The department shall forward the order to
 1116 | seal to the Federal Bureau of Investigation. The clerk of the
 1117 | court shall certify a copy of the order to any other agency
 1118 | which the records of the court reflect has received the criminal
 1119 | history record from the court.

1120 | (c) For an order to seal entered by a court prior to July
 1121 | 1, 1992, the department shall notify the appropriate state
 1122 | attorney or statewide prosecutor of any order to seal which is
 1123 | contrary to law because the person who is the subject of the
 1124 | record has previously been convicted of a crime or comparable
 1125 | ordinance violation or has had a prior criminal history record
 1126 | sealed or expunged. Upon receipt of such notice, the appropriate
 1127 | state attorney or statewide prosecutor shall take action, within
 1128 | 60 days, to correct the record and petition the court to void
 1129 | the order to seal. The department shall seal the record until
 1130 | such time as the order is voided by the court.

1131 | (d) On or after July 1, 1992, the department or any other
 1132 | criminal justice agency is not required to act on an order to

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1133 seal entered by a court when such order does not comply with the
 1134 requirements of this section. Upon receipt of such an order, the
 1135 department must notify the issuing court, the appropriate state
 1136 attorney or statewide prosecutor, the petitioner or the
 1137 petitioner's attorney, and the arresting agency of the reason
 1138 for noncompliance. The appropriate state attorney or statewide
 1139 prosecutor shall take action within 60 days to correct the
 1140 record and petition the court to void the order. No cause of
 1141 action, including contempt of court, shall arise against any
 1142 criminal justice agency for failure to comply with an order to
 1143 seal when the petitioner for such order failed to obtain the
 1144 certificate of eligibility as required by this section or when
 1145 such order does not comply with the requirements of this
 1146 section.

1147 (e) An order sealing a criminal history record pursuant to
 1148 this section does not require that such record be surrendered to
 1149 the court, and such record shall continue to be maintained by
 1150 the department and other criminal justice agencies.

1151 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A criminal
 1152 history record of a minor or an adult which is ordered sealed by
 1153 a court of competent jurisdiction pursuant to this section is
 1154 confidential and exempt from the provisions of s. 119.07(1) and
 1155 s. 24(a), Art. I of the State Constitution and is available only
 1156 to the person who is the subject of the record, to the subject's
 1157 attorney, to criminal justice agencies for their respective
 1158 criminal justice purposes, or to those entities set forth in
 1159 subparagraphs (a)1., 4., 5., and 6. for their respective
 1160 licensing and employment purposes.

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1161 (a) The subject of a criminal history record sealed under
 1162 this section or under other provisions of law, including former
 1163 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
 1164 deny or fail to acknowledge the arrests covered by the sealed
 1165 record, except when the subject of the record:

1166 1. Is a candidate for employment with a criminal justice
 1167 agency;

1168 2. Is a defendant in a criminal prosecution;

1169 3. Concurrently or subsequently petitions for relief under
 1170 this section or s. 943.0585;

1171 4. Is a candidate for admission to The Florida Bar;

1172 5. Is seeking to be employed or licensed by or to contract
 1173 with the Department of Children and Family Services or the
 1174 Department of Juvenile Justice or to be employed or used by such
 1175 contractor or licensee in a sensitive position having direct
 1176 contact with children, the developmentally disabled, the aged,
 1177 or the elderly as provided in s. 110.1127(3), s. 393.063(15), s.
 1178 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.
 1179 409.175(2)(i), s. 415.102(4), s. 415.103, s. 916.106(10) and
 1180 (13), s. 985.407, or chapter 400; or

1181 6. Is seeking to be employed or licensed by the Office of
 1182 Teacher Education, Certification, Staff Development, and
 1183 Professional Practices of the Department of Education, any
 1184 district school board, or any local governmental entity which
 1185 licenses child care facilities.

1186 (b) Subject to the exceptions in paragraph (a), a person
 1187 who has been granted a sealing under this section, former s.
 1188 893.14, former s. 901.33, or former s. 943.058 may not be held

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1189 | under any provision of law of this state to commit perjury or to
 1190 | be otherwise liable for giving a false statement by reason of
 1191 | such person's failure to recite or acknowledge a sealed criminal
 1192 | history record.

1193 | (c) Information relating to the existence of a sealed
 1194 | criminal record provided in accordance with the provisions of
 1195 | paragraph (a) is confidential and exempt from the provisions of
 1196 | s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
 1197 | except that the department shall disclose the sealed criminal
 1198 | history record to the entities set forth in subparagraphs (a)1.,
 1199 | 4., 5., and 6. for their respective licensing and employment
 1200 | purposes. It is unlawful for any employee of an entity set forth
 1201 | in subparagraph (a)1., subparagraph (a)4., subparagraph (a)5.,
 1202 | or subparagraph (a)6. to disclose information relating to the
 1203 | existence of a sealed criminal history record of a person
 1204 | seeking employment or licensure with such entity or contractor,
 1205 | except to the person to whom the criminal history record relates
 1206 | or to persons having direct responsibility for employment or
 1207 | licensure decisions. Any person who violates the provisions of
 1208 | this paragraph commits a misdemeanor of the first degree,
 1209 | punishable as provided in s. 775.082 or s. 775.083.

1210 | (5) STATUTORY REFERENCES.--Any reference to any other
 1211 | chapter, section, or subdivision of the Florida Statutes in this
 1212 | section constitutes a general reference under the doctrine of
 1213 | incorporation by reference.

1214 | Section 11. Paragraph (a) of subsection (2) of section
 1215 | 400.215, Florida Statutes, is amended, and paragraphs (b) and
 1216 | (c) of subsection (2) and subsection (3) of said section are

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1217 reenacted for the purpose of incorporating the amendments to
1218 sections 435.03 and 435.04, Florida Statutes, in references
1219 thereto, to read:

1220 400.215 Personnel screening requirement.--

1221 (2) Employers and employees shall comply with the
1222 requirements of s. 435.05.

1223 (a) Notwithstanding the provisions of s. 435.05(1),
1224 facilities must have in their possession evidence that level 1
1225 screening has been completed before allowing an employee to
1226 begin working with patients as provided in subsection (1). All
1227 information necessary for conducting background screening using
1228 level 1 standards as specified in s. 435.03~~(1)~~ shall be
1229 submitted by the nursing facility to the agency. Results of the
1230 background screening shall be provided by the agency to the
1231 requesting nursing facility.

1232 (b) Employees qualified under the provisions of paragraph
1233 (a) who have not maintained continuous residency within the
1234 state for the 5 years immediately preceding the date of request
1235 for background screening must complete level 2 screening, as
1236 provided in chapter 435. Such employees may work in a
1237 conditional status up to 180 days pending the receipt of written
1238 findings evidencing the completion of level 2 screening. Level 2
1239 screening shall not be required of employees or prospective
1240 employees who attest in writing under penalty of perjury that
1241 they meet the residency requirement. Completion of level 2
1242 screening shall require the employee or prospective employee to
1243 furnish to the nursing facility a full set of fingerprints to
1244 enable a criminal background investigation to be conducted. The

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1245 nursing facility shall submit the completed fingerprint card to
 1246 the agency. The agency shall establish a record of the request
 1247 in the database provided for in paragraph (c) and forward the
 1248 request to the Department of Law Enforcement, which is
 1249 authorized to submit the fingerprints to the Federal Bureau of
 1250 Investigation for a national criminal history records check. The
 1251 results of the national criminal history records check shall be
 1252 returned to the agency, which shall maintain the results in the
 1253 database provided for in paragraph (c). The agency shall notify
 1254 the administrator of the requesting nursing facility or the
 1255 administrator of any other facility licensed under chapter 393,
 1256 chapter 394, chapter 395, chapter 397, or this chapter, as
 1257 requested by such facility, as to whether or not the employee
 1258 has qualified under level 1 or level 2 screening. An employee or
 1259 prospective employee who has qualified under level 2 screening
 1260 and has maintained such continuous residency within the state
 1261 shall not be required to complete a subsequent level 2 screening
 1262 as a condition of employment at another facility.

1263 (c) The agency shall establish and maintain a database of
 1264 background screening information which shall include the results
 1265 of both level 1 and level 2 screening. The Department of Law
 1266 Enforcement shall timely provide to the agency, electronically,
 1267 the results of each statewide screening for incorporation into
 1268 the database. The agency shall, upon request from any facility,
 1269 agency, or program required by or authorized by law to screen
 1270 its employees or applicants, notify the administrator of the
 1271 facility, agency, or program of the qualifying or disqualifying
 1272 status of the employee or applicant named in the request.

1273 (3) The applicant is responsible for paying the fees
 1274 associated with obtaining the required screening. Payment for
 1275 the screening shall be submitted to the agency. The agency shall
 1276 establish a schedule of fees to cover the costs of level 1 and
 1277 level 2 screening. Facilities may reimburse employees for these
 1278 costs. The Department of Law Enforcement shall charge the agency
 1279 for a level 1 or level 2 screening a rate sufficient to cover
 1280 the costs of such screening pursuant to s. 943.053(3). The
 1281 agency shall, as allowable, reimburse nursing facilities for the
 1282 cost of conducting background screening as required by this
 1283 section. This reimbursement will not be subject to any rate
 1284 ceilings or payment targets in the Medicaid Reimbursement plan.

1285 Section 12. For the purpose of incorporating the
 1286 amendments to sections 435.03 and 435.04, Florida Statutes, in
 1287 references thereto, subsections (1) and (2) of section 400.964,
 1288 Florida Statutes, are reenacted, and subsection (7) of said
 1289 section is amended and reenacted, to read:

1290 400.964 Personnel screening requirement.--

1291 (1) The agency shall require level 2 background screening
 1292 as provided in chapter 435 for all employees or prospective
 1293 employees of facilities licensed under this part who are
 1294 expected to be, or whose responsibilities are such that they
 1295 would be considered to be, a direct service provider.

1296 (2) Employers and employees shall comply with the
 1297 requirements of chapter 435.

1298 (7) All employees must comply with the requirements of
 1299 this section by October 1, 2000. A person employed by a facility
 1300 licensed pursuant to this part as of the effective date of this

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1301 act is not required to submit to rescreening if the facility has
 1302 in its possession written evidence that the person has been
 1303 screened and qualified according to level 1 standards as
 1304 specified in s. 435.03~~(1)~~. Any current employee who meets the
 1305 level 1 requirement but does not meet the 5-year residency
 1306 requirement must provide to the employing facility written
 1307 attestation under penalty of perjury that the employee has not
 1308 been convicted of a disqualifying offense in another state or
 1309 jurisdiction. All applicants hired on or after October 1, 1999,
 1310 must comply with the requirements of this section.

1311 Section 13. For the purpose of incorporating the amendment
 1312 to section 435.04, Florida Statutes, in a reference thereto,
 1313 paragraph (a) of subsection (1) of section 435.045, Florida
 1314 Statutes, is amended and reenacted to read:

1315 435.045 Requirements for placement of dependent
 1316 children.--

1317 (1)(a) Unless an election provided for in subsection (2)
 1318 is made with respect to the state, the department is authorized
 1319 to conduct criminal records checks equivalent to the level 2
 1320 screening required in s. 435.04~~(1)~~ for any person being
 1321 considered by the department for placement of a child subject to
 1322 a placement decision pursuant to chapter 39. Approval shall not
 1323 be granted:

1324 1. In any case in which a record check reveals a felony
 1325 conviction for child abuse, abandonment, or neglect; for spousal
 1326 abuse; for a crime against children, including child
 1327 pornography, or for a crime involving violence, including rape,
 1328 sexual assault, or homicide but not including other physical

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1329 assault or battery, if the department finds that a court of
1330 competent jurisdiction has determined that the felony was
1331 committed at any time; and

1332 2. In any case in which a record check reveals a felony
1333 conviction for physical assault, battery, or a drug-related
1334 offense, if the department finds that a court of competent
1335 jurisdiction has determined that the felony was committed within
1336 the past 5 years.

1337 Section 14. For the purpose of incorporating the
1338 amendments to sections 435.03 and 435.04, Florida Statutes, in
1339 references thereto, paragraphs (f) and (g) of subsection (1) of
1340 section 400.414, Florida Statutes, are reenacted to read:

1341 400.414 Denial, revocation, or suspension of license;
1342 imposition of administrative fine; grounds.--

1343 (1) The agency may deny, revoke, or suspend any license
1344 issued under this part, or impose an administrative fine in the
1345 manner provided in chapter 120, for any of the following actions
1346 by an assisted living facility, for the actions of any person
1347 subject to level 2 background screening under s. 400.4174, or
1348 for the actions of any facility employee:

1349 (f) A determination that a person subject to level 2
1350 background screening under s. 400.4174(1) does not meet the
1351 screening standards of s. 435.04 or that the facility is
1352 retaining an employee subject to level 1 background screening
1353 standards under s. 400.4174(2) who does not meet the screening
1354 standards of s. 435.03 and for whom exemptions from
1355 disqualification have not been provided by the agency.

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1356 (g) A determination that an employee, volunteer,
 1357 administrator, or owner, or person who otherwise has access to
 1358 the residents of a facility does not meet the criteria specified
 1359 in s. 435.03(2), and the owner or administrator has not taken
 1360 action to remove the person. Exemptions from disqualification
 1361 may be granted as set forth in s. 435.07. No administrative
 1362 action may be taken against the facility if the person is
 1363 granted an exemption.

1364
 1365 Administrative proceedings challenging agency action under this
 1366 subsection shall be reviewed on the basis of the facts and
 1367 conditions that resulted in the agency action.

1368 Section 15. For the purpose of incorporating the
 1369 amendments to sections 435.03 and 435.04, Florida Statutes, in
 1370 references thereto, section 400.4174, Florida Statutes, is
 1371 reenacted to read:

1372 400.4174 Background screening; exemptions.--

1373 (1)(a) Level 2 background screening must be conducted on
 1374 each of the following persons, who shall be considered employees
 1375 for the purposes of conducting screening under chapter 435:

1376 1. The facility owner if an individual, the administrator,
 1377 and the financial officer.

1378 2. An officer or board member if the facility owner is a
 1379 firm, corporation, partnership, or association, or any person
 1380 owning 5 percent or more of the facility if the agency has
 1381 probable cause to believe that such person has been convicted of
 1382 any offense prohibited by s. 435.04. For each officer, board
 1383 member, or person owning 5 percent or more who has been

1384 convicted of any such offense, the facility shall submit to the
 1385 agency a description and explanation of the conviction at the
 1386 time of license application. This subparagraph does not apply to
 1387 a board member of a not-for-profit corporation or organization
 1388 if the board member serves solely in a voluntary capacity, does
 1389 not regularly take part in the day-to-day operational decisions
 1390 of the corporation or organization, receives no remuneration for
 1391 his or her services, and has no financial interest and has no
 1392 family members with a financial interest in the corporation or
 1393 organization, provided that the board member and facility submit
 1394 a statement affirming that the board member's relationship to
 1395 the facility satisfies the requirements of this subparagraph.

1396 (b) Proof of compliance with level 2 screening standards
 1397 which has been submitted within the previous 5 years to meet any
 1398 facility or professional licensure requirements of the agency or
 1399 the Department of Health satisfies the requirements of this
 1400 subsection, provided that such proof is accompanied, under
 1401 penalty of perjury, by an affidavit of compliance with the
 1402 provisions of chapter 435. Proof of compliance with the
 1403 background screening requirements of the Financial Services
 1404 Commission and the Office of Insurance Regulation for applicants
 1405 for a certificate of authority to operate a continuing care
 1406 retirement community under chapter 651, submitted within the
 1407 last 5 years, satisfies the Department of Law Enforcement and
 1408 Federal Bureau of Investigation portions of a level 2 background
 1409 check.

1410 (c) The agency may grant a provisional license to a
 1411 facility applying for an initial license when each individual

1412 required by this subsection to undergo screening has completed
 1413 the Department of Law Enforcement background checks, but has not
 1414 yet received results from the Federal Bureau of Investigation,
 1415 or when a request for an exemption from disqualification has
 1416 been submitted to the agency pursuant to s. 435.07, but a
 1417 response has not been issued.

1418 (2) The owner or administrator of an assisted living
 1419 facility must conduct level 1 background screening, as set forth
 1420 in chapter 435, on all employees hired on or after October 1,
 1421 1998, who perform personal services as defined in s.
 1422 400.402(17). The agency may exempt an individual from employment
 1423 disqualification as set forth in chapter 435. Such persons shall
 1424 be considered as having met this requirement if:

1425 (a) Proof of compliance with level 1 screening
 1426 requirements obtained to meet any professional license
 1427 requirements in this state is provided and accompanied, under
 1428 penalty of perjury, by a copy of the person's current
 1429 professional license and an affidavit of current compliance with
 1430 the background screening requirements.

1431 (b) The person required to be screened has been
 1432 continuously employed in the same type of occupation for which
 1433 the person is seeking employment without a breach in service
 1434 which exceeds 180 days, and proof of compliance with the level 1
 1435 screening requirement which is no more than 2 years old is
 1436 provided. Proof of compliance shall be provided directly from
 1437 one employer or contractor to another, and not from the person
 1438 screened. Upon request, a copy of screening results shall be

1439 provided by the employer retaining documentation of the
1440 screening to the person screened.

1441 (c) The person required to be screened is employed by a
1442 corporation or business entity or related corporation or
1443 business entity that owns, operates, or manages more than one
1444 facility or agency licensed under this chapter, and for whom a
1445 level 1 screening was conducted by the corporation or business
1446 entity as a condition of initial or continued employment.

