

1 A bill to be entitled
2 An act relating to background screening; amending s.
3 39.821, F.S.; revising background screening requirements
4 for the Guardian Ad Litem Program; amending s. 215.5586,
5 F.S.; removing reference to chapter 435, F.S., for
6 background screening of hurricane mitigation inspectors;
7 amending s. 393.0655, F.S.; adding additional
8 disqualifying offenses for the screening of direct service
9 providers for persons with developmental disabilities;
10 amending s. 394.4572, F.S.; revising background screening
11 requirements for mental health personnel; amending s.
12 400.215, F.S.; revising background screening requirements
13 for nursing home personnel; amending s. 400.506, F.S.;
14 conforming provisions to changes made by the act; amending
15 s. 400.512, F.S.; revising background screening
16 requirements for home health agency personnel, nurse
17 registry personnel, and companions and homemakers;
18 amending s. 400.6065, F.S.; revising background screening
19 requirements for hospices; amending s. 400.801, F.S.;
20 revising background screening requirements for homes for
21 special services; amending s. 400.805, F.S.; revising
22 background screening requirements for transitional living
23 facilities; creating s. 400.9065, F.S.; providing
24 background screening requirements for prescribed pediatric
25 extended care centers; amending s. 400.934, F.S.; revising
26 minimum standards for home medical equipment providers;
27 amending s. 400.953, F.S.; revising background screening
28 requirements for home medical equipment providers;

29 | repealing s. 400.955, F.S., relating to the procedures for
30 | screening of home medical equipment provider personnel;
31 | amending s. 400.964, F.S.; revising background screening
32 | requirements for intermediate care facilities for
33 | developmentally disabled persons; amending s. 400.980,
34 | F.S.; revising background screening requirements for
35 | health care services pools; amending s. 400.991, F.S.;
36 | revising background screening requirements for health care
37 | clinics; amending s. 408.806, F.S.; adding a requirement
38 | for an affidavit relating to background screening to the
39 | license application process under the Agency for Health
40 | Care Administration; amending s. 408.808, F.S.; conforming
41 | provisions to changes made by the act; amending s.
42 | 408.809, F.S.; revising background screening requirements
43 | under the Agency for Health Care Administration; requiring
44 | electronic submission of fingerprints; amending s.
45 | 409.175, F.S.; revising background screening requirements
46 | for employees and volunteers in summer day camps and
47 | summer 24-hour camps; repealing s. 409.1758, F.S.,
48 | relating to screening of summer camp personnel; amending
49 | s. 409.221, F.S.; revising background screening
50 | requirements for persons who render consumer-directed
51 | care; amending s. 409.907, F.S.; revising background
52 | screening requirements for Medicaid providers; amending s.
53 | 429.14, F.S.; revising administrative penalty provisions
54 | relating to assisted living facilities; amending s.
55 | 429.174, F.S.; revising background screening requirements
56 | for assisted living facilities; amending s. 429.67, F.S.;

57 | revising licensure requirements for adult family-care
58 | homes; amending s. 429.69, F.S.; revising background
59 | screening requirements for adult family-care homes;
60 | amending s. 429.911, F.S.; revising administrative penalty
61 | provisions relating to adult day care centers; amending s.
62 | 429.919, F.S.; revising background screening requirements
63 | for adult day care centers; creating s. 430.60, F.S.;
64 | providing background screening requirements for direct
65 | service providers under the Department of Elderly Affairs;
66 | amending s. 435.01, F.S.; revising provisions related to
67 | the applicability of the chapter, statutory references to
68 | the chapter, and rulemaking; providing construction with
69 | respect to the doctrine of incorporation by reference;
70 | amending s. 435.02, F.S.; revising and adding definitions;
71 | amending s. 435.03, F.S.; revising level 1 screening
72 | standards; adding disqualifying offenses; amending s.
73 | 435.04, F.S.; revising level 2 screening standards;
74 | requiring electronic submission of fingerprints after a
75 | certain date; authorizing agencies to contract for
76 | electronic fingerprinting; adding disqualifying offenses;
77 | amending s. 435.05, F.S.; revising background check
78 | requirements for covered employees and employers; amending
79 | s. 435.06, F.S.; revising provisions relating to exclusion
80 | from employment; providing that an employer may not hire,
81 | select, or otherwise allow an employee contact with any
82 | vulnerable person until the screening process is
83 | completed; requiring removal of an employee arrested for
84 | disqualifying offenses from roles requiring background