1447 Section 16. For the purpose of incorporating the
1448 amendments to sections 435.03 and 435.04, Florida Statutes, in
1449 references thereto, paragraphs (a), (b), (c), (d), (f), and (g)
1450 of subsection (4) of section 400.509, Florida Statutes, are
1451 reenacted to read:

1452 400.509 Registration of particular service providers
1453 exempt from licensure; certificate of registration; regulation
1454 of registrants.--

1455 (4) Each applicant for registration must comply with the
1456 following requirements:

1457 (a) Upon receipt of a completed, signed, and dated
1458 application, the agency shall require background screening, in
1459 accordance with the level 1 standards for screening set forth in
1460 chapter 435, of every individual who will have contact with the
1461 client. The agency shall require background screening of the
1462 managing employee or other similarly titled individual who is
1463 responsible for the operation of the entity, and of the
1464 financial officer or other similarly titled individual who is
1465 responsible for the financial operation of the entity, including

1466 | billings for client services in accordance with the level 2
1467 | standards for background screening as set forth in chapter 435.

1468 | (b) The agency may require background screening of any
1469 | other individual who is affiliated with the applicant if the
1470 | agency has a reasonable basis for believing that he or she has
1471 | been convicted of a crime or has committed any other offense
1472 | prohibited under the level 2 standards for screening set forth
1473 | in chapter 435.

1474 | (c) Proof of compliance with the level 2 background
1475 | screening requirements of chapter 435 which has been submitted
1476 | within the previous 5 years in compliance with any other health
1477 | care or assisted living licensure requirements of this state is
1478 | acceptable in fulfillment of paragraph (a).

1479 | (d) A provisional registration may be granted to an
1480 | applicant when each individual required by this section to
1481 | undergo background screening has met the standards for the
1482 | abuse-registry background check through the agency and the
1483 | Department of Law Enforcement background check, but the agency
1484 | has not yet received background screening results from the
1485 | Federal Bureau of Investigation. A standard registration may be
1486 | granted to the applicant upon the agency's receipt of a report
1487 | of the results of the Federal Bureau of Investigation background
1488 | screening for each individual required by this section to
1489 | undergo background screening which confirms that all standards
1490 | have been met, or upon the granting of a disqualification
1491 | exemption by the agency as set forth in chapter 435. Any other
1492 | person who is required to undergo level 2 background screening
1493 | may serve in his or her capacity pending the agency's receipt of

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1494 the report from the Federal Bureau of Investigation. However,
1495 the person may not continue to serve if the report indicates any
1496 violation of background screening standards and if a
1497 disqualification exemption has not been requested of and granted
1498 by the agency as set forth in chapter 435.

1499 (f) Each applicant must submit to the agency a description
1500 and explanation of any conviction of an offense prohibited under
1501 the level 2 standards of chapter 435 which was committed by a
1502 member of the board of directors of the applicant, its officers,
1503 or any individual owning 5 percent or more of the applicant.
1504 This requirement does not apply to a director of a not-for-
1505 profit corporation or organization who serves solely in a
1506 voluntary capacity for the corporation or organization, does not
1507 regularly take part in the day-to-day operational decisions of
1508 the corporation or organization, receives no remuneration for
1509 his or her services on the corporation's or organization's board
1510 of directors, and has no financial interest and no family
1511 members having a financial interest in the corporation or
1512 organization, if the director and the not-for-profit corporation
1513 or organization include in the application a statement affirming
1514 that the director's relationship to the corporation satisfies
1515 the requirements of this paragraph.

1516 (g) A registration may not be granted to an applicant if
1517 the applicant or managing employee has been found guilty of,
1518 regardless of adjudication, or has entered a plea of nolo
1519 contendere or guilty to, any offense prohibited under the level
1520 2 standards for screening set forth in chapter 435, unless an

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1521 exemption from disqualification has been granted by the agency
1522 as set forth in chapter 435.

1523 Section 17. For the purpose of incorporating the
1524 amendments to sections 435.03 and 435.04, Florida Statutes, in
1525 references thereto, paragraph (c) of subsection (2) of section
1526 400.556, Florida Statutes, is reenacted to read:

1527 400.556 Denial, suspension, revocation of license;
1528 administrative fines; investigations and inspections.--

1529 (2) Each of the following actions by the owner of an adult
1530 day care center or by its operator or employee is a ground for
1531 action by the agency against the owner of the center or its
1532 operator or employee:

1533 (c) A failure of persons subject to level 2 background
1534 screening under s. 400.4174(1) to meet the screening standards
1535 of s. 435.04, or the retention by the center of an employee
1536 subject to level 1 background screening standards under s.
1537 400.4174(2) who does not meet the screening standards of s.
1538 435.03 and for whom exemptions from disqualification have not
1539 been provided by the agency.

1540 Section 18. For the purpose of incorporating the
1541 amendments to sections 435.03 and 435.04, Florida Statutes, in
1542 references thereto, subsections (1), (2), and (4) of section
1543 400.6065, Florida Statutes, are reenacted to read:

1544 400.6065 Background screening.--

1545 (1) Upon receipt of a completed application under s.
1546 400.606, the agency shall require level 2 background screening
1547 on each of the following persons, who shall be considered

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1548 employees for the purposes of conducting screening under chapter
1549 435:

1550 (a) The hospice administrator and financial officer.

1551 (b) An officer or board member if the hospice is a firm,
1552 corporation, partnership, or association, or any person owning 5
1553 percent or more of the hospice if the agency has probable cause
1554 to believe that such officer, board member, or owner has been
1555 convicted of any offense prohibited by s. 435.04. For each
1556 officer, board member, or person owning 5 percent or more who
1557 has been convicted of any such offense, the hospice shall submit
1558 to the agency a description and explanation of the conviction at
1559 the time of license application. This paragraph does not apply
1560 to a board member of a not-for-profit corporation or
1561 organization if the board member serves solely in a voluntary
1562 capacity, does not regularly take part in the day-to-day
1563 operational decisions of the corporation or organization,
1564 receives no remuneration for his or her services, and has no
1565 financial interest and has no family members with a financial
1566 interest in the corporation or organization, provided that the
1567 board member and the corporation or organization submit a
1568 statement affirming that the board member's relationship to the
1569 corporation or organization satisfies the requirements of this
1570 paragraph.

1571 (2) Proof of compliance with level 2 screening standards
1572 which has been submitted within the previous 5 years to meet any
1573 facility or professional licensure requirements of the agency or
1574 the Department of Health satisfies the requirements of this
1575 section.

1576 (4) The agency shall require employment or contractor
 1577 screening as provided in chapter 435, using the level 1
 1578 standards for screening set forth in that chapter, for hospice
 1579 personnel.

1580 Section 19. For the purpose of incorporating the
 1581 amendments to sections 435.03 and 435.04, Florida Statutes, in
 1582 references thereto, paragraphs (a), (b), (c), (d), (f), and (g)
 1583 of subsection (4) of section 400.980, Florida Statutes, are
 1584 reenacted to read:

1585 400.980 Health care services pools.--

1586 (4) Each applicant for registration must comply with the
 1587 following requirements:

1588 (a) Upon receipt of a completed, signed, and dated
 1589 application, the agency shall require background screening, in
 1590 accordance with the level 1 standards for screening set forth in
 1591 chapter 435, of every individual who will have contact with
 1592 patients. The agency shall require background screening of the
 1593 managing employee or other similarly titled individual who is
 1594 responsible for the operation of the entity, and of the
 1595 financial officer or other similarly titled individual who is
 1596 responsible for the financial operation of the entity, including
 1597 billings for services in accordance with the level 2 standards
 1598 for background screening as set forth in chapter 435.

1599 (b) The agency may require background screening of any
 1600 other individual who is affiliated with the applicant if the
 1601 agency has a reasonable basis for believing that he or she has
 1602 been convicted of a crime or has committed any other offense

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1603 prohibited under the level 2 standards for screening set forth
1604 in chapter 435.

1605 (c) Proof of compliance with the level 2 background
1606 screening requirements of chapter 435 which has been submitted
1607 within the previous 5 years in compliance with any other health
1608 care or assisted living licensure requirements of this state is
1609 acceptable in fulfillment of paragraph (a).

1610 (d) A provisional registration may be granted to an
1611 applicant when each individual required by this section to
1612 undergo background screening has met the standards for the
1613 Department of Law Enforcement background check but the agency
1614 has not yet received background screening results from the
1615 Federal Bureau of Investigation. A standard registration may be
1616 granted to the applicant upon the agency's receipt of a report
1617 of the results of the Federal Bureau of Investigation background
1618 screening for each individual required by this section to
1619 undergo background screening which confirms that all standards
1620 have been met, or upon the granting of a disqualification
1621 exemption by the agency as set forth in chapter 435. Any other
1622 person who is required to undergo level 2 background screening
1623 may serve in his or her capacity pending the agency's receipt of
1624 the report from the Federal Bureau of Investigation. However,
1625 the person may not continue to serve if the report indicates any
1626 violation of background screening standards and if a
1627 disqualification exemption has not been requested of and granted
1628 by the agency as set forth in chapter 435.

1629 (f) Each applicant must submit to the agency a description
1630 and explanation of any conviction of an offense prohibited under

1631 the level 2 standards of chapter 435 which was committed by a
 1632 member of the board of directors of the applicant, its officers,
 1633 or any individual owning 5 percent or more of the applicant.
 1634 This requirement does not apply to a director of a not-for-
 1635 profit corporation or organization who serves solely in a
 1636 voluntary capacity for the corporation or organization, does not
 1637 regularly take part in the day-to-day operational decisions of
 1638 the corporation or organization, receives no remuneration for
 1639 his or her services on the corporation's or organization's board
 1640 of directors, and has no financial interest and no family
 1641 members having a financial interest in the corporation or
 1642 organization, if the director and the not-for-profit corporation
 1643 or organization include in the application a statement affirming
 1644 that the director's relationship to the corporation satisfies
 1645 the requirements of this paragraph.

1646 (g) A registration may not be granted to an applicant if
 1647 the applicant or managing employee has been found guilty of,
 1648 regardless of adjudication, or has entered a plea of nolo
 1649 contendere or guilty to, any offense prohibited under the level
 1650 2 standards for screening set forth in chapter 435, unless an
 1651 exemption from disqualification has been granted by the agency
 1652 as set forth in chapter 435.

1653 Section 20. For the purpose of incorporating the
 1654 amendments to sections 435.03 and 435.04, Florida Statutes, in
 1655 references thereto, paragraph (k) of subsection (2) of section
 1656 409.175, Florida Statutes, is reenacted to read:

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1657 409.175 Licensure of family foster homes, residential
1658 child-caring agencies, and child-placing agencies; public
1659 records exemption.--

1660 (2) As used in this section, the term:

1661 (k) "Screening" means the act of assessing the background
1662 of personnel and includes, but is not limited to, employment
1663 history checks as provided in chapter 435, using the level 2
1664 standards for screening set forth in that chapter. Screening for
1665 employees and volunteers in summer day camps and summer 24-hour
1666 camps and screening for all volunteers included under the
1667 definition of "personnel" shall be conducted as provided in
1668 chapter 435, using the level 1 standards set forth in that
1669 chapter.

1670 Section 21. For the purpose of incorporating the
1671 amendments to sections 435.03 and 435.04, Florida Statutes, in
1672 references thereto, paragraph (d) of subsection (8) of section
1673 409.907, Florida Statutes, is reenacted to read:

1674 409.907 Medicaid provider agreements.--The agency may make
1675 payments for medical assistance and related services rendered to
1676 Medicaid recipients only to an individual or entity who has a
1677 provider agreement in effect with the agency, who is performing
1678 services or supplying goods in accordance with federal, state,
1679 and local law, and who agrees that no person shall, on the
1680 grounds of handicap, race, color, or national origin, or for any
1681 other reason, be subjected to discrimination under any program
1682 or activity for which the provider receives payment from the
1683 agency.

1684 (8)

1685 (d) Proof of compliance with the requirements of level 2
 1686 screening under s. 435.04 conducted within 12 months prior to
 1687 the date that the Medicaid provider application is submitted to
 1688 the agency shall fulfill the requirements of this subsection.
 1689 Proof of compliance with the requirements of level 1 screening
 1690 under s. 435.03 conducted within 12 months prior to the date
 1691 that the Medicaid provider application is submitted to the
 1692 agency shall meet the requirement that the Department of Law
 1693 Enforcement conduct a state criminal history record check.

1694 Section 22. For the purpose of incorporating the
 1695 amendments to sections 435.03 and 435.04, Florida Statutes, in
 1696 references thereto, subsections (1) and (3) of section 435.05,
 1697 Florida Statutes, are reenacted to read:

1698 435.05 Requirements for covered employees.--Except as
 1699 otherwise provided by law, the following requirements shall
 1700 apply to covered employees:

1701 (1)(a) Every person employed in a position for which
 1702 employment screening is required must, within 5 working days
 1703 after starting to work, submit to the employer a complete set of
 1704 information necessary to conduct a screening under this section.

1705 (b) For level 1 screening, the employer must submit the
 1706 information necessary for screening to the Florida Department of
 1707 Law Enforcement within 5 working days after receiving it. The
 1708 Florida Department of Law Enforcement will conduct a search of
 1709 its records and will respond to the employer agency. The
 1710 employer will inform the employee whether screening has revealed
 1711 any disqualifying information.

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1712 (c) For level 2 screening, the employer or licensing
 1713 agency must submit the information necessary for screening to
 1714 the Florida Department of Law Enforcement within 5 working days
 1715 after receiving it. The Florida Department of Law Enforcement
 1716 will conduct a search of its criminal and juvenile records and
 1717 will request that the Federal Bureau of Investigation conduct a
 1718 search of its records for each employee for whom the request is
 1719 made. The Florida Department of Law Enforcement will respond to
 1720 the employer or licensing agency, and the employer or licensing
 1721 agency will inform the employee whether screening has revealed
 1722 disqualifying information.

1723 (d) The person whose background is being checked must
 1724 supply any missing criminal or other necessary information to
 1725 the employer within 30 days after the employer makes a request
 1726 for the information or be subject to automatic disqualification.

1727 (3) Each employer required to conduct level 2 background
 1728 screening must sign an affidavit annually, under penalty of
 1729 perjury, stating that all covered employees have been screened
 1730 or are newly hired and are awaiting the results of the required
 1731 screening checks.

1732 Section 23. For the purpose of incorporating the
 1733 amendments to sections 435.03 and 435.04, Florida Statutes, in
 1734 references thereto, section 744.3135, Florida Statutes, as
 1735 amended by chapter 2003-402, Laws of Florida, is reenacted to
 1736 read:

1737 744.3135 Credit and criminal investigation.—The court may
 1738 require a nonprofessional guardian and shall require a
 1739 professional or public guardian, and all employees of a

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1740 professional guardian who have a fiduciary responsibility to a
1741 ward, to submit, at their own expense, to an investigation of
1742 the guardian's credit history and to undergo level 2 background
1743 screening as required under s. 435.04. The clerk of the court
1744 shall obtain fingerprint cards from the Federal Bureau of
1745 Investigation and make them available to guardians. Any guardian
1746 who is so required shall have his or her fingerprints taken and
1747 forward the proper fingerprint card along with the necessary fee
1748 to the Florida Department of Law Enforcement for processing. The
1749 professional guardian shall pay to the clerk of the court a fee
1750 of up to \$7.50 for handling and processing professional guardian
1751 files. The results of the fingerprint checks shall be forwarded
1752 to the clerk of court who shall maintain the results in a
1753 guardian file and shall make the results available to the court.
1754 If credit or criminal investigations are required, the court
1755 must consider the results of the investigations in appointing a
1756 guardian. Professional guardians and all employees of a
1757 professional guardian who have a fiduciary responsibility to a
1758 ward, so appointed, must resubmit, at their own expense, to an
1759 investigation of credit history, and undergo level 1 background
1760 screening as required under s. 435.03, at least every 2 years
1761 after the date of their appointment. At any time, the court may
1762 require guardians or their employees to submit to an
1763 investigation of credit history and undergo level 1 background
1764 screening as required under s. 435.03. The court must consider
1765 the results of these investigations in reappointing a guardian.
1766 This section shall not apply to a professional guardian, or to
1767 the employees of a professional guardian, that is a trust

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1768 | company, a state banking corporation or state savings
 1769 | association authorized and qualified to exercise fiduciary
 1770 | powers in this state, or a national banking association or
 1771 | federal savings and loan association authorized and qualified to
 1772 | exercise fiduciary powers in this state.

1773 | Section 24. For the purpose of incorporating the
 1774 | amendments to sections 435.03 and 435.04, Florida Statutes, in
 1775 | references thereto, subsection (2) of section 985.04, Florida
 1776 | Statutes, is reenacted to read:

1777 | 985.04 Oaths; records; confidential information.--

1778 | (2) Records maintained by the Department of Juvenile
 1779 | Justice, including copies of records maintained by the court,
 1780 | which pertain to a child found to have committed a delinquent
 1781 | act which, if committed by an adult, would be a crime specified
 1782 | in ss. 435.03 and 435.04 may not be destroyed pursuant to this
 1783 | section for a period of 25 years after the youth's final
 1784 | referral to the department, except in cases of the death of the
 1785 | child. Such records, however, shall be sealed by the court for
 1786 | use only in meeting the screening requirements for personnel in
 1787 | s. 402.3055 and the other sections cited above, or pursuant to
 1788 | departmental rule; however, current criminal history information
 1789 | must be obtained from the Department of Law Enforcement in
 1790 | accordance with s. 943.053. The information shall be released to
 1791 | those persons specified in the above cited sections for the
 1792 | purposes of complying with those sections. The court may punish
 1793 | by contempt any person who releases or uses the records for any
 1794 | unauthorized purpose.

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1795 Section 25. For the purpose of incorporating the amendment
1796 to section 435.03, Florida Statutes, in references thereto,
1797 section 400.512, Florida Statutes, is reenacted to read:

1798 400.512 Screening of home health agency personnel; nurse
1799 registry personnel; and companions and homemakers.--The agency
1800 shall require employment or contractor screening as provided in
1801 chapter 435, using the level 1 standards for screening set forth
1802 in that chapter, for home health agency personnel; persons
1803 referred for employment by nurse registries; and persons
1804 employed by companion or homemaker services registered under s.
1805 400.509.

1806 (1)(a) The Agency for Health Care Administration may, upon
1807 request, grant exemptions from disqualification from employment
1808 or contracting under this section as provided in s. 435.07,
1809 except for health care practitioners licensed by the Department
1810 of Health or a regulatory board within that department.

1811 (b) The appropriate regulatory board within the Department
1812 of Health, or that department itself when there is no board,
1813 may, upon request of the licensed health care practitioner,
1814 grant exemptions from disqualification from employment or
1815 contracting under this section as provided in s. 435.07.

1816 (2) The administrator of each home health agency, the
1817 managing employee of each nurse registry, and the managing
1818 employee of each companion or homemaker service registered under
1819 s. 400.509 must sign an affidavit annually, under penalty of
1820 perjury, stating that all personnel hired, contracted with, or
1821 registered on or after October 1, 1994, who enter the home of a
1822 patient or client in their service capacity have been screened

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1823 | and that its remaining personnel have worked for the home health
1824 | agency or registrant continuously since before October 1, 1994.

1825 | (3) As a prerequisite to operating as a home health
1826 | agency, nurse registry, or companion or homemaker service under
1827 | s. 400.509, the administrator or managing employee,
1828 | respectively, must submit to the agency his or her name and any
1829 | other information necessary to conduct a complete screening
1830 | according to this section. The agency shall submit the
1831 | information to the Department of Law Enforcement for state
1832 | processing. The agency shall review the record of the
1833 | administrator or manager with respect to the offenses specified
1834 | in this section and shall notify the owner of its findings. If
1835 | disposition information is missing on a criminal record, the
1836 | administrator or manager, upon request of the agency, must
1837 | obtain and supply within 30 days the missing disposition
1838 | information to the agency. Failure to supply missing information
1839 | within 30 days or to show reasonable efforts to obtain such
1840 | information will result in automatic disqualification.

1841 | (4) Proof of compliance with the screening requirements of
1842 | chapter 435 shall be accepted in lieu of the requirements of
1843 | this section if the person has been continuously employed or
1844 | registered without a breach in service that exceeds 180 days,
1845 | the proof of compliance is not more than 2 years old, and the
1846 | person has been screened by the Department of Law Enforcement. A
1847 | home health agency, nurse registry, or companion or homemaker
1848 | service registered under s. 400.509 shall directly provide proof
1849 | of compliance to another home health agency, nurse registry, or
1850 | companion or homemaker service registered under s. 400.509. The

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1851 recipient home health agency, nurse registry, or companion or
 1852 homemaker service registered under s. 400.509 may not accept any
 1853 proof of compliance directly from the person who requires
 1854 screening. Proof of compliance with the screening requirements
 1855 of this section shall be provided upon request to the person
 1856 screened by the home health agencies; nurse registries; or
 1857 companion or homemaker services registered under s. 400.509.

1858 (5) There is no monetary liability on the part of, and no
 1859 cause of action for damages arises against, a licensed home
 1860 health agency, licensed nurse registry, or companion or
 1861 homemaker service registered under s. 400.509, that, upon notice
 1862 that the employee or contractor has been found guilty of,
 1863 regardless of adjudication, or entered a plea of nolo contendere
 1864 or guilty to, any offense prohibited under s. 435.03 or under
 1865 any similar statute of another jurisdiction, terminates the
 1866 employee or contractor, whether or not the employee or
 1867 contractor has filed for an exemption with the agency in
 1868 accordance with chapter 435 and whether or not the time for
 1869 filing has expired.

1870 (6) The costs of processing the statewide correspondence
 1871 criminal records checks must be borne by the home health agency;
 1872 the nurse registry; or the companion or homemaker service
 1873 registered under s. 400.509, or by the person being screened, at
 1874 the discretion of the home health agency, nurse registry, or s.
 1875 400.509 registrant.

1876 (7)(a) It is a misdemeanor of the first degree, punishable
 1877 under s. 775.082 or s. 775.083, for any person willfully,
 1878 knowingly, or intentionally to:

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1879 | 1. Fail, by false statement, misrepresentation,
1880 | impersonation, or other fraudulent means, to disclose in any
1881 | application for voluntary or paid employment a material fact
1882 | used in making a determination as to such person's
1883 | qualifications to be an employee under this section;

1884 | 2. Operate or attempt to operate an entity licensed or
1885 | registered under this part with persons who do not meet the
1886 | minimum standards for good moral character as contained in this
1887 | section; or

1888 | 3. Use information from the criminal records obtained
1889 | under this section for any purpose other than screening that
1890 | person for employment as specified in this section or release
1891 | such information to any other person for any purpose other than
1892 | screening for employment under this section.

1893 | (b) It is a felony of the third degree, punishable under
1894 | s. 775.082, s. 775.083, or s. 775.084, for any person willfully,
1895 | knowingly, or intentionally to use information from the juvenile
1896 | records of a person obtained under this section for any purpose
1897 | other than screening for employment under this section.

1898 | Section 26. For the purpose of incorporating the amendment
1899 | to section 435.03, Florida Statutes, in references thereto,
1900 | subsection (4) of section 400.619, Florida Statutes, is
1901 | reenacted to read:

1902 | 400.619 Licensure application and renewal.--

1903 | (4) Upon receipt of a completed license application or
1904 | license renewal, and the fee, the agency shall initiate a level
1905 | 1 background screening as provided under chapter 435 on the
1906 | adult family-care home provider, the designated relief person,

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1907 | all adult household members, and all staff members. The agency
 1908 | shall conduct an onsite visit to the home that is to be
 1909 | licensed.

1910 | (a) Proof of compliance with level 1 screening standards
 1911 | which has been submitted within the previous 5 years to meet any
 1912 | facility or professional licensure requirements of the agency or
 1913 | the Department of Health satisfies the requirements of this
 1914 | subsection. Such proof must be accompanied, under penalty of
 1915 | perjury, by a copy of the person's current professional license
 1916 | and an affidavit of current compliance with the background
 1917 | screening requirements.

1918 | (b) The person required to be screened must have been
 1919 | continuously employed in the same type of occupation for which
 1920 | the person is seeking employment without a breach in service
 1921 | that exceeds 180 days, and proof of compliance with the level 1
 1922 | screening requirement which is no more than 2 years old must be
 1923 | provided. Proof of compliance shall be provided directly from
 1924 | one employer or contractor to another, and not from the person
 1925 | screened. Upon request, a copy of screening results shall be
 1926 | provided to the person screened by the employer retaining
 1927 | documentation of the screening.

1928 | Section 27. For the purpose of incorporating the amendment
 1929 | to section 435.03, Florida Statutes, in references thereto,
 1930 | subsection (1) of section 400.6194, Florida Statutes, is
 1931 | reenacted to read:

1932 | 400.6194 Denial, revocation, or suspension of a
 1933 | license.--The agency may deny, suspend, or revoke a license for
 1934 | any of the following reasons:

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1935 (1) Failure of any of the persons required to undergo
1936 background screening under s. 400.619 to meet the level 1
1937 screening standards of s. 435.03, unless an exemption from
1938 disqualification has been provided by the agency.

1939 Section 28. For the purpose of incorporating the amendment
1940 to section 435.03, Florida Statutes, in references thereto,
1941 section 400.953, Florida Statutes, is reenacted to read:

1942 400.953 Background screening of home medical equipment
1943 provider personnel.--The agency shall require employment
1944 screening as provided in chapter 435, using the level 1
1945 standards for screening set forth in that chapter, for home
1946 medical equipment provider personnel.

1947 (1) The agency may grant exemptions from disqualification
1948 from employment under this section as provided in s. 435.07.

1949 (2) The general manager of each home medical equipment
1950 provider must sign an affidavit annually, under penalty of
1951 perjury, stating that all home medical equipment provider
1952 personnel hired on or after July 1, 1999, who enter the home of
1953 a patient in the capacity of their employment have been screened
1954 and that its remaining personnel have worked for the home
1955 medical equipment provider continuously since before July 1,
1956 1999.

1957 (3) Proof of compliance with the screening requirements of
1958 s. 110.1127, s. 393.0655, s. 394.4572, s. 397.451, s. 402.305,
1959 s. 402.313, s. 409.175, s. 464.008, or s. 985.407 or this part
1960 must be accepted in lieu of the requirements of this section if
1961 the person has been continuously employed in the same type of
1962 occupation for which he or she is seeking employment without a

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1963 | breach in service that exceeds 180 days, the proof of compliance
 1964 | is not more than 2 years old, and the person has been screened
 1965 | by the Department of Law Enforcement. An employer or contractor
 1966 | shall directly provide proof of compliance to another employer
 1967 | or contractor, and a potential employer or contractor may not
 1968 | accept any proof of compliance directly from the person
 1969 | requiring screening. Proof of compliance with the screening
 1970 | requirements of this section shall be provided, upon request, to
 1971 | the person screened by the home medical equipment provider.

1972 | (4) There is no monetary liability on the part of, and no
 1973 | cause of action for damages arising against, a licensed home
 1974 | medical equipment provider that, upon notice that an employee
 1975 | has been found guilty of, regardless of adjudication, or entered
 1976 | a plea of nolo contendere or guilty to, any offense prohibited
 1977 | under s. 435.03 or under any similar statute of another
 1978 | jurisdiction, terminates the employee, whether or not the
 1979 | employee has filed for an exemption with the agency and whether
 1980 | or not the time for filing has expired.

1981 | (5) The costs of processing the statewide correspondence
 1982 | criminal records checks must be borne by the home medical
 1983 | equipment provider or by the person being screened, at the
 1984 | discretion of the home medical equipment provider.

1985 | (6) Neither the agency nor the home medical equipment
 1986 | provider may use the criminal records or juvenile records of a
 1987 | person for any purpose other than determining whether that
 1988 | person meets minimum standards of good moral character for home
 1989 | medical equipment provider personnel.

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1990 (7)(a) It is a misdemeanor of the first degree, punishable
1991 as provided in s. 775.082 or s. 775.083, for any person
1992 willfully, knowingly, or intentionally to:

1993 1. Fail, by false statement, misrepresentation,
1994 impersonation, or other fraudulent means, to disclose in any
1995 application for paid employment a material fact used in making a
1996 determination as to the person's qualifications to be an
1997 employee under this section;

1998 2. Operate or attempt to operate an entity licensed under
1999 this part with persons who do not meet the minimum standards for
2000 good moral character as contained in this section; or

2001 3. Use information from the criminal records obtained
2002 under this section for any purpose other than screening that
2003 person for employment as specified in this section, or release
2004 such information to any other person for any purpose other than
2005 screening for employment under this section.

2006 (b) It is a felony of the third degree, punishable as
2007 provided in s. 775.082, s. 775.083, or s. 775.084, for any
2008 person willfully, knowingly, or intentionally to use information
2009 from the juvenile records of a person obtained under this
2010 section for any purpose other than screening for employment
2011 under this section.

2012 Section 29. For the purpose of incorporating the amendment
2013 to section 435.03, Florida Statutes, in references thereto,
2014 subsection (32) of section 409.912, Florida Statutes, is
2015 reenacted to read:

2016 409.912 Cost-effective purchasing of health care.--The
2017 agency shall purchase goods and services for Medicaid recipients

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2018 | in the most cost-effective manner consistent with the delivery
 2019 | of quality medical care. The agency shall maximize the use of
 2020 | prepaid per capita and prepaid aggregate fixed-sum basis
 2021 | services when appropriate and other alternative service delivery
 2022 | and reimbursement methodologies, including competitive bidding
 2023 | pursuant to s. 287.057, designed to facilitate the cost-
 2024 | effective purchase of a case-managed continuum of care. The
 2025 | agency shall also require providers to minimize the exposure of
 2026 | recipients to the need for acute inpatient, custodial, and other
 2027 | institutional care and the inappropriate or unnecessary use of
 2028 | high-cost services. The agency may establish prior authorization
 2029 | requirements for certain populations of Medicaid beneficiaries,
 2030 | certain drug classes, or particular drugs to prevent fraud,
 2031 | abuse, overuse, and possible dangerous drug interactions. The
 2032 | Pharmaceutical and Therapeutics Committee shall make
 2033 | recommendations to the agency on drugs for which prior
 2034 | authorization is required. The agency shall inform the
 2035 | Pharmaceutical and Therapeutics Committee of its decisions
 2036 | regarding drugs subject to prior authorization.

2037 | (32) Each managed care plan that is under contract with
 2038 | the agency to provide health care services to Medicaid
 2039 | recipients shall annually conduct a background check with the
 2040 | Florida Department of Law Enforcement of all persons with
 2041 | ownership interest of 5 percent or more or executive management
 2042 | responsibility for the managed care plan and shall submit to the
 2043 | agency information concerning any such person who has been found
 2044 | guilty of, regardless of adjudication, or has entered a plea of

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2045 nolo contendere or guilty to, any of the offenses listed in s.
2046 435.03.

2047 Section 30. For the purpose of incorporating the amendment
2048 to section 435.03, Florida Statutes, in references thereto,
2049 subsection (4) of section 435.07, Florida Statutes, is reenacted
2050 to read:

2051 435.07 Exemptions from disqualification.--Unless otherwise
2052 provided by law, the provisions of this section shall apply to
2053 exemptions from disqualification.

2054 (4) Disqualification from employment under subsection (1)
2055 may not be removed from, nor may an exemption be granted to, any
2056 personnel who is found guilty of, regardless of adjudication, or
2057 who has entered a plea of nolo contendere or guilty to, any
2058 felony covered by s. 435.03 solely by reason of any pardon,
2059 executive clemency, or restoration of civil rights.

2060 Section 31. For the purpose of incorporating the amendment
2061 to section 435.03, Florida Statutes, in references thereto,
2062 paragraph (e) of subsection (1) of section 464.018, Florida
2063 Statutes, is reenacted to read:

2064 464.018 Disciplinary actions.--

2065 (1) The following acts constitute grounds for denial of a
2066 license or disciplinary action, as specified in s. 456.072(2):

2067 (e) Having been found guilty of, regardless of
2068 adjudication, or entered a plea of nolo contendere or guilty to,
2069 any offense prohibited under s. 435.03 or under any similar
2070 statute of another jurisdiction; or having committed an act
2071 which constitutes domestic violence as defined in s. 741.28.

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2072 Section 32. For the purpose of incorporating the amendment
2073 to section 435.03, Florida Statutes, in references thereto,
2074 subsection (3) of section 744.309, Florida Statutes, is
2075 reenacted to read:

2076 744.309 Who may be appointed guardian of a resident
2077 ward.--

2078 (3) DISQUALIFIED PERSONS.--No person who has been
2079 convicted of a felony or who, from any incapacity or illness, is
2080 incapable of discharging the duties of a guardian, or who is
2081 otherwise unsuitable to perform the duties of a guardian, shall
2082 be appointed to act as guardian. Further, no person who has been
2083 judicially determined to have committed abuse, abandonment, or
2084 neglect against a child as defined in s. 39.01 or s. 984.03(1),
2085 (2), and (37), or who has been found guilty of, regardless of
2086 adjudication, or entered a plea of nolo contendere or guilty to,
2087 any offense prohibited under s. 435.03 or under any similar
2088 statute of another jurisdiction, shall be appointed to act as a
2089 guardian. Except as provided in subsection (5) or subsection
2090 (6), a person who provides substantial services to the proposed
2091 ward in a professional or business capacity, or a creditor of
2092 the proposed ward, may not be appointed guardian and retain that
2093 previous professional or business relationship. A person may not
2094 be appointed a guardian if he or she is in the employ of any
2095 person, agency, government, or corporation that provides service
2096 to the proposed ward in a professional or business capacity,
2097 except that a person so employed may be appointed if he or she
2098 is the spouse, adult child, parent, or sibling of the proposed
2099 ward or the court determines that the potential conflict of

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2100 interest is insubstantial and that the appointment would clearly
 2101 be in the proposed ward's best interest. The court may not
 2102 appoint a guardian in any other circumstance in which a conflict
 2103 of interest may occur.

2104 Section 33. For the purpose of incorporating the amendment
 2105 to section 435.03, Florida Statutes, in references thereto,
 2106 subsection (12) of section 744.474, Florida Statutes, is
 2107 reenacted to read:

2108 744.474 Reasons for removal of guardian.--A guardian may
 2109 be removed for any of the following reasons, and the removal
 2110 shall be in addition to any other penalties prescribed by law:

2111 (12) Having been found guilty of, regardless of
 2112 adjudication, or entered a plea of nolo contendere or guilty to,
 2113 any offense prohibited under s. 435.03 or under any similar
 2114 statute of another jurisdiction.