85 screening until the employee's eligibility for employment
86 is determined; amending s. 435.07, F.S.; revising
87 provisions relating to exemptions from disqualification;
88 providing that disqualification from employment may not be
89 removed from, nor an exemption be granted to, any person
90 who has been designated as a sexual predator, career
91 offender, or sexual offender; amending s. 435.08, F.S.;
92 revising provisions relating to the payment for processing
93 of fingerprints and criminal history records checks;
94 amending s. 456.039, F.S.; deleting language relating to
95 criminal history records checks of designated health care
96 professionals; amending s. 464.203, F.S.; conforming
97 provisions to changes made by the act; amending s.
98 489.115, F.S.; removing reference to chapter 435, F.S.,
99 for background screening of construction contractors;
100 amending s. 943.05, F.S.; revising provisions relating to
101 the Criminal Justice Information Program under the
102 Department of Law Enforcement; authorizing agencies to
103 request the retention of certain fingerprints by the
104 department; providing for rulemaking to require employers
105 to keep the agencies informed of any change in the
106 affiliation, employment, or contractual status of each
107 person whose fingerprints are retained in certain
108 circumstances; providing departmental duties upon
109 notification that a federal fingerprint retention program
110 is in effect; amending s. 943.053, F.S.; removing obsolete
111 references relating to the dissemination of criminal
112 justice information; amending s. 985.644, F.S.; revising

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113 background screening requirements for the Department of
114 Juvenile Justice; authorizing rulemaking; amending ss.
115 381.60225, 409.912, 464.018, 468.3101, 744.309, 744.474,
116 and 985.04, F.S.; conforming provisions to changes made to
117 ch. 435, F.S., by this act; providing for prospective
118 application of the act; providing an effective date.
119

120 Be It Enacted by the Legislature of the State of Florida:
121

122 Section 1. Subsection (1) of section 39.821, Florida
123 Statutes, is amended to read:

124 39.821 Qualifications of guardians ad litem.—

125 (1) Because of the special trust or responsibility placed
126 in a guardian ad litem, the Guardian Ad Litem Program may use
127 any private funds collected by the program, or any state funds
128 so designated, to conduct a security background investigation
129 before certifying a volunteer to serve. A security background
130 investigation must include, but need not be limited to,
131 employment history checks, checks of references, local criminal
132 history records checks through local law enforcement agencies,
133 and statewide criminal history records checks through the
134 Department of Law Enforcement. Upon request, an employer shall
135 furnish a copy of the personnel record for the employee or
136 former employee who is the subject of a security background
137 investigation conducted under this section. The information
138 contained in the personnel record may include, but need not be
139 limited to, disciplinary matters and the reason why the employee
140 was terminated from employment. An employer who releases a

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141 personnel record for purposes of a security background
142 investigation is presumed to have acted in good faith and is not
143 liable for information contained in the record without a showing
144 that the employer maliciously falsified the record. A security
145 background investigation conducted under this section must
146 ensure that a person is not certified as a guardian ad litem if
147 the person has an arrest awaiting final disposition for, been
148 convicted of, regardless of adjudication, ~~or~~ entered a plea of
149 nolo contendere or guilty to, or has been adjudicated delinquent
150 and the record has not been sealed or expunged for, any offense
151 prohibited under the provisions listed in s. 435.04. All
152 applicants certified after July 1, 2010, must undergo a level 2
153 background screening pursuant to chapter 435 before being
154 certified ~~the provisions of the Florida Statutes specified in s.~~
155 ~~435.04(2) or under any similar law in another jurisdiction.~~
156 ~~Before certifying an applicant~~ to serve as a guardian ad litem,
157 ~~the Guardian Ad Litem Program may request a federal criminal~~
158 ~~records check of the applicant through the Federal Bureau of~~
159 ~~Investigation.~~ In analyzing and evaluating the information
160 obtained in the security background investigation, the program
161 must give particular emphasis to past activities involving
162 children, including, but not limited to, child-related criminal
163 offenses or child abuse. The program has the sole discretion in
164 determining whether to certify a person based on his or her
165 security background investigation. The information collected
166 pursuant to the security background investigation is
167 confidential and exempt from s. 119.07(1).