2115 Section 34. For the purpose of incorporating the amendment
 2116 to section 435.03, Florida Statutes, in references thereto,
 2117 subsection (4) of section 985.407, Florida Statutes, is
 2118 reenacted to read:

2119 985.407 Departmental contracting powers; personnel
 2120 standards and screening.--

2121 (4) The department shall require employment screening
 2122 pursuant to chapter 435, using the level 1 standards for
 2123 screening set forth in that chapter, for personnel in
 2124 delinquency facilities, services, and programs.

2125 Section 35. For the purpose of incorporating the amendment
 2126 to section 435.04, Florida Statutes, in references thereto,

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2127 paragraph (b) of subsection (2) of section 39.001, Florida
2128 Statutes, is reenacted to read:

2129 39.001 Purposes and intent; personnel standards and
2130 screening.--

2131 (2) DEPARTMENT CONTRACTS.--The department may contract
2132 with the Federal Government, other state departments and
2133 agencies, county and municipal governments and agencies, public
2134 and private agencies, and private individuals and corporations
2135 in carrying out the purposes of, and the responsibilities
2136 established in, this chapter.

2137 (b) The department shall require employment screening, and
2138 rescreening no less frequently than once every 5 years, pursuant
2139 to chapter 435, using the level 2 standards set forth in that
2140 chapter for personnel in programs for children or youths.

2141 Section 36. For the purpose of incorporating the amendment
2142 to section 435.04, Florida Statutes, in references thereto,
2143 subsection (1) of section 39.821, Florida Statutes, is reenacted
2144 to read:

2145 39.821 Qualifications of guardians ad litem.--

2146 (1) Because of the special trust or responsibility placed
2147 in a guardian ad litem, the Guardian Ad Litem Program may use
2148 any private funds collected by the program, or any state funds
2149 so designated, to conduct a security background investigation
2150 before certifying a volunteer to serve. A security background
2151 investigation must include, but need not be limited to,
2152 employment history checks, checks of references, local criminal
2153 records checks through local law enforcement agencies, and
2154 statewide criminal records checks through the Department of Law

2155 Enforcement. Upon request, an employer shall furnish a copy of
 2156 the personnel record for the employee or former employee who is
 2157 the subject of a security background investigation conducted
 2158 under this section. The information contained in the personnel
 2159 record may include, but need not be limited to, disciplinary
 2160 matters and the reason why the employee was terminated from
 2161 employment. An employer who releases a personnel record for
 2162 purposes of a security background investigation is presumed to
 2163 have acted in good faith and is not liable for information
 2164 contained in the record without a showing that the employer
 2165 maliciously falsified the record. A security background
 2166 investigation conducted under this section must ensure that a
 2167 person is not certified as a guardian ad litem if the person has
 2168 been convicted of, regardless of adjudication, or entered a plea
 2169 of nolo contendere or guilty to, any offense prohibited under
 2170 the provisions of the Florida Statutes specified in s. 435.04(2)
 2171 or under any similar law in another jurisdiction. Before
 2172 certifying an applicant to serve as a guardian ad litem, the
 2173 chief judge of the circuit court may request a federal criminal
 2174 records check of the applicant through the Federal Bureau of
 2175 Investigation. In analyzing and evaluating the information
 2176 obtained in the security background investigation, the program
 2177 must give particular emphasis to past activities involving
 2178 children, including, but not limited to, child-related criminal
 2179 offenses or child abuse. The program has the sole discretion in
 2180 determining whether to certify a person based on his or her
 2181 security background investigation. The information collected

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2182 | pursuant to the security background investigation is
 2183 | confidential and exempt from s. 119.07(1).

2184 | Section 37. For the purpose of incorporating the amendment
 2185 | to section 435.04, Florida Statutes, in references thereto,
 2186 | paragraphs (a) and (c) of subsection (3) of section 110.1127,
 2187 | Florida Statutes, are reenacted to read:

2188 | 110.1127 Employee security checks.--

2189 | (3)(a) All positions in programs providing care to
 2190 | children, the developmentally disabled, or vulnerable adults for
 2191 | 15 hours or more per week; all permanent and temporary employee
 2192 | positions of the central abuse hotline; and all persons working
 2193 | under contract who have access to abuse records are deemed to be
 2194 | persons and positions of special trust or responsibility, and
 2195 | require employment screening pursuant to chapter 435, using the
 2196 | level 2 standards set forth in that chapter.

2197 | (c) All persons and employees in such positions of trust
 2198 | or responsibility shall be required to undergo security
 2199 | background investigations as a condition of employment and
 2200 | continued employment. For the purposes of this subsection,
 2201 | security background investigations shall be conducted as
 2202 | provided in chapter 435, using the level 2 standards for
 2203 | screening set forth in that chapter.

2204 | Section 38. For the purpose of incorporating the amendment
 2205 | to section 435.04, Florida Statutes, in references thereto,
 2206 | paragraph (a) of subsection (12) of section 112.0455, Florida
 2207 | Statutes, is reenacted to read:

2208 | 112.0455 Drug-Free Workplace Act.--

2209 | (12) DRUG-TESTING STANDARDS; LABORATORIES.--

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2210 (a) A laboratory may analyze initial or confirmation drug
2211 specimens only if:

2212 1. The laboratory is licensed and approved by the Agency
2213 for Health Care Administration using criteria established by the
2214 United States Department of Health and Human Services as general
2215 guidelines for modeling the state drug testing program. Each
2216 applicant for licensure must comply with the following
2217 requirements:

2218 a. Upon receipt of a completed, signed, and dated
2219 application, the agency shall require background screening, in
2220 accordance with the level 2 standards for screening set forth in
2221 chapter 435, of the managing employee, or other similarly titled
2222 individual responsible for the daily operation of the
2223 laboratory, and of the financial officer, or other similarly
2224 titled individual who is responsible for the financial operation
2225 of the laboratory, including billings for services. The
2226 applicant must comply with the procedures for level 2 background
2227 screening as set forth in chapter 435, as well as the
2228 requirements of s. 435.03(3).

2229 b. The agency may require background screening of any
2230 other individual who is an applicant if the agency has probable
2231 cause to believe that he or she has been convicted of an offense
2232 prohibited under the level 2 standards for screening set forth
2233 in chapter 435.

2234 c. Proof of compliance with the level 2 background
2235 screening requirements of chapter 435 which has been submitted
2236 within the previous 5 years in compliance with any other health

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2237 care licensure requirements of this state is acceptable in
2238 fulfillment of screening requirements.

2239 d. A provisional license may be granted to an applicant
2240 when each individual required by this section to undergo
2241 background screening has met the standards for the Department of
2242 Law Enforcement background check, but the agency has not yet
2243 received background screening results from the Federal Bureau of
2244 Investigation, or a request for a disqualification exemption has
2245 been submitted to the agency as set forth in chapter 435, but a
2246 response has not yet been issued. A license may be granted to
2247 the applicant upon the agency's receipt of a report of the
2248 results of the Federal Bureau of Investigation background
2249 screening for each individual required by this section to
2250 undergo background screening which confirms that all standards
2251 have been met, or upon the granting of a disqualification
2252 exemption by the agency as set forth in chapter 435. Any other
2253 person who is required to undergo level 2 background screening
2254 may serve in his or her capacity pending the agency's receipt of
2255 the report from the Federal Bureau of Investigation. However,
2256 the person may not continue to serve if the report indicates any
2257 violation of background screening standards and a
2258 disqualification exemption has not been requested of and granted
2259 by the agency as set forth in chapter 435.

2260 e. Each applicant must submit to the agency, with its
2261 application, a description and explanation of any exclusions,
2262 permanent suspensions, or terminations of the applicant from the
2263 Medicare or Medicaid programs. Proof of compliance with the
2264 requirements for disclosure of ownership and control interests

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2265 | under the Medicaid or Medicare programs shall be accepted in
2266 | lieu of this submission.

2267 | f. Each applicant must submit to the agency a description
2268 | and explanation of any conviction of an offense prohibited under
2269 | the level 2 standards of chapter 435 by a member of the board of
2270 | directors of the applicant, its officers, or any individual
2271 | owning 5 percent or more of the applicant. This requirement does
2272 | not apply to a director of a not-for-profit corporation or
2273 | organization if the director serves solely in a voluntary
2274 | capacity for the corporation or organization, does not regularly
2275 | take part in the day-to-day operational decisions of the
2276 | corporation or organization, receives no remuneration for his or
2277 | her services on the corporation or organization's board of
2278 | directors, and has no financial interest and has no family
2279 | members with a financial interest in the corporation or
2280 | organization, provided that the director and the not-for-profit
2281 | corporation or organization include in the application a
2282 | statement affirming that the director's relationship to the
2283 | corporation satisfies the requirements of this sub-subparagraph.

2284 | g. A license may not be granted to any applicant if the
2285 | applicant or managing employee has been found guilty of,
2286 | regardless of adjudication, or has entered a plea of nolo
2287 | contendere or guilty to, any offense prohibited under the level
2288 | 2 standards for screening set forth in chapter 435, unless an
2289 | exemption from disqualification has been granted by the agency
2290 | as set forth in chapter 435.

2291 | h. The agency may deny or revoke licensure if the
2292 | applicant:

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2293 (I) Has falsely represented a material fact in the
 2294 application required by sub-subparagraph e. or sub-subparagraph
 2295 f., or has omitted any material fact from the application
 2296 required by sub-subparagraph e. or sub-subparagraph f.; or

2297 (II) Has had prior action taken against the applicant
 2298 under the Medicaid or Medicare program as set forth in sub-
 2299 subparagraph e.

2300 i. An application for license renewal must contain the
 2301 information required under sub-subparagraphs e. and f.

2302 2. The laboratory has written procedures to ensure chain
 2303 of custody.

2304 3. The laboratory follows proper quality control
 2305 procedures, including, but not limited to:

2306 a. The use of internal quality controls including the use
 2307 of samples of known concentrations which are used to check the
 2308 performance and calibration of testing equipment, and periodic
 2309 use of blind samples for overall accuracy.

2310 b. An internal review and certification process for drug
 2311 test results, conducted by a person qualified to perform that
 2312 function in the testing laboratory.

2313 c. Security measures implemented by the testing laboratory
 2314 to preclude adulteration of specimens and drug test results.

2315 d. Other necessary and proper actions taken to ensure
 2316 reliable and accurate drug test results.

2317 Section 39. For the purpose of incorporating the amendment
 2318 to section 435.04, Florida Statutes, in references thereto,
 2319 subsections (1), (2), and (4) of section 381.0059, Florida
 2320 Statutes, are reenacted to read:

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2321 381.0059 Background screening requirements for school
2322 health services personnel.--

2323 (1) Pursuant to the provisions of chapter 435, any person
2324 who provides services under a school health services plan
2325 pursuant to s. 381.0056 must meet level 2 screening requirements
2326 as described in s. 435.04. A person may satisfy the requirements
2327 of this subsection by submitting proof of compliance with the
2328 requirements of level 2 screening conducted within 12 months
2329 before the date that person initially provides services under a
2330 school health services plan.

2331 (2) A person may provide services under a school health
2332 services plan pursuant to s. 381.0056 prior to the completion of
2333 level 2 screening. However, pending the results of the
2334 screening, such person may not be alone with a minor.

2335 (4) Under penalty of perjury, each person who provides
2336 services under a school health plan pursuant to s. 381.0056 must
2337 attest to meeting the level 2 screening requirements for
2338 participation under the plan and agree to inform his or her
2339 employer immediately if convicted of any disqualifying offense
2340 while providing services under a plan.

2341 Section 40. For the purpose of incorporating the amendment
2342 to section 435.04, Florida Statutes, in references thereto,
2343 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (1) of
2344 section 381.60225, Florida Statutes, are reenacted to read:

2345 381.60225 Background screening.--

2346 (1) Each applicant for certification must comply with the
2347 following requirements:

2348 (a) Upon receipt of a completed, signed, and dated
 2349 application, the Agency for Health Care Administration shall
 2350 require background screening, in accordance with the level 2
 2351 standards for screening set forth in chapter 435, of the
 2352 managing employee, or other similarly titled individual
 2353 responsible for the daily operation of the organization, agency,
 2354 or entity, and financial officer, or other similarly titled
 2355 individual who is responsible for the financial operation of the
 2356 organization, agency, or entity, including billings for
 2357 services. The applicant must comply with the procedures for
 2358 level 2 background screening as set forth in chapter 435, as
 2359 well as the requirements of s. 435.03(3).

2360 (b) The Agency for Health Care Administration may require
 2361 background screening of any other individual who is an applicant
 2362 if the Agency for Health Care Administration has probable cause
 2363 to believe that he or she has been convicted of a crime or has
 2364 committed any other offense prohibited under the level 2
 2365 standards for screening set forth in chapter 435.

2366 (c) Proof of compliance with the level 2 background
 2367 screening requirements of chapter 435 which has been submitted
 2368 within the previous 5 years in compliance with any other health
 2369 care licensure requirements of this state is acceptable in
 2370 fulfillment of the requirements of paragraph (a).

2371 (d) A provisional certification may be granted to the
 2372 organization, agency, or entity when each individual required by
 2373 this section to undergo background screening has met the
 2374 standards for the Department of Law Enforcement background
 2375 check, but the agency has not yet received background screening

2376 results from the Federal Bureau of Investigation, or a request
 2377 for a disqualification exemption has been submitted to the
 2378 agency as set forth in chapter 435, but a response has not yet
 2379 been issued. A standard certification may be granted to the
 2380 organization, agency, or entity upon the agency's receipt of a
 2381 report of the results of the Federal Bureau of Investigation
 2382 background screening for each individual required by this
 2383 section to undergo background screening which confirms that all
 2384 standards have been met, or upon the granting of a
 2385 disqualification exemption by the agency as set forth in chapter
 2386 435. Any other person who is required to undergo level 2
 2387 background screening may serve in his or her capacity pending
 2388 the agency's receipt of the report from the Federal Bureau of
 2389 Investigation. However, the person may not continue to serve if
 2390 the report indicates any violation of background screening
 2391 standards and a disqualification exemption has not been
 2392 requested of and granted by the agency as set forth in chapter
 2393 435.

2394 (f) Each applicant must submit to the agency a description
 2395 and explanation of any conviction of an offense prohibited under
 2396 the level 2 standards of chapter 435 by a member of the board of
 2397 directors of the applicant, its officers, or any individual
 2398 owning 5 percent or more of the applicant. This requirement does
 2399 not apply to a director of a not-for-profit corporation or
 2400 organization if the director serves solely in a voluntary
 2401 capacity for the corporation or organization, does not regularly
 2402 take part in the day-to-day operational decisions of the
 2403 corporation or organization, receives no remuneration for his or

2404 her services on the corporation or organization's board of
 2405 directors, and has no financial interest and has no family
 2406 members with a financial interest in the corporation or
 2407 organization, provided that the director and the not-for-profit
 2408 corporation or organization include in the application a
 2409 statement affirming that the director's relationship to the
 2410 corporation satisfies the requirements of this paragraph.

2411 (g) The agency may not certify any organization, agency,
 2412 or entity if any applicant or managing employee has been found
 2413 guilty of, regardless of adjudication, or has entered a plea of
 2414 nolo contendere or guilty to, any offense prohibited under the
 2415 level 2 standards for screening set forth in chapter 435, unless
 2416 an exemption from disqualification has been granted by the
 2417 agency as set forth in chapter 435.

2418 Section 41. For the purpose of incorporating the amendment
 2419 to section 435.04, Florida Statutes, in references thereto,
 2420 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (7) of
 2421 section 383.305, Florida Statutes, are reenacted to read:

2422 383.305 Licensure; issuance, renewal, denial, suspension,
 2423 revocation; fees; background screening.--

2424 (7) Each applicant for licensure must comply with the
 2425 following requirements:

2426 (a) Upon receipt of a completed, signed, and dated
 2427 application, the agency shall require background screening, in
 2428 accordance with the level 2 standards for screening set forth in
 2429 chapter 435, of the managing employee, or other similarly titled
 2430 individual who is responsible for the daily operation of the
 2431 center, and of the financial officer, or other similarly titled

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2432 individual who is responsible for the financial operation of the
 2433 center, including billings for patient care and services. The
 2434 applicant must comply with the procedures for level 2 background
 2435 screening as set forth in chapter 435 as well as the
 2436 requirements of s. 435.03(3).

2437 (b) The agency may require background screening of any
 2438 other individual who is an applicant if the agency has probable
 2439 cause to believe that he or she has been convicted of a crime or
 2440 has committed any other offense prohibited under the level 2
 2441 standards for screening set forth in chapter 435.

2442 (c) Proof of compliance with the level 2 background
 2443 screening requirements of chapter 435 which has been submitted
 2444 within the previous 5 years in compliance with any other health
 2445 care licensure requirements of this state is acceptable in
 2446 fulfillment of the requirements of paragraph (a).

2447 (d) A provisional license may be granted to an applicant
 2448 when each individual required by this section to undergo
 2449 background screening has met the standards for the Department of
 2450 Law Enforcement background check, but the agency has not yet
 2451 received background screening results from the Federal Bureau of
 2452 Investigation, or a request for a disqualification exemption has
 2453 been submitted to the agency as set forth in chapter 435 but a
 2454 response has not yet been issued. A standard license may be
 2455 granted to the applicant upon the agency's receipt of a report
 2456 of the results of the Federal Bureau of Investigation background
 2457 screening for each individual required by this section to
 2458 undergo background screening which confirms that all standards
 2459 have been met, or upon the granting of a disqualification

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2460 exemption by the agency as set forth in chapter 435. Any other
 2461 person who is required to undergo level 2 background screening
 2462 may serve in his or her capacity pending the agency's receipt of
 2463 the report from the Federal Bureau of Investigation. However,
 2464 the person may not continue to serve if the report indicates any
 2465 violation of background screening standards and a
 2466 disqualification exemption has not been requested of and granted
 2467 by the agency as set forth in chapter 435.

2468 (f) Each applicant must submit to the agency a description
 2469 and explanation of any conviction of an offense prohibited under
 2470 the level 2 standards of chapter 435 by a member of the board of
 2471 directors of the applicant, its officers, or any individual
 2472 owning 5 percent or more of the applicant. This requirement does
 2473 not apply to a director of a not-for-profit corporation or
 2474 organization if the director serves solely in a voluntary
 2475 capacity for the corporation or organization, does not regularly
 2476 take part in the day-to-day operational decisions of the
 2477 corporation or organization, receives no remuneration for his or
 2478 her services on the corporation or organization's board of
 2479 directors, and has no financial interest and has no family
 2480 members with a financial interest in the corporation or
 2481 organization, provided that the director and the not-for-profit
 2482 corporation or organization include in the application a
 2483 statement affirming that the director's relationship to the
 2484 corporation satisfies the requirements of this paragraph.

2485 (g) A license may not be granted to an applicant if the
 2486 applicant or managing employee has been found guilty of,
 2487 regardless of adjudication, or has entered a plea of nolo

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2488 | contendere or guilty to, any offense prohibited under the level
 2489 | 2 standards for screening set forth in chapter 435, unless an
 2490 | exemption from disqualification has been granted by the agency
 2491 | as set forth in chapter 435.

2492 | Section 42. For the purpose of incorporating the amendment
 2493 | to section 435.04, Florida Statutes, in references thereto,
 2494 | paragraphs (a), (b), (c), (d), (f), and (g) of subsection (3) of
 2495 | section 390.015, Florida Statutes, are reenacted to read:

2496 | 390.015 Application for license.--

2497 | (3) Each applicant for licensure must comply with the
 2498 | following requirements:

2499 | (a) Upon receipt of a completed, signed, and dated
 2500 | application, the agency shall require background screening, in
 2501 | accordance with the level 2 standards for screening set forth in
 2502 | chapter 435, of the managing employee, or other similarly titled
 2503 | individual who is responsible for the daily operation of the
 2504 | clinic, and financial officer, or other similarly titled
 2505 | individual who is responsible for the financial operation of the
 2506 | clinic, including billings for patient care and services. The
 2507 | applicant must comply with the procedures for level 2 background
 2508 | screening as set forth in chapter 435, as well as the
 2509 | requirements of s. 435.03(3).

2510 | (b) The agency may require background screening of any
 2511 | other individual who is an applicant if the agency has probable
 2512 | cause to believe that he or she has been convicted of a crime or
 2513 | has committed any other offense prohibited under the level 2
 2514 | standards for screening set forth in chapter 435.

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2515 (c) Proof of compliance with the level 2 background
 2516 screening requirements of chapter 435 which has been submitted
 2517 within the previous 5 years in compliance with any other health
 2518 care licensure requirements of this state is acceptable in
 2519 fulfillment of the requirements of paragraph (a).

2520 (d) A provisional license may be granted to an applicant
 2521 when each individual required by this section to undergo
 2522 background screening has met the standards for the Department of
 2523 Law Enforcement background check, but the agency has not yet
 2524 received background screening results from the Federal Bureau of
 2525 Investigation, or a request for a disqualification exemption has
 2526 been submitted to the agency as set forth in chapter 435 but a
 2527 response has not yet been issued. A standard license may be
 2528 granted to the applicant upon the agency's receipt of a report
 2529 of the results of the Federal Bureau of Investigation background
 2530 screening for each individual required by this section to
 2531 undergo background screening which confirms that all standards
 2532 have been met, or upon the granting of a disqualification
 2533 exemption by the agency as set forth in chapter 435. Any other
 2534 person who is required to undergo level 2 background screening
 2535 may serve in his or her capacity pending the agency's receipt of
 2536 the report from the Federal Bureau of Investigation. However,
 2537 the person may not continue to serve if the report indicates any
 2538 violation of background screening standards and a
 2539 disqualification exemption has not been requested of and granted
 2540 by the agency as set forth in chapter 435.

2541 (f) Each applicant must submit to the agency a description
 2542 and explanation of any conviction of an offense prohibited under

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2543 | the level 2 standards of chapter 435 by a member of the board of
 2544 | directors of the applicant, its officers, or any individual
 2545 | owning 5 percent or more of the applicant. This requirement does
 2546 | not apply to a director of a not-for-profit corporation or
 2547 | organization if the director serves solely in a voluntary
 2548 | capacity for the corporation or organization, does not regularly
 2549 | take part in the day-to-day operational decisions of the
 2550 | corporation or organization, receives no remuneration for his or
 2551 | her services on the corporation or organization's board of
 2552 | directors, and has no financial interest and has no family
 2553 | members with a financial interest in the corporation or
 2554 | organization, provided that the director and the not-for-profit
 2555 | corporation or organization include in the application a
 2556 | statement affirming that the director's relationship to the
 2557 | corporation satisfies the requirements of this paragraph.

2558 | (g) A license may not be granted to an applicant if the
 2559 | applicant or managing employee has been found guilty of,
 2560 | regardless of adjudication, or has entered a plea of nolo
 2561 | contendere or guilty to, any offense prohibited under the level
 2562 | 2 standards for screening set forth in chapter 435, unless an
 2563 | exemption from disqualification has been granted by the agency
 2564 | as set forth in chapter 435.

2565 | Section 43. For the purpose of incorporating the amendment
 2566 | to section 435.04, Florida Statutes, in references thereto,
 2567 | paragraphs (a), (b), (c), (d), (f), and (g) of subsection (13)
 2568 | of section 394.875, Florida Statutes, are reenacted to read:

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2569 | 394.875 Crisis stabilization units, residential treatment
2570 | facilities, and residential treatment centers for children and
2571 | adolescents; authorized services; license required; penalties.--

2572 | (13) Each applicant for licensure must comply with the
2573 | following requirements:

2574 | (a) Upon receipt of a completed, signed, and dated
2575 | application, the agency shall require background screening, in
2576 | accordance with the level 2 standards for screening set forth in
2577 | chapter 435, of the managing employee and financial officer, or
2578 | other similarly titled individual who is responsible for the
2579 | financial operation of the facility, including billings for
2580 | client care and services. The applicant must comply with the
2581 | procedures for level 2 background screening as set forth in
2582 | chapter 435, as well as the requirements of s. 435.03(3).

2583 | (b) The agency may require background screening of any
2584 | other individual who is an applicant if the agency has probable
2585 | cause to believe that he or she has been convicted of a crime or
2586 | has committed any other offense prohibited under the level 2
2587 | standards for screening set forth in chapter 435.

2588 | (c) Proof of compliance with the level 2 background
2589 | screening requirements of chapter 435 which has been submitted
2590 | within the previous 5 years in compliance with any other health
2591 | care licensure requirements of this state is acceptable in
2592 | fulfillment of the requirements of paragraph (a).

2593 | (d) A provisional license may be granted to an applicant
2594 | when each individual required by this section to undergo
2595 | background screening has met the standards for the Department of
2596 | Law Enforcement background check, but the agency has not yet

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2597 received background screening results from the Federal Bureau of
 2598 Investigation, or a request for a disqualification exemption has
 2599 been submitted to the agency as set forth in chapter 435, but a
 2600 response has not yet been issued. A standard license may be
 2601 granted to the applicant upon the agency's receipt of a report
 2602 of the results of the Federal Bureau of Investigation background
 2603 screening for each individual required by this section to
 2604 undergo background screening which confirms that all standards
 2605 have been met, or upon the granting of a disqualification
 2606 exemption by the agency as set forth in chapter 435. Any other
 2607 person who is required to undergo level 2 background screening
 2608 may serve in his or her capacity pending the agency's receipt of
 2609 the report from the Federal Bureau of Investigation. However,
 2610 the person may not continue to serve if the report indicates any
 2611 violation of background screening standards and a
 2612 disqualification exemption has not been requested of and granted
 2613 by the agency as set forth in chapter 435.

2614 (f) Each applicant must submit to the agency a description
 2615 and explanation of any conviction of an offense prohibited under
 2616 the level 2 standards of chapter 435 by a member of the board of
 2617 directors of the applicant, its officers, or any individual
 2618 owning 5 percent or more of the applicant. This requirement does
 2619 not apply to a director of a not-for-profit corporation or
 2620 organization if the director serves solely in a voluntary
 2621 capacity for the corporation or organization, does not regularly
 2622 take part in the day-to-day operational decisions of the
 2623 corporation or organization, receives no remuneration for his or
 2624 her services on the corporation or organization's board of

2625 | directors, and has no financial interest and has no family
 2626 | members with a financial interest in the corporation or
 2627 | organization, provided that the director and the not-for-profit
 2628 | corporation or organization include in the application a
 2629 | statement affirming that the director's relationship to the
 2630 | corporation satisfies the requirements of this paragraph.

2631 | (g) A license may not be granted to an applicant if the
 2632 | applicant or managing employee has been found guilty of,
 2633 | regardless of adjudication, or has entered a plea of nolo
 2634 | contendere or guilty to, any offense prohibited under the level
 2635 | 2 standards for screening set forth in chapter 435, unless an
 2636 | exemption from disqualification has been granted by the agency
 2637 | as set forth in chapter 435.

2638 | Section 44. For the purpose of incorporating the amendment
 2639 | to section 435.04, Florida Statutes, in references thereto,
 2640 | subsections (1), (2), (3), (4), (6), and (8) of section
 2641 | 395.0055, Florida Statutes, are reenacted to read:

2642 | 395.0055 Background screening.--Each applicant for
 2643 | licensure must comply with the following requirements:

2644 | (1) Upon receipt of a completed, signed, and dated
 2645 | application, the agency shall require background screening of
 2646 | the managing employee in accordance with the level 2 standards
 2647 | for screening set forth in chapter 435, as well as the
 2648 | requirements of s. 435.03(3).

2649 | (2) The agency may require background screening for a
 2650 | member of the board of directors of the licensee, or an officer
 2651 | or an individual owning 5 percent or more of the licensee, if
 2652 | the agency has probable cause to believe that such individual

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2653 | has been convicted of an offense prohibited under the level 2
2654 | standards for screening set forth in chapter 435.

2655 | (3) Proof of compliance with the level 2 background
2656 | screening requirements of chapter 435 which has been submitted
2657 | within the previous 5 years in compliance with any other health
2658 | care licensure requirements of this state is acceptable in
2659 | fulfillment of subsection (1).

2660 | (4) A provisional license may be granted to an applicant
2661 | when each individual required by this section to undergo
2662 | background screening has met the standards for the Department of
2663 | Law Enforcement background check, but the agency has not yet
2664 | received background screening results from the Federal Bureau of
2665 | Investigation, or a request for a disqualification exemption has
2666 | been submitted to the agency as set forth in chapter 435 but a
2667 | response has not yet been issued. A standard license may be
2668 | granted to the applicant upon the agency's receipt of a report
2669 | of the results of the Federal Bureau of Investigation background
2670 | screening for each individual required by this section to
2671 | undergo background screening which confirms that all standards
2672 | have been met, or upon the granting of a disqualification
2673 | exemption by the agency as set forth in chapter 435. Any other
2674 | person who is required to undergo level 2 background screening
2675 | may serve in his or her capacity pending the agency's receipt of
2676 | the report from the Federal Bureau of Investigation; however,
2677 | the person may not continue to serve if the report indicates any
2678 | violation of background screening standards and a
2679 | disqualification exemption has not been requested of and granted
2680 | by the agency as set forth in chapter 435.

2681 (6) Each applicant must submit to the agency a description
 2682 and explanation of any conviction of an offense prohibited under
 2683 the level 2 standards of chapter 435 by a member of the board of
 2684 directors of the applicant, its officers, or any individual
 2685 owning 5 percent or more of the applicant.

2686 (8) A license may not be granted to an applicant if the
 2687 applicant or managing employee has been found guilty of,
 2688 regardless of adjudication, or has entered a plea of nolo
 2689 contendere or guilty to, any offense prohibited under the level
 2690 2 standards for screening set forth in chapter 435, unless an
 2691 exemption from disqualification has been granted by the agency
 2692 as set forth in chapter 435.

2693 Section 45. For the purpose of incorporating the amendment
 2694 to section 435.04, Florida Statutes, in references thereto,
 2695 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (4) of
 2696 section 395.0199, Florida Statutes, are reenacted to read:

2697 395.0199 Private utilization review.--

2698 (4) Each applicant for registration must comply with the
 2699 following requirements:

2700 (a) Upon receipt of a completed, signed, and dated
 2701 application, the agency shall require background screening, in
 2702 accordance with the level 2 standards for screening set forth in
 2703 chapter 435, of the managing employee or other similarly titled
 2704 individual who is responsible for the operation of the entity.
 2705 The applicant must comply with the procedures for level 2
 2706 background screening as set forth in chapter 435, as well as the
 2707 requirements of s. 435.03(3).

2708 (b) The agency may require background screening of any
 2709 other individual who is an applicant, if the agency has probable
 2710 cause to believe that he or she has been convicted of a crime or
 2711 has committed any other offense prohibited under the level 2
 2712 standards for screening set forth in chapter 435.

2713 (c) Proof of compliance with the level 2 background
 2714 screening requirements of chapter 435 which has been submitted
 2715 within the previous 5 years in compliance with any other health
 2716 care licensure requirements of this state is acceptable in
 2717 fulfillment of the requirements of paragraph (a).

2718 (d) A provisional registration may be granted to an
 2719 applicant when each individual required by this section to
 2720 undergo background screening has met the standards for the
 2721 Department of Law Enforcement background check, but the agency
 2722 has not yet received background screening results from the
 2723 Federal Bureau of Investigation, or a request for a
 2724 disqualification exemption has been submitted to the agency as
 2725 set forth in chapter 435 but a response has not yet been issued.
 2726 A standard registration may be granted to the applicant upon the
 2727 agency's receipt of a report of the results of the Federal
 2728 Bureau of Investigation background screening for each individual
 2729 required by this section to undergo background screening which
 2730 confirms that all standards have been met, or upon the granting
 2731 of a disqualification exemption by the agency as set forth in
 2732 chapter 435. Any other person who is required to undergo level 2
 2733 background screening may serve in his or her capacity pending
 2734 the agency's receipt of the report from the Federal Bureau of
 2735 Investigation. However, the person may not continue to serve if

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2736 | the report indicates any violation of background screening
2737 | standards and a disqualification exemption has not been
2738 | requested of and granted by the agency as set forth in chapter
2739 | 435.

2740 | (f) Each applicant must submit to the agency a description
2741 | and explanation of any conviction of an offense prohibited under
2742 | the level 2 standards of chapter 435 by a member of the board of
2743 | directors of the applicant, its officers, or any individual
2744 | owning 5 percent or more of the applicant. This requirement does
2745 | not apply to a director of a not-for-profit corporation or
2746 | organization if the director serves solely in a voluntary
2747 | capacity for the corporation or organization, does not regularly
2748 | take part in the day-to-day operational decisions of the
2749 | corporation or organization, receives no remuneration for his or
2750 | her services on the corporation or organization's board of
2751 | directors, and has no financial interest and has no family
2752 | members with a financial interest in the corporation or
2753 | organization, provided that the director and the not-for-profit
2754 | corporation or organization include in the application a
2755 | statement affirming that the director's relationship to the
2756 | corporation satisfies the requirements of this paragraph.

2757 | (g) A registration may not be granted to an applicant if
2758 | the applicant or managing employee has been found guilty of,
2759 | regardless of adjudication, or has entered a plea of nolo
2760 | contendere or guilty to, any offense prohibited under the level
2761 | 2 standards for screening set forth in chapter 435, unless an
2762 | exemption from disqualification has been granted by the agency
2763 | as set forth in chapter 435.

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2764 Section 46. For the purpose of incorporating the amendment
2765 to section 435.04, Florida Statutes, in references thereto,
2766 paragraph (a) of subsection (1) of section 397.451, Florida
2767 Statutes, is reenacted to read:

2768 397.451 Background checks of service provider personnel.--

2769 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND
2770 EXCEPTIONS.--

2771 (a) Background checks shall apply as follows:

2772 1. All owners, directors, and chief financial officers of
2773 service providers are subject to level 2 background screening as
2774 provided under chapter 435.

2775 2. All service provider personnel who have direct contact
2776 with children receiving services or with adults who are
2777 developmentally disabled receiving services are subject to level
2778 2 background screening as provided under chapter 435.

2779 Section 47. For the purpose of incorporating the amendment
2780 to section 435.04, Florida Statutes, in references thereto,
2781 paragraphs (a), (b), (c), (d), and (f) of subsection (4) of
2782 section 400.071, Florida Statutes, are reenacted to read:

2783 400.071 Application for license.--

2784 (4) Each applicant for licensure must comply with the
2785 following requirements:

2786 (a) Upon receipt of a completed, signed, and dated
2787 application, the agency shall require background screening of
2788 the applicant, in accordance with the level 2 standards for
2789 screening set forth in chapter 435. As used in this subsection,
2790 the term "applicant" means the facility administrator, or
2791 similarly titled individual who is responsible for the day-to-

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2792 day operation of the licensed facility, and the facility
 2793 financial officer, or similarly titled individual who is
 2794 responsible for the financial operation of the licensed
 2795 facility.