168 Section 2. Paragraph (b) of subsection (1) of section

169 215.5586, Florida Statutes, is amended to read:

170 215.5586 My Safe Florida Home Program.—There is
 171 established within the Department of Financial Services the My
 172 Safe Florida Home Program. The department shall provide fiscal
 173 accountability, contract management, and strategic leadership
 174 for the program, consistent with this section. This section does
 175 not create an entitlement for property owners or obligate the
 176 state in any way to fund the inspection or retrofitting of
 177 residential property in this state. Implementation of this
 178 program is subject to annual legislative appropriations. It is
 179 the intent of the Legislature that the My Safe Florida Home
 180 Program provide trained and certified inspectors to perform
 181 inspections for owners of site-built, single-family, residential
 182 properties and grants to eligible applicants as funding allows.
 183 The program shall develop and implement a comprehensive and
 184 coordinated approach for hurricane damage mitigation that may
 185 include the following:

186 (1) HURRICANE MITIGATION INSPECTIONS.—

187 (b) To qualify for selection by the department as a wind
 188 certification entity to provide hurricane mitigation
 189 inspections, the entity shall, at a minimum, meet the following
 190 requirements:

- 191 1. Use hurricane mitigation inspectors who:
 - 192 a. Are certified as a building inspector under s. 468.607;
 - 193 b. Are licensed as a general or residential contractor
 - 194 under s. 489.111;
 - 195 c. Are licensed as a professional engineer under s.
 - 196 471.015 and who have passed the appropriate equivalency test of

197 the building code training program as required by s. 553.841;

198 d. Are licensed as a professional architect under s.
199 481.213; or

200 e. Have at least 2 years of experience in residential
201 construction or residential building inspection and have
202 received specialized training in hurricane mitigation
203 procedures. Such training may be provided by a class offered
204 online or in person.

205 2. Use hurricane mitigation inspectors who also:

206 a. Have undergone drug testing and a level-2 background
207 ~~screening checks pursuant to s. 435.04~~. The department may
208 conduct criminal history records ~~record~~ checks of inspectors
209 used by wind certification entities. Inspectors must submit a
210 set of the fingerprints to the department for state and national
211 criminal history records checks and must pay the fingerprint
212 processing fee set forth in s. 624.501. The fingerprints shall
213 be sent by the department to the Department of Law Enforcement
214 and forwarded to the Federal Bureau of Investigation for
215 processing. The results shall be returned to the department for
216 screening. The fingerprints shall be taken by a law enforcement
217 agency, designated examination center, or other department-
218 approved entity; and

219 b. Have been certified, in a manner satisfactory to the
220 department, to conduct the inspections.

221 3. Provide a quality assurance program including a
222 reinspection component.

223 Section 3. Subsection (5) is added to section 393.0655,
224 Florida Statutes, to read:

225 393.0655 Screening of direct service providers.—
 226 (5) DISQUALIFYING OFFENSES.—The background screening
 227 conducted under this section must ensure that, in addition to
 228 the disqualifying offenses listed in s. 435.04, no person
 229 subject to the provisions of this section has an arrest awaiting
 230 final disposition for, has been found guilty of, regardless of
 231 adjudication, has entered a plea of nolo contendere or guilty
 232 to, or has been adjudicated delinquent and the record has not
 233 been sealed or expunged for, any offense prohibited under any of
 234 the following provisions of the Florida Statutes or under any
 235 similar statute of another jurisdiction:

236 (a) Any authorizing statutes, if the offense was a felony.
 237 (b) This chapter, if the offense was a felony.
 238 (c) Section 409.920, relating to Medicaid provider fraud.
 239 (d) Section 409.9201, relating to Medicaid fraud.
 240 (e) Section 817.034, relating to fraudulent acts through
 241 mail, wire, radio, electromagnetic, photoelectronic, or
 242 phooptical systems.