2796 (b) The agency may require background screening for a
 2797 member of the board of directors of the licensee or an officer
 2798 or an individual owning 5 percent or more of the licensee if the
 2799 agency has probable cause to believe that such individual has
 2800 been convicted of an offense prohibited under the level 2
 2801 standards for screening set forth in chapter 435.

2802 (c) Proof of compliance with the level 2 background
 2803 screening requirements of chapter 435 which has been submitted
 2804 within the previous 5 years in compliance with any other health
 2805 care or assisted living licensure requirements of this state is
 2806 acceptable in fulfillment of paragraph (a). Proof of compliance
 2807 with background screening which has been submitted within the
 2808 previous 5 years to fulfill the requirements of the Financial
 2809 Services Commission and the Office of Insurance Regulation
 2810 pursuant to chapter 651 as part of an application for a
 2811 certificate of authority to operate a continuing care retirement
 2812 community is acceptable in fulfillment of the Department of Law
 2813 Enforcement and Federal Bureau of Investigation background
 2814 check.

2815 (d) A provisional license may be granted to an applicant
 2816 when each individual required by this section to undergo
 2817 background screening has met the standards for the Department of
 2818 Law Enforcement background check, but the agency has not yet
 2819 received background screening results from the Federal Bureau of

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2820 Investigation, or a request for a disqualification exemption has
 2821 been submitted to the agency as set forth in chapter 435, but a
 2822 response has not yet been issued. A license may be granted to
 2823 the applicant upon the agency's receipt of a report of the
 2824 results of the Federal Bureau of Investigation background
 2825 screening for each individual required by this section to
 2826 undergo background screening which confirms that all standards
 2827 have been met, or upon the granting of a disqualification
 2828 exemption by the agency as set forth in chapter 435. Any other
 2829 person who is required to undergo level 2 background screening
 2830 may serve in his or her capacity pending the agency's receipt of
 2831 the report from the Federal Bureau of Investigation; however,
 2832 the person may not continue to serve if the report indicates any
 2833 violation of background screening standards and a
 2834 disqualification exemption has not been requested of and granted
 2835 by the agency as set forth in chapter 435.

2836 (f) Each applicant must submit to the agency a description
 2837 and explanation of any conviction of an offense prohibited under
 2838 the level 2 standards of chapter 435 by a member of the board of
 2839 directors of the applicant, its officers, or any individual
 2840 owning 5 percent or more of the applicant. This requirement
 2841 shall not apply to a director of a not-for-profit corporation or
 2842 organization if the director serves solely in a voluntary
 2843 capacity for the corporation or organization, does not regularly
 2844 take part in the day-to-day operational decisions of the
 2845 corporation or organization, receives no remuneration for his or
 2846 her services on the corporation or organization's board of
 2847 directors, and has no financial interest and has no family

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2848 members with a financial interest in the corporation or
 2849 organization, provided that the director and the not-for-profit
 2850 corporation or organization include in the application a
 2851 statement affirming that the director's relationship to the
 2852 corporation satisfies the requirements of this paragraph.

2853 Section 48. For the purpose of incorporating the amendment
 2854 to section 435.04, Florida Statutes, in references thereto,
 2855 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (4) of
 2856 section 400.471, Florida Statutes, are reenacted to read:

2857 400.471 Application for license; fee; provisional license;
 2858 temporary permit.--

2859 (4) Each applicant for licensure must comply with the
 2860 following requirements:

2861 (a) Upon receipt of a completed, signed, and dated
 2862 application, the agency shall require background screening of
 2863 the applicant, in accordance with the level 2 standards for
 2864 screening set forth in chapter 435. As used in this subsection,
 2865 the term "applicant" means the administrator, or a similarly
 2866 titled person who is responsible for the day-to-day operation of
 2867 the licensed home health agency, and the financial officer, or
 2868 similarly titled individual who is responsible for the financial
 2869 operation of the licensed home health agency.

2870 (b) The agency may require background screening for a
 2871 member of the board of directors of the licensee or an officer
 2872 or an individual owning 5 percent or more of the licensee if the
 2873 agency reasonably suspects that such individual has been
 2874 convicted of an offense prohibited under the level 2 standards
 2875 for screening set forth in chapter 435.

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2876 (c) Proof of compliance with the level 2 background
 2877 screening requirements of chapter 435 which has been submitted
 2878 within the previous 5 years in compliance with any other health
 2879 care or assisted living licensure requirements of this state is
 2880 acceptable in fulfillment of paragraph (a). Proof of compliance
 2881 with background screening which has been submitted within the
 2882 previous 5 years to fulfill the requirements of the Financial
 2883 Services Commission and the Office of Insurance Regulation
 2884 pursuant to chapter 651 as part of an application for a
 2885 certificate of authority to operate a continuing care retirement
 2886 community is acceptable in fulfillment of the Department of Law
 2887 Enforcement and Federal Bureau of Investigation background
 2888 check.

2889 (d) A provisional license may be granted to an applicant
 2890 when each individual required by this section to undergo
 2891 background screening has met the standards for the Department of
 2892 Law Enforcement background check, but the agency has not yet
 2893 received background screening results from the Federal Bureau of
 2894 Investigation. A standard license may be granted to the licensee
 2895 upon the agency's receipt of a report of the results of the
 2896 Federal Bureau of Investigation background screening for each
 2897 individual required by this section to undergo background
 2898 screening which confirms that all standards have been met, or
 2899 upon the granting of a disqualification exemption by the agency
 2900 as set forth in chapter 435. Any other person who is required to
 2901 undergo level 2 background screening may serve in his or her
 2902 capacity pending the agency's receipt of the report from the
 2903 Federal Bureau of Investigation. However, the person may not

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2904 | continue to serve if the report indicates any violation of
2905 | background screening standards and a disqualification exemption
2906 | has not been requested of and granted by the agency as set forth
2907 | in chapter 435.

2908 | (f) Each applicant must submit to the agency a description
2909 | and explanation of any conviction of an offense prohibited under
2910 | the level 2 standards of chapter 435 by a member of the board of
2911 | directors of the applicant, its officers, or any individual
2912 | owning 5 percent or more of the applicant. This requirement does
2913 | not apply to a director of a not-for-profit corporation or
2914 | organization if the director serves solely in a voluntary
2915 | capacity for the corporation or organization, does not regularly
2916 | take part in the day-to-day operational decisions of the
2917 | corporation or organization, receives no remuneration for his or
2918 | her services on the corporation or organization's board of
2919 | directors, and has no financial interest and has no family
2920 | members with a financial interest in the corporation or
2921 | organization, provided that the director and the not-for-profit
2922 | corporation or organization include in the application a
2923 | statement affirming that the director's relationship to the
2924 | corporation satisfies the requirements of this paragraph.

2925 | (g) A license may not be granted to an applicant if the
2926 | applicant, administrator, or financial officer has been found
2927 | guilty of, regardless of adjudication, or has entered a plea of
2928 | nolo contendere or guilty to, any offense prohibited under the
2929 | level 2 standards for screening set forth in chapter 435, unless
2930 | an exemption from disqualification has been granted by the
2931 | agency as set forth in chapter 435.

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2932 Section 49. For the purpose of incorporating the amendment
2933 to section 435.04, Florida Statutes, in references thereto,
2934 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (2) of
2935 section 400.506, Florida Statutes, are reenacted to read:

2936 400.506 Licensure of nurse registries; requirements;
2937 penalties.--

2938 (2) Each applicant for licensure must comply with the
2939 following requirements:

2940 (a) Upon receipt of a completed, signed, and dated
2941 application, the agency shall require background screening, in
2942 accordance with the level 2 standards for screening set forth in
2943 chapter 435, of the managing employee, or other similarly titled
2944 individual who is responsible for the daily operation of the
2945 nurse registry, and of the financial officer, or other similarly
2946 titled individual who is responsible for the financial operation
2947 of the registry, including billings for patient care and
2948 services. The applicant shall comply with the procedures for
2949 level 2 background screening as set forth in chapter 435.

2950 (b) The agency may require background screening of any
2951 other individual who is an applicant if the agency has probable
2952 cause to believe that he or she has been convicted of a crime or
2953 has committed any other offense prohibited under the level 2
2954 standards for screening set forth in chapter 435.

2955 (c) Proof of compliance with the level 2 background
2956 screening requirements of chapter 435 which has been submitted
2957 within the previous 5 years in compliance with any other health
2958 care or assisted living licensure requirements of this state is
2959 acceptable in fulfillment of the requirements of paragraph (a).

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2960 (d) A provisional license may be granted to an applicant
 2961 when each individual required by this section to undergo
 2962 background screening has met the standards for the Department of
 2963 Law Enforcement background check but the agency has not yet
 2964 received background screening results from the Federal Bureau of
 2965 Investigation. A standard license may be granted to the
 2966 applicant upon the agency's receipt of a report of the results
 2967 of the Federal Bureau of Investigation background screening for
 2968 each individual required by this section to undergo background
 2969 screening which confirms that all standards have been met, or
 2970 upon the granting of a disqualification exemption by the agency
 2971 as set forth in chapter 435. Any other person who is required to
 2972 undergo level 2 background screening may serve in his or her
 2973 capacity pending the agency's receipt of the report from the
 2974 Federal Bureau of Investigation. However, the person may not
 2975 continue to serve if the report indicates any violation of
 2976 background screening standards and a disqualification exemption
 2977 has not been requested of and granted by the agency as set forth
 2978 in chapter 435.

2979 (f) Each applicant must submit to the agency a description
 2980 and explanation of any conviction of an offense prohibited under
 2981 the level 2 standards of chapter 435 by a member of the board of
 2982 directors of the applicant, its officers, or any individual
 2983 owning 5 percent or more of the applicant. This requirement does
 2984 not apply to a director of a not-for-profit corporation or
 2985 organization if the director serves solely in a voluntary
 2986 capacity for the corporation or organization, does not regularly
 2987 take part in the day-to-day operational decisions of the

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2988 corporation or organization, receives no remuneration for his or
 2989 her services on the corporation or organization's board of
 2990 directors, and has no financial interest and has no family
 2991 members with a financial interest in the corporation or
 2992 organization, provided that the director and the not-for-profit
 2993 corporation or organization include in the application a
 2994 statement affirming that the director's relationship to the
 2995 corporation satisfies the requirements of this paragraph.

2996 (g) A license may not be granted to an applicant if the
 2997 applicant or managing employee has been found guilty of,
 2998 regardless of adjudication, or has entered a plea of nolo
 2999 contendere or guilty to, any offense prohibited under the level
 3000 2 standards for screening set forth in chapter 435, unless an
 3001 exemption from disqualification has been granted by the agency
 3002 as set forth in chapter 435.

3003 Section 50. For the purpose of incorporating the amendment
 3004 to section 435.04, Florida Statutes, in references thereto,
 3005 section 400.5572, Florida Statutes, is reenacted to read:

3006 400.5572 Background screening.--

3007 (1)(a) Level 2 background screening must be conducted on
 3008 each of the following persons, who shall be considered employees
 3009 for the purposes of conducting screening under chapter 435:

3010 1. The adult day care center owner if an individual, the
 3011 operator, and the financial officer.

3012 2. An officer or board member if the owner of the adult
 3013 day care center is a firm, corporation, partnership, or
 3014 association, or any person owning 5 percent or more of the
 3015 facility, if the agency has probable cause to believe that such

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3016 | person has been convicted of any offense prohibited by s.
 3017 | 435.04. For each officer, board member, or person owning 5
 3018 | percent or more who has been convicted of any such offense, the
 3019 | facility shall submit to the agency a description and
 3020 | explanation of the conviction at the time of license
 3021 | application. This subparagraph does not apply to a board member
 3022 | of a not-for-profit corporation or organization if the board
 3023 | member serves solely in a voluntary capacity, does not regularly
 3024 | take part in the day-to-day operational decisions of the
 3025 | corporation or organization, receives no remuneration for his or
 3026 | her services, and has no financial interest and has no family
 3027 | members with a financial interest in the corporation or
 3028 | organization, provided that the board member and facility submit
 3029 | a statement affirming that the board member's relationship to
 3030 | the facility satisfies the requirements of this subparagraph.

3031 | (b) Proof of compliance with level 2 screening standards
 3032 | which has been submitted within the previous 5 years to meet any
 3033 | facility or professional licensure requirements of the agency or
 3034 | the Department of Health satisfies the requirements of this
 3035 | subsection.

3036 | (c) The agency may grant a provisional license to an adult
 3037 | day care center applying for an initial license when each
 3038 | individual required by this subsection to undergo screening has
 3039 | completed the Department of Law Enforcement background check,
 3040 | but has not yet received results from the Federal Bureau of
 3041 | Investigation, or when a request for an exemption from
 3042 | disqualification has been submitted to the agency pursuant to s.
 3043 | 435.07, but a response has not been issued.

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3044 (2) The owner or administrator of an adult day care center
3045 must conduct level 1 background screening as set forth in
3046 chapter 435 on all employees hired on or after October 1, 1998,
3047 who provide basic services or supportive and optional services
3048 to the participants. Such persons satisfy this requirement if:

3049 (a) Proof of compliance with level 1 screening
3050 requirements obtained to meet any professional license
3051 requirements in this state is provided and accompanied, under
3052 penalty of perjury, by a copy of the person's current
3053 professional license and an affidavit of current compliance with
3054 the background screening requirements.

3055 (b) The person required to be screened has been
3056 continuously employed, without a breach in service that exceeds
3057 180 days, in the same type of occupation for which the person is
3058 seeking employment and provides proof of compliance with the
3059 level 1 screening requirement which is no more than 2 years old.
3060 Proof of compliance must be provided directly from one employer
3061 or contractor to another, and not from the person screened. Upon
3062 request, a copy of screening results shall be provided to the
3063 person screened by the employer retaining documentation of the
3064 screening.

3065 (c) The person required to be screened is employed by a
3066 corporation or business entity or related corporation or
3067 business entity that owns, operates, or manages more than one
3068 facility or agency licensed under this chapter, and for whom a
3069 level 1 screening was conducted by the corporation or business
3070 entity as a condition of initial or continued employment.

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3071 Section 51. For the purpose of incorporating the amendment
3072 to section 435.04, Florida Statutes, in references thereto,
3073 paragraph (a) of subsection (3) of section 400.607, Florida
3074 Statutes, is reenacted to read:

3075 400.607 Denial, suspension, or revocation of license;
3076 imposition of administrative fine; grounds; injunctions.--

3077 (3) The agency may deny or revoke a license upon a
3078 determination that:

3079 (a) Persons subject to level 2 background screening under
3080 s. 400.6065 do not meet the screening standards of s. 435.04,
3081 and exemptions from disqualification have not been provided by
3082 the agency.

3083 Section 52. For the purpose of incorporating the amendment
3084 to section 435.04, Florida Statutes, in references thereto,
3085 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (4) of
3086 section 400.801, Florida Statutes, are reenacted to read:

3087 400.801 Homes for special services.--

3088 (4) Each applicant for licensure must comply with the
3089 following requirements:

3090 (a) Upon receipt of a completed, signed, and dated
3091 application, the agency shall require background screening, in
3092 accordance with the level 2 standards for screening set forth in
3093 chapter 435, of the managing employee, or other similarly titled
3094 individual who is responsible for the daily operation of the
3095 facility, and of the financial officer, or other similarly
3096 titled individual who is responsible for the financial operation
3097 of the facility, including billings for client care and
3098 services, in accordance with the level 2 standards for screening

3099 | set forth in chapter 435. The applicant must comply with the
 3100 | procedures for level 2 background screening as set forth in
 3101 | chapter 435.

3102 | (b) The agency may require background screening of any
 3103 | other individual who is an applicant if the agency has probable
 3104 | cause to believe that he or she has been convicted of a crime or
 3105 | has committed any other offense prohibited under the level 2
 3106 | standards for screening set forth in chapter 435.

3107 | (c) Proof of compliance with the level 2 background
 3108 | screening requirements of chapter 435 which has been submitted
 3109 | within the previous 5 years in compliance with any other health
 3110 | care or assisted living licensure requirements of this state is
 3111 | acceptable in fulfillment of the requirements of paragraph (a).

3112 | (d) A provisional license may be granted to an applicant
 3113 | when each individual required by this section to undergo
 3114 | background screening has met the standards for the Department of
 3115 | Law Enforcement background check, but the agency has not yet
 3116 | received background screening results from the Federal Bureau of
 3117 | Investigation, or a request for a disqualification exemption has
 3118 | been submitted to the agency as set forth in chapter 435, but a
 3119 | response has not yet been issued. A standard license may be
 3120 | granted to the applicant upon the agency's receipt of a report
 3121 | of the results of the Federal Bureau of Investigation background
 3122 | screening for each individual required by this section to
 3123 | undergo background screening which confirms that all standards
 3124 | have been met, or upon the granting of a disqualification
 3125 | exemption by the agency as set forth in chapter 435. Any other
 3126 | person who is required to undergo level 2 background screening

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3127 | may serve in his or her capacity pending the agency's receipt of
 3128 | the report from the Federal Bureau of Investigation. However,
 3129 | the person may not continue to serve if the report indicates any
 3130 | violation of background screening standards and a
 3131 | disqualification exemption has not been requested of and granted
 3132 | by the agency as set forth in chapter 435.