243 (f) Section 817.234, relating to false and fraudulent
 244 insurance claims.

245 (g) Section 817.505, relating to patient brokering.
 246 (h) Section 817.568, relating to criminal use of personal
 247 identification information.

248 (i) Section 817.60, relating to obtaining a credit card
 249 through fraudulent means.

250 (j) Section 817.61, relating to fraudulent use of credit
 251 cards, if the offense was a felony.

252 (k) Section 831.01, relating to forgery.

253 (l) Section 831.02, relating to uttering forged
 254 instruments.

255 (m) Section 831.07, relating to forging bank bills,
 256 checks, drafts, or promissory notes.

257 (n) Section 831.09, relating to uttering forged bank
 258 bills, checks, drafts, or promissory notes.

259 Section 4. Section 394.4572, Florida Statutes, is amended
 260 to read:

261 394.4572 Screening of mental health personnel.—

262 (1) (a) The department and the Agency for Health Care
 263 Administration shall require level 2 background employment
 264 screening pursuant to chapter 435 for mental health personnel
 265 ~~using the standards for level 2 screening set forth in chapter~~
 266 ~~435.~~ "Mental health personnel" includes all program directors,
 267 professional clinicians, staff members, and volunteers working
 268 in public or private mental health programs and facilities who
 269 have direct contact with individuals held for examination or
 270 admitted for mental health treatment ~~unmarried patients under~~
 271 ~~the age of 18 years.~~ For purposes of this chapter, employment
 272 screening of mental health personnel shall also include, but is
 273 not limited to, employment screening as provided under chapter
 274 435 and s. 408.809.

275 (b) Students in the health care professions who are
 276 interning in a mental health facility licensed under chapter
 277 395, where the primary purpose of the facility is not the
 278 treatment of minors, are exempt from the fingerprinting and
 279 screening requirements, if ~~provided~~ they are under direct
 280 supervision in the actual physical presence of a licensed health

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281 care professional.

282 ~~(c) Mental health personnel working in a facility licensed~~
283 ~~under chapter 395 who have less than 15 hours per week of direct~~
284 ~~contact with patients or who are health care professionals~~
285 ~~licensed by the Agency for Health Care Administration or a board~~
286 ~~thereunder are exempt from the fingerprinting and screening~~
287 ~~requirements, except for persons working in mental health~~
288 ~~facilities where the primary purpose of the facility is the~~
289 ~~treatment of minors.~~

290 ~~(d)~~ A volunteer who assists on an intermittent basis for
291 less than 40 hours per month is exempt from the fingerprinting
292 and screening requirements, provided the volunteer is under
293 direct and constant supervision by persons who meet the
294 screening requirements of paragraph (a).

295 (2) The department or the Agency for Health Care
296 Administration may grant exemptions from disqualification as
297 provided in chapter 435 s. 435.06.

298 ~~(3) Prospective mental health personnel who have~~
299 ~~previously been fingerprinted or screened pursuant to this~~
300 ~~chapter, chapter 393, chapter 397, chapter 402, or chapter 409,~~
301 ~~or teachers who have been fingerprinted pursuant to chapter~~
302 ~~1012, who have not been unemployed for more than 90 days~~
303 ~~thereafter, and who under the penalty of perjury attest to the~~
304 ~~completion of such fingerprinting or screening and to compliance~~
305 ~~with the provisions of this section and the standards for level~~
306 ~~1 screening contained in chapter 435, shall not be required to~~
307 ~~be refingerprinted or rescreened in order to comply with any~~
308 ~~screening requirements of this part.~~

309 Section 5. Section 400.215, Florida Statutes, is amended
 310 to read:

311 400.215 Personnel screening requirement.—

312 (1) The agency shall require level 2 background screening
 313 for personnel as required in s. 408.809(1)(e) pursuant to as
 314 ~~provided in chapter 435 and s. 408.809. for all employees or~~
 315 ~~prospective employees of facilities licensed under this part who~~
 316 ~~are expected to, or whose responsibilities may require them to:~~

317 ~~(a) Provide personal care or services to residents;~~

318 ~~(b) Have access to resident living areas; or~~

319 ~~(c) Have access to resident funds or other personal~~
 320 ~~property.~~

321 (2) ~~Employers and employees shall comply with the~~
 322 ~~requirements of s. 435.05.~~

323 ~~(a) Notwithstanding the provisions of s. 435.05(1),~~
 324 ~~facilities must have in their possession evidence that level 1~~
 325 ~~screening has been completed before allowing an employee to~~
 326 ~~begin working with patients as provided in subsection (1). All~~
 327 ~~information necessary for conducting background screening using~~
 328 ~~level 1 standards as specified in s. 435.03 shall be submitted~~
 329 ~~by the nursing facility to the agency. Results of the background~~
 330 ~~screening shall be provided by the agency to the requesting~~
 331 ~~nursing facility.~~

332 ~~(b) Employees qualified under the provisions of paragraph~~
 333 ~~(a) who have not maintained continuous residency within the~~
 334 ~~state for the 5 years immediately preceding the date of request~~
 335 ~~for background screening must complete level 2 screening, as~~
 336 ~~provided in chapter 435. Such employees may work in a~~

337 ~~conditional status up to 180 days pending the receipt of written~~
338 ~~findings evidencing the completion of level 2 screening. Level 2~~
339 ~~screening shall not be required of employees or prospective~~
340 ~~employees who attest in writing under penalty of perjury that~~
341 ~~they meet the residency requirement. Completion of level 2~~
342 ~~screening shall require the employee or prospective employee to~~
343 ~~furnish to the nursing facility a full set of fingerprints to~~
344 ~~enable a criminal background investigation to be conducted. The~~
345 ~~nursing facility shall submit the completed fingerprint card to~~
346 ~~the agency. The agency shall establish a record of the request~~
347 ~~in the database provided for in paragraph (c) and forward the~~
348 ~~request to the Department of Law Enforcement, which is~~
349 ~~authorized to submit the fingerprints to the Federal Bureau of~~
350 ~~Investigation for a national criminal history records check. The~~
351 ~~results of the national criminal history records check shall be~~
352 ~~returned to the agency, which shall maintain the results in the~~
353 ~~database provided for in paragraph (c). The agency shall notify~~
354 ~~the administrator of the requesting nursing facility or the~~
355 ~~administrator of any other facility licensed under chapter 393,~~
356 ~~chapter 394, chapter 395, chapter 397, chapter 429, or this~~
357 ~~chapter, as requested by such facility, as to whether or not the~~
358 ~~employee has qualified under level 1 or level 2 screening. An~~
359 ~~employee or prospective employee who has qualified under level 2~~
360 ~~screening and has maintained such continuous residency within~~
361 ~~the state shall not be required to complete a subsequent level 2~~
362 ~~screening as a condition of employment at another facility.~~

363 ~~(c) The agency shall establish and maintain a database of~~
364 ~~background screening information which shall include the results~~

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365 ~~of both level 1 and level 2 screening. The Department of Law~~
366 ~~Enforcement shall timely provide to the agency, electronically,~~
367 ~~the results of each statewide screening for incorporation into~~
368 ~~the database. The agency shall, upon request from any facility,~~
369 ~~agency, or program required by or authorized by law to screen~~
370 ~~its employees or applicants, notify the administrator of the~~
371 ~~facility, agency, or program of the qualifying or disqualifying~~
372 ~~status of the employee or applicant named in the request.~~

373 ~~(d) Applicants and employees shall be excluded from~~
374 ~~employment pursuant to s. 435.06.~~

375 ~~(3) The applicant is responsible for paying the fees~~
376 ~~associated with obtaining the required screening. Payment for~~
377 ~~the screening shall be submitted to the agency. The agency shall~~
378 ~~establish a schedule of fees to cover the costs of level 1 and~~
379 ~~level 2 screening. Facilities may reimburse employees for these~~
380 ~~costs. The Department of Law Enforcement shall charge the agency~~
381 ~~for a level 1 or level 2 screening a rate sufficient to cover~~
382 ~