3133 | (f) Each applicant must submit to the agency a description
 3134 | and explanation of any conviction of an offense prohibited under
 3135 | the level 2 standards of chapter 435 by a member of the board of
 3136 | directors of the applicant, its officers, or any individual
 3137 | owning 5 percent or more of the applicant. This requirement does
 3138 | not apply to a director of a not-for-profit corporation or
 3139 | organization if the director serves solely in a voluntary
 3140 | capacity for the corporation or organization, does not regularly
 3141 | take part in the day-to-day operational decisions of the
 3142 | corporation or organization, receives no remuneration for his or
 3143 | her services on the corporation or organization's board of
 3144 | directors, and has no financial interest and has no family
 3145 | members with a financial interest in the corporation or
 3146 | organization, provided that the director and the not-for-profit
 3147 | corporation or organization include in the application a
 3148 | statement affirming that the director's relationship to the
 3149 | corporation satisfies the requirements of this paragraph.

3150 | (g) A license may not be granted to an applicant if the
 3151 | applicant or managing employee has been found guilty of,
 3152 | regardless of adjudication, or has entered a plea of nolo
 3153 | contendere or guilty to, any offense prohibited under the level
 3154 | 2 standards for screening set forth in chapter 435, unless an

3155 exemption from disqualification has been granted by the agency
3156 as set forth in chapter 435.

3157 Section 53. For the purpose of incorporating the amendment
3158 to section 435.04, Florida Statutes, in references thereto,
3159 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (3) of
3160 section 400.805, Florida Statutes, are reenacted to read:

3161 400.805 Transitional living facilities.--

3162 (3) Each applicant for licensure must comply with the
3163 following requirements:

3164 (a) Upon receipt of a completed, signed, and dated
3165 application, the agency shall require background screening, in
3166 accordance with the level 2 standards for screening set forth in
3167 chapter 435, of the managing employee, or other similarly titled
3168 individual who is responsible for the daily operation of the
3169 facility, and of the financial officer, or other similarly
3170 titled individual who is responsible for the financial operation
3171 of the facility, including billings for client care and
3172 services. The applicant must comply with the procedures for
3173 level 2 background screening as set forth in chapter 435.

3174 (b) The agency may require background screening of any
3175 other individual who is an applicant if the agency has probable
3176 cause to believe that he or she has been convicted of a crime or
3177 has committed any other offense prohibited under the level 2
3178 standards for screening set forth in chapter 435.

3179 (c) Proof of compliance with the level 2 background
3180 screening requirements of chapter 435 which has been submitted
3181 within the previous 5 years in compliance with any other health

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3182 care or assisted living licensure requirements of this state is
3183 acceptable in fulfillment of the requirements of paragraph (a).

3184 (d) A provisional license may be granted to an applicant
3185 when each individual required by this section to undergo
3186 background screening has met the standards for the Department of
3187 Law Enforcement background check, but the agency has not yet
3188 received background screening results from the Federal Bureau of
3189 Investigation, or a request for a disqualification exemption has
3190 been submitted to the agency as set forth in chapter 435, but a
3191 response has not yet been issued. A standard license may be
3192 granted to the applicant upon the agency's receipt of a report
3193 of the results of the Federal Bureau of Investigation background
3194 screening for each individual required by this section to
3195 undergo background screening which confirms that all standards
3196 have been met, or upon the granting of a disqualification
3197 exemption by the agency as set forth in chapter 435. Any other
3198 person who is required to undergo level 2 background screening
3199 may serve in his or her capacity pending the agency's receipt of
3200 the report from the Federal Bureau of Investigation. However,
3201 the person may not continue to serve if the report indicates any
3202 violation of background screening standards and a
3203 disqualification exemption has not been requested of and granted
3204 by the agency as set forth in chapter 435.

3205 (f) Each applicant must submit to the agency a description
3206 and explanation of any conviction of an offense prohibited under
3207 the level 2 standards of chapter 435 by a member of the board of
3208 directors of the applicant, its officers, or any individual
3209 owning 5 percent or more of the applicant. This requirement does

3210 | not apply to a director of a not-for-profit corporation or
 3211 | organization if the director serves solely in a voluntary
 3212 | capacity for the corporation or organization, does not regularly
 3213 | take part in the day-to-day operational decisions of the
 3214 | corporation or organization, receives no remuneration for his or
 3215 | her services on the corporation or organization's board of
 3216 | directors, and has no financial interest and has no family
 3217 | members with a financial interest in the corporation or
 3218 | organization, provided that the director and the not-for-profit
 3219 | corporation or organization include in the application a
 3220 | statement affirming that the director's relationship to the
 3221 | corporation satisfies the requirements of this paragraph.

3222 | (g) A license may not be granted to an applicant if the
 3223 | applicant or managing employee has been found guilty of,
 3224 | regardless of adjudication, or has entered a plea of nolo
 3225 | contendere or guilty to, any offense prohibited under the level
 3226 | 2 standards for screening set forth in chapter 435, unless an
 3227 | exemption from disqualification has been granted by the agency
 3228 | as set forth in chapter 435.

3229 | Section 54. For the purpose of incorporating the amendment
 3230 | to section 435.04, Florida Statutes, in references thereto,
 3231 | paragraphs (a), (b), (c), (d), (f), and (g) of subsection (5) of
 3232 | section 400.906, Florida Statutes, are reenacted to read:

3233 | 400.906 Initial application for license.--

3234 | (5) Each applicant for licensure must comply with the
 3235 | following requirements:

3236 | (a) Upon receipt of a completed, signed, and dated
 3237 | application, the agency shall require background screening, in

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3238 accordance with the level 2 standards for screening set forth in
3239 chapter 435, of the operator, and of the financial officer, or
3240 other similarly titled individual who is responsible for the
3241 financial operation of the center, including billings for
3242 patient care and services. The applicant must comply with the
3243 procedures for level 2 background screening as set forth in
3244 chapter 435, as well as the requirements of s. 435.03(3).

3245 (b) The agency may require background screening of any
3246 other individual who is an applicant if the agency has a
3247 reasonable basis for believing that he or she has been convicted
3248 of a crime or has committed any other offense prohibited under
3249 the level 2 standards for screening set forth in chapter 435.

3250 (c) Proof of compliance with the level 2 background
3251 screening requirements of chapter 435 which has been submitted
3252 within the previous 5 years in compliance with any other health
3253 care licensure requirements of this state is acceptable in
3254 fulfillment of the requirements of paragraph (a).

3255 (d) A provisional license may be granted to an applicant
3256 when each individual required by this section to undergo
3257 background screening has met the standards for the Department of
3258 Law Enforcement background check, but the agency has not yet
3259 received background screening results from the Federal Bureau of
3260 Investigation, or a request for a disqualification exemption has
3261 been submitted to the agency as set forth in chapter 435, but a
3262 response has not yet been issued. A standard license may be
3263 granted to the applicant upon the agency's receipt of a report
3264 of the results of the Federal Bureau of Investigation background
3265 screening for each individual required by this section to

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3266 | undergo background screening which confirms that all standards
3267 | have been met, or upon the granting of a disqualification
3268 | exemption by the agency as set forth in chapter 435. Any other
3269 | person who is required to undergo level 2 background screening
3270 | may serve in his or her capacity pending the agency's receipt of
3271 | the report from the Federal Bureau of Investigation. However,
3272 | the person may not continue to serve if the report indicates any
3273 | violation of background screening standards and a
3274 | disqualification exemption has not been requested of and granted
3275 | by the agency as set forth in chapter 435.

3276 | (f) Each applicant must submit to the agency a description
3277 | and explanation of any conviction of an offense prohibited under
3278 | the level 2 standards of chapter 435 by a member of the board of
3279 | directors of the applicant, its officers, or any individual
3280 | owning 5 percent or more of the applicant. This requirement does
3281 | not apply to a director of a not-for-profit corporation or
3282 | organization if the director serves solely in a voluntary
3283 | capacity for the corporation or organization, does not regularly
3284 | take part in the day-to-day operational decisions of the
3285 | corporation or organization, receives no remuneration for his or
3286 | her services on the corporation or organization's board of
3287 | directors, and has no financial interest and has no family
3288 | members with a financial interest in the corporation or
3289 | organization, provided that the director and the not-for-profit
3290 | corporation or organization include in the application a
3291 | statement affirming that the director's relationship to the
3292 | corporation satisfies the requirements of this paragraph.

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3293 (g) A license may not be granted to an applicant if the
 3294 applicant or managing employee has been found guilty of,
 3295 regardless of adjudication, or has entered a plea of nolo
 3296 contendere or guilty to, any offense prohibited under the level
 3297 2 standards for screening set forth in chapter 435, unless an
 3298 exemption from disqualification has been granted by the agency
 3299 as set forth in chapter 435.

3300 Section 55. For the purpose of incorporating the amendment
 3301 to section 435.04, Florida Statutes, in references thereto,
 3302 paragraphs (a), (b), (c), (e), and (f) of subsection (5) of
 3303 section 400.931, Florida Statutes, are reenacted to read:

3304 400.931 Application for license; fee; provisional license;
 3305 temporary permit.--

3306 (5) Each applicant for licensure must comply with the
 3307 following requirements:

3308 (a) Upon receipt of a completed, signed, and dated
 3309 application, the agency shall require background screening of
 3310 the applicant, in accordance with the level 2 standards for
 3311 screening set forth in chapter 435. As used in this subsection,
 3312 the term "applicant" means the general manager and the financial
 3313 officer or similarly titled individual who is responsible for
 3314 the financial operation of the licensed facility.

3315 (b) The agency may require background screening for a
 3316 member of the board of directors of the licensee or an officer
 3317 or an individual owning 5 percent or more of the licensee if the
 3318 agency has probable cause to believe that such individual has
 3319 been convicted of an offense prohibited under the level 2
 3320 standards for screening set forth in chapter 435.

3321 (c) Proof of compliance with the level 2 background
 3322 screening requirements of chapter 435 which has been submitted
 3323 within the previous 5 years in compliance with any other health
 3324 care licensure requirements of this state is acceptable in
 3325 fulfillment of paragraph (a).

3326 (e) Each applicant must submit to the agency a description
 3327 and explanation of any conviction of an offense prohibited under
 3328 the level 2 standards of chapter 435 by a member of the board of
 3329 directors of the applicant, its officers, or any individual
 3330 owning 5 percent or more of the applicant. This requirement does
 3331 not apply to a director of a not-for-profit corporation or
 3332 organization if the director serves solely in a voluntary
 3333 capacity for the corporation or organization, does not regularly
 3334 take part in the day-to-day operational decisions of the
 3335 corporation or organization, receives no remuneration for his or
 3336 her services on the corporation's or organization's board of
 3337 directors, and has no financial interest and has no family
 3338 members with a financial interest in the corporation or
 3339 organization, provided that the director and the not-for-profit
 3340 corporation or organization include in the application a
 3341 statement affirming that the director's relationship to the
 3342 corporation satisfies the requirements of this provision.

3343 (f) A license may not be granted to any potential licensee
 3344 if any applicant, administrator, or financial officer has been
 3345 found guilty of, regardless of adjudication, or has entered a
 3346 plea of nolo contendere or guilty to, any offense prohibited
 3347 under the level 2 standards for screening set forth in chapter

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3348 435, unless an exemption from disqualification has been granted
3349 by the agency as set forth in chapter 435.

3350 Section 56. For the purpose of incorporating the amendment
3351 to section 435.04, Florida Statutes, in references thereto,
3352 paragraphs (a), (b), (c), (d), and (f) of subsection (10) of
3353 section 400.962, Florida Statutes, are reenacted to read:

3354 400.962 License required; license application.--

3355 (10)(a) Upon receipt of a completed, signed, and dated
3356 application, the agency shall require background screening of
3357 the applicant, in accordance with the level 2 standards for
3358 screening set forth in chapter 435. As used in this subsection,
3359 the term "applicant" means the facility administrator, or
3360 similarly titled individual who is responsible for the day-to-
3361 day operation of the licensed facility, and the facility
3362 financial officer, or similarly titled individual who is
3363 responsible for the financial operation of the licensed
3364 facility.

3365 (b) The agency may require background screening for a
3366 member of the board of directors of the licensee or an officer
3367 or an individual owning 5 percent or more of the licensee if the
3368 agency has probable cause to believe that such individual has
3369 been convicted of an offense prohibited under the level 2
3370 standards for screening set forth in chapter 435.

3371 (c) Proof of compliance with the level 2 background
3372 screening requirements of chapter 435 which has been submitted
3373 within the previous 5 years in compliance with any other
3374 licensure requirements under this chapter satisfies the
3375 requirements of paragraph (a). Proof of compliance with

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3376 | background screening which has been submitted within the
3377 | previous 5 years to fulfill the requirements of the Financial
3378 | Services Commission and the Office of Insurance Regulation under
3379 | chapter 651 as part of an application for a certificate of
3380 | authority to operate a continuing care retirement community
3381 | satisfies the requirements for the Department of Law Enforcement
3382 | and Federal Bureau of Investigation background checks.

3383 | (d) A provisional license may be granted to an applicant
3384 | when each individual required by this section to undergo
3385 | background screening has met the standards for the Department of
3386 | Law Enforcement background check, but the agency has not yet
3387 | received background screening results from the Federal Bureau of
3388 | Investigation, or a request for a disqualification exemption has
3389 | been submitted to the agency as set forth in chapter 435, but a
3390 | response has not yet been issued. A license may be granted to
3391 | the applicant upon the agency's receipt of a report of the
3392 | results of the Federal Bureau of Investigation background
3393 | screening for each individual required by this section to
3394 | undergo background screening which confirms that all standards
3395 | have been met, or upon the granting of a disqualification
3396 | exemption by the agency as set forth in chapter 435. Any other
3397 | person who is required to undergo level 2 background screening
3398 | may serve in his or her capacity pending the agency's receipt of
3399 | the report from the Federal Bureau of Investigation; however,
3400 | the person may not continue to serve if the report indicates any
3401 | violation of background screening standards and a
3402 | disqualification exemption has not been granted by the agency as
3403 | set forth in chapter 435.

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3404 (f) Each applicant must submit to the agency a description
 3405 and explanation of any conviction of an offense prohibited under
 3406 the level 2 standards of chapter 435 by a member of the board of
 3407 directors of the applicant, its officers, or any individual
 3408 owning 5 percent or more of the applicant. This requirement does
 3409 not apply to a director of a not-for-profit corporation or
 3410 organization if the director serves solely in a voluntary
 3411 capacity for the corporation or organization, does not regularly
 3412 take part in the day-to-day operational decisions of the
 3413 corporation or organization, receives no remuneration for his or
 3414 her services on the corporation's or organization's board of
 3415 directors, and has no financial interest and has no family
 3416 members with a financial interest in the corporation or
 3417 organization, provided that the director and the not-for-profit
 3418 corporation or organization include in the application a
 3419 statement affirming that the director's relationship to the
 3420 corporation satisfies the requirements of this paragraph.

3421 Section 57. For the purpose of incorporating the amendment
 3422 to section 435.04, Florida Statutes, in references thereto,
 3423 paragraphs (b) and (d) of subsection (7) of section 400.991,
 3424 Florida Statutes, are reenacted to read:

3425 400.991 License requirements; background screenings;
 3426 prohibitions.--

3427 (7) Each applicant for licensure shall comply with the
 3428 following requirements:

3429 (b) Upon receipt of a completed, signed, and dated
 3430 application, the agency shall require background screening of
 3431 the applicant, in accordance with the level 2 standards for

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3432 screening set forth in chapter 435. Proof of compliance with the
 3433 level 2 background screening requirements of chapter 435 which
 3434 has been submitted within the previous 5 years in compliance
 3435 with any other health care licensure requirements of this state
 3436 is acceptable in fulfillment of this paragraph.

3437 (d) A license may not be granted to a clinic if the
 3438 applicant has been found guilty of, regardless of adjudication,
 3439 or has entered a plea of nolo contendere or guilty to, any
 3440 offense prohibited under the level 2 standards for screening set
 3441 forth in chapter 435, or a violation of insurance fraud under s.
 3442 817.234, within the past 5 years. If the applicant has been
 3443 convicted of an offense prohibited under the level 2 standards
 3444 or insurance fraud in any jurisdiction, the applicant must show
 3445 that his or her civil rights have been restored prior to
 3446 submitting an application.

3447 Section 58. For the purpose of incorporating the amendment
 3448 to section 435.04, Florida Statutes, in references thereto,
 3449 paragraph (e) of subsection (2) of section 402.302, Florida
 3450 Statutes, is reenacted to read:

3451 402.302 Definitions.--

3452 (2) "Child care facility" includes any child care center
 3453 or child care arrangement which provides child care for more
 3454 than five children unrelated to the operator and which receives
 3455 a payment, fee, or grant for any of the children receiving care,
 3456 wherever operated, and whether or not operated for profit. The
 3457 following are not included:

3458 (e) Operators of transient establishments, as defined in
 3459 chapter 509, which provide child care services solely for the

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3460 | guests of their establishment or resort, provided that all child
 3461 | care personnel of the establishment are screened according to
 3462 | the level 2 screening requirements of chapter 435.

3463 | Section 59. For the purpose of incorporating the amendment
 3464 | to section 435.04, Florida Statutes, in references thereto,
 3465 | paragraph (a) of subsection (2) of section 402.305, Florida
 3466 | Statutes, is reenacted to read:

3467 | 402.305 Licensing standards; child care facilities.--

3468 | (2) PERSONNEL.--Minimum standards for child care personnel
 3469 | shall include minimum requirements as to:

3470 | (a) Good moral character based upon screening. This
 3471 | screening shall be conducted as provided in chapter 435, using
 3472 | the level 2 standards for screening set forth in that chapter.

3473 | Section 60. For the purpose of incorporating the amendment
 3474 | to section 435.04, Florida Statutes, in references thereto,
 3475 | subsection (3) of section 402.3054, Florida Statutes, is
 3476 | reenacted to read:

3477 | 402.3054 Child enrichment service providers.--

3478 | (3) A child enrichment service provider shall be of good
 3479 | moral character based upon screening. This screening shall be
 3480 | conducted as provided in chapter 435, using the level 2
 3481 | standards for screening set forth in that chapter. A child
 3482 | enrichment service provider must meet the screening requirements
 3483 | prior to providing services to a child in a child care facility.
 3484 | A child enrichment service provider who has met the screening
 3485 | standards shall not be required to be under the direct and
 3486 | constant supervision of child care personnel.

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3487 Section 61. For the purpose of incorporating the amendment
 3488 to section 435.04, Florida Statutes, in references thereto,
 3489 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (2) of
 3490 section 483.30, Florida Statutes, are reenacted to read:

3491 483.30 Licensing of centers.--

3492 (2) Each applicant for licensure must comply with the
 3493 following requirements:

3494 (a) Upon receipt of a completed, signed, and dated
 3495 application, the agency shall require background screening, in
 3496 accordance with the level 2 standards for screening set forth in
 3497 chapter 435, of the managing employee, or other similarly titled
 3498 individual who is responsible for the daily operation of the
 3499 center, and of the financial officer, or other similarly titled
 3500 individual who is responsible for the financial operation of the
 3501 center, including billings for patient services. The applicant
 3502 must comply with the procedures for level 2 background screening
 3503 as set forth in chapter 435, as well as the requirements of s.
 3504 435.03(3).

3505 (b) The agency may require background screening of any
 3506 other individual who is an applicant if the agency has probable
 3507 cause to believe that he or she has been convicted of a crime or
 3508 has committed any other offense prohibited under the level 2
 3509 standards for screening set forth in chapter 435.

3510 (c) Proof of compliance with the level 2 background
 3511 screening requirements of chapter 435 which has been submitted
 3512 within the previous 5 years in compliance with any other health
 3513 care licensure requirements of this state is acceptable in
 3514 fulfillment of the requirements of paragraph (a).

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3515 (d) A provisional license may be granted to an applicant
3516 when each individual required by this section to undergo
3517 background screening has met the standards for the Department of
3518 Law Enforcement background check, but the agency has not yet
3519 received background screening results from the Federal Bureau of
3520 Investigation, or a request for a disqualification exemption has
3521 been submitted to the agency as set forth in chapter 435 but a
3522 response has not yet been issued. A license may be granted to
3523 the applicant upon the agency's receipt of a report of the
3524 results of the Federal Bureau of Investigation background
3525 screening for each individual required by this section to
3526 undergo background screening which confirms that all standards
3527 have been met, or upon the granting of a disqualification
3528 exemption by the agency as set forth in chapter 435. Any other
3529 person who is required to undergo level 2 background screening
3530 may serve in his or her capacity pending the agency's receipt of
3531 the report from the Federal Bureau of Investigation. However,
3532 the person may not continue to serve if the report indicates any
3533 violation of background screening standards and a
3534 disqualification exemption has not been requested of and granted
3535 by the agency as set forth in chapter 435.

3536 (f) Each applicant must submit to the agency a description
3537 and explanation of any conviction of an offense prohibited under
3538 the level 2 standards of chapter 435 by a member of the board of
3539 directors of the applicant, its officers, or any individual
3540 owning 5 percent or more of the applicant. This requirement does
3541 not apply to a director of a not-for-profit corporation or
3542 organization if the director serves solely in a voluntary

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3543 capacity for the corporation or organization, does not regularly
 3544 take part in the day-to-day operational decisions of the
 3545 corporation or organization, receives no remuneration for his or
 3546 her services on the corporation or organization's board of
 3547 directors, and has no financial interest and has no family
 3548 members with a financial interest in the corporation or
 3549 organization, provided that the director and the not-for-profit
 3550 corporation or organization include in the application a
 3551 statement affirming that the director's relationship to the
 3552 corporation satisfies the requirements of this paragraph.

3553 (g) A license may not be granted to an applicant if the
 3554 applicant or managing employee has been found guilty of,
 3555 regardless of adjudication, or has entered a plea of nolo
 3556 contendere or guilty to, any offense prohibited under the level
 3557 2 standards for screening set forth in chapter 435, unless an
 3558 exemption from disqualification has been granted by the agency
 3559 as set forth in chapter 435.

3560 Section 62. For the purpose of incorporating the amendment
 3561 to section 435.04, Florida Statutes, in references thereto,
 3562 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (2) of
 3563 section 483.101, Florida Statutes, are reenacted to read:

3564 483.101 Application for clinical laboratory license.--

3565 (2) Each applicant for licensure must comply with the
 3566 following requirements:

3567 (a) Upon receipt of a completed, signed, and dated
 3568 application, the agency shall require background screening, in
 3569 accordance with the level 2 standards for screening set forth in
 3570 chapter 435, of the managing director or other similarly titled

3571 individual who is responsible for the daily operation of the
 3572 laboratory and of the financial officer, or other similarly
 3573 titled individual who is responsible for the financial operation
 3574 of the laboratory, including billings for patient services. The
 3575 applicant must comply with the procedures for level 2 background
 3576 screening as set forth in chapter 435, as well as the
 3577 requirements of s. 435.03(3).

3578 (b) The agency may require background screening of any
 3579 other individual who is an applicant if the agency has probable
 3580 cause to believe that he or she has been convicted of a crime or
 3581 has committed any other offense prohibited under the level 2
 3582 standards for screening set forth in chapter 435.

3583 (c) Proof of compliance with the level 2 background
 3584 screening requirements of chapter 435 which has been submitted
 3585 within the previous 5 years in compliance with any other health
 3586 care licensure requirements of this state is acceptable in
 3587 fulfillment of the requirements of paragraph (a).

3588 (d) A provisional license may be granted to an applicant
 3589 when each individual required by this section to undergo
 3590 background screening has met the standards for the Department of
 3591 Law Enforcement background check but the agency has not yet
 3592 received background screening results from the Federal Bureau of
 3593 Investigation, or a request for a disqualification exemption has
 3594 been submitted to the agency as set forth in chapter 435 but a
 3595 response has not yet been issued. A license may be granted to
 3596 the applicant upon the agency's receipt of a report of the
 3597 results of the Federal Bureau of Investigation background
 3598 screening for each individual required by this section to

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3599 | undergo background screening which confirms that all standards
3600 | have been met, or upon the granting of a disqualification
3601 | exemption by the agency as set forth in chapter 435. Any other
3602 | person who is required to undergo level 2 background screening
3603 | may serve in his or her capacity pending the agency's receipt of
3604 | the report from the Federal Bureau of Investigation. However,
3605 | the person may not continue to serve if the report indicates any
3606 | violation of background screening standards and a
3607 | disqualification exemption has not been requested of and granted
3608 | by the agency as set forth in chapter 435.

3609 | (f) Each applicant must submit to the agency a description
3610 | and explanation of any conviction of an offense prohibited under
3611 | the level 2 standards of chapter 435 by a member of the board of
3612 | directors of the applicant, its officers, or any individual
3613 | owning 5 percent or more of the applicant. This requirement does
3614 | not apply to a director of a not-for-profit corporation or
3615 | organization if the director serves solely in a voluntary
3616 | capacity for the corporation or organization, does not regularly
3617 | take part in the day-to-day operational decisions of the
3618 | corporation or organization, receives no remuneration for his or
3619 | her services on the corporation or organization's board of
3620 | directors, and has no financial interest and has no family
3621 | members with a financial interest in the corporation or
3622 | organization, provided that the director and the not-for-profit
3623 | corporation or organization include in the application a
3624 | statement affirming that the director's relationship to the
3625 | corporation satisfies the requirements of this paragraph.

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3626 (g) A license may not be granted to an applicant if the
 3627 applicant or managing employee has been found guilty of,
 3628 regardless of adjudication, or has entered a plea of nolo
 3629 contendere or guilty to, any offense prohibited under the level
 3630 2 standards for screening set forth in chapter 435, unless an
 3631 exemption from disqualification has been granted by the agency
 3632 as set forth in chapter 435.

3633 Section 63. For the purpose of incorporating the amendment
 3634 to section 435.04, Florida Statutes, in references thereto,
 3635 subsection (5) of section 744.1085, Florida Statutes, is
 3636 reenacted to read:

3637 744.1085 Regulation of professional guardians;
 3638 application; bond required; educational requirements.--

3639 (5) As required in s. 744.3135, each professional guardian
 3640 shall allow a level 2 background screening of the guardian and
 3641 employees of the guardian in accordance with the provisions of
 3642 s. 435.04.

3643 Section 64. For the purpose of incorporating the amendment
 3644 to section 435.04, Florida Statutes, in references thereto,
 3645 paragraph (b) of subsection (2) of section 984.01, Florida
 3646 Statutes, is reenacted to read:

3647 984.01 Purposes and intent; personnel standards and
 3648 screening.--

3649 (2) The Department of Juvenile Justice or the Department
 3650 of Children and Family Services, as appropriate, may contract
 3651 with the Federal Government, other state departments and
 3652 agencies, county and municipal governments and agencies, public
 3653 and private agencies, and private individuals and corporations

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3654 | in carrying out the purposes of, and the responsibilities
3655 | established in, this chapter.

3656 | (b) The Department of Juvenile Justice and the Department
3657 | of Children and Family Services shall require employment
3658 | screening pursuant to chapter 435, using the level 2 standards
3659 | set forth in that chapter for personnel in programs for children
3660 | or youths.

3661 | Section 65. For the purpose of incorporating the amendment
3662 | to section 435.04, Florida Statutes, in references thereto,
3663 | paragraph (b) of subsection (2) of section 985.01, Florida
3664 | Statutes, is reenacted to read:

3665 | 985.01 Purposes and intent; personnel standards and
3666 | screening.--

3667 | (2) The Department of Juvenile Justice or the Department
3668 | of Children and Family Services, as appropriate, may contract
3669 | with the Federal Government, other state departments and
3670 | agencies, county and municipal governments and agencies, public
3671 | and private agencies, and private individuals and corporations
3672 | in carrying out the purposes of, and the responsibilities
3673 | established in, this chapter.

3674 | (b) The Department of Juvenile Justice and the Department
3675 | of Children and Family Services shall require employment
3676 | screening pursuant to chapter 435, using the level 2 standards
3677 | set forth in that chapter for personnel in programs for children
3678 | or youths.

3679 | Section 66. For the purpose of incorporating the amendment
3680 | to section 435.04, Florida Statutes, in references thereto,

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3681 paragraphs (a) and (b) of subsection (7) of section 1002.36,
3682 Florida Statutes, are reenacted to read:

3683 1002.36 Florida School for the Deaf and the Blind.--

3684 (7) PERSONNEL SCREENING.--

3685 (a) The Board of Trustees of the Florida School for the
3686 Deaf and the Blind shall, because of the special trust or
3687 responsibility of employees of the school, require all employees
3688 and applicants for employment to undergo personnel screening and
3689 security background investigations as provided in chapter 435,
3690 using the level 2 standards for screening set forth in that
3691 chapter, as a condition of employment and continued employment.
3692 The cost of a personnel screening and security background
3693 investigation for an employee of the school shall be paid by the
3694 school. The cost of such a screening and investigation for an
3695 applicant for employment may be paid by the school.

3696 (b) As a prerequisite for initial and continuing
3697 employment at the Florida School for the Deaf and the Blind:

3698 1. The applicant or employee shall submit to the Florida
3699 School for the Deaf and the Blind a complete set of fingerprints
3700 taken by an authorized law enforcement agency or an employee of
3701 the Florida School for the Deaf and the Blind who is trained to
3702 take fingerprints. The Florida School for the Deaf and the Blind
3703 shall submit the fingerprints to the Department of Law
3704 Enforcement for state processing and the Federal Bureau of
3705 Investigation for federal processing.

3706 2.a. The applicant or employee shall attest to the minimum
3707 standards for good moral character as contained in chapter 435,

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3708 using the level 2 standards set forth in that chapter under
3709 penalty of perjury.

3710 b. New personnel shall be on a probationary status pending
3711 a determination of compliance with such minimum standards for
3712 good moral character. This paragraph is in addition to any
3713 probationary status provided for by Florida law or Florida
3714 School for the Deaf and the Blind rules or collective bargaining
3715 contracts.

3716 3. The Florida School for the Deaf and the Blind shall
3717 review the record of the applicant or employee with respect to
3718 the crimes contained in s. 435.04 and shall notify the applicant
3719 or employee of its findings. When disposition information is
3720 missing on a criminal record, it shall be the responsibility of
3721 the applicant or employee, upon request of the Florida School
3722 for the Deaf and the Blind, to obtain and supply within 30 days
3723 the missing disposition information to the Florida School for
3724 the Deaf and the Blind. Failure to supply missing information
3725 within 30 days or to show reasonable efforts to obtain such
3726 information shall result in automatic disqualification of an
3727 applicant and automatic termination of an employee.

3728 4. After an initial personnel screening and security
3729 background investigation, written notification shall be given to
3730 the affected employee within a reasonable time prior to any
3731 subsequent screening and investigation.

3732 Section 67. For the purpose of incorporating the
3733 amendments to sections 943.0585 and 943.059, Florida Statutes,
3734 in references thereto, paragraph (a) of subsection (2) and

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3735 subsection (6) of section 943.0582, Florida Statutes, are
3736 reenacted to read:

3737 943.0582 Prearrest, postarrest, or teen court diversion
3738 program expunction.--

3739 (2)(a) As used in this section, the term "expunction" has
3740 the same meaning ascribed in and effect as s. 943.0585, except
3741 that:

3742 1. The provisions of s. 943.0585(4)(a) do not apply,
3743 except that the criminal history record of a person whose record
3744 is expunged pursuant to this section shall be made available
3745 only to criminal justice agencies for the purpose of determining
3746 eligibility for prearrest, postarrest, or teen court diversion
3747 programs; when the record is sought as part of a criminal
3748 investigation; or when the subject of the record is a candidate
3749 for employment with a criminal justice agency. For all other
3750 purposes, a person whose record is expunged under this section
3751 may lawfully deny or fail to acknowledge the arrest and the
3752 charge covered by the expunged record.

3753 2. Records maintained by local criminal justice agencies
3754 in the county in which the arrest occurred that are eligible for
3755 expunction pursuant to this section shall be sealed as the term
3756 is used in s. 943.059.

3757 (6) Expunction or sealing granted under this section does
3758 not prevent the minor who receives such relief from petitioning
3759 for the expunction or sealing of a later criminal history record
3760 as provided for in ss. 943.0585 and 943.059, if the minor is
3761 otherwise eligible under those sections.

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3762 Section 68. For the purpose of incorporating the amendment
 3763 to section 943.059, Florida Statutes, in references thereto,
 3764 subsections (7), (8), and (9) of section 943.053, Florida
 3765 Statutes, are reenacted to read:

3766 943.053 Dissemination of criminal justice information;
 3767 fees.--

3768 (7) Notwithstanding the provisions of s. 943.0525, and any
 3769 user agreements adopted pursuant thereto, and notwithstanding
 3770 the confidentiality of sealed records as provided for in s.
 3771 943.059, the sheriff of any county that has contracted with a
 3772 private entity to operate a county detention facility pursuant
 3773 to the provisions of s. 951.062 shall provide that private
 3774 entity, in a timely manner, copies of the Florida criminal
 3775 history records for its inmates. The sheriff may assess a charge
 3776 for the Florida criminal history records pursuant to the
 3777 provisions of chapter 119. Sealed records received by the
 3778 private entity under this section remain confidential and exempt
 3779 from the provisions of s. 119.07(1).

3780 (8) Notwithstanding the provisions of s. 943.0525, and any
 3781 user agreements adopted pursuant thereto, and notwithstanding
 3782 the confidentiality of sealed records as provided for in s.
 3783 943.059, the Department of Corrections shall provide, in a
 3784 timely manner, copies of the Florida criminal history records
 3785 for inmates housed in a private state correctional facility to
 3786 the private entity under contract to operate the facility
 3787 pursuant to the provisions of s. 944.105 or s. 957.03. The
 3788 department may assess a charge for the Florida criminal history
 3789 records pursuant to the provisions of chapter 119. Sealed

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3790 records received by the private entity under this section remain
3791 confidential and exempt from the provisions of s. 119.07(1).

3792 (9) Notwithstanding the provisions of s. 943.0525 and any
3793 user agreements adopted pursuant thereto, and notwithstanding
3794 the confidentiality of sealed records as provided for in s.
3795 943.059, the Department of Juvenile Justice or any other state
3796 or local criminal justice agency may provide copies of the
3797 Florida criminal history records for juvenile offenders
3798 currently or formerly detained or housed in a contracted
3799 juvenile assessment center or detention facility or serviced in
3800 a contracted treatment program and for employees or other
3801 individuals who will have access to these facilities, only to
3802 the entity under direct contract with the Department of Juvenile
3803 Justice to operate these facilities or programs pursuant to the
3804 provisions of s. 985.411. The criminal justice agency providing
3805 such data may assess a charge for the Florida criminal history
3806 records pursuant to the provisions of chapter 119. Sealed
3807 records received by the private entity under this section remain
3808 confidential and exempt from the provisions of s. 119.07(1).
3809 Information provided under this section shall be used only for
3810 the criminal justice purpose for which it was requested and may
3811 not be further disseminated.

3812 Section 69. The creation of sections 393.135, 394.4593,
3813 and 916.1075, Florida Statutes, by this act shall apply to
3814 offenses committed on or after the effective date of this act.

3815 Section 70. This act shall take effect July 1, 2004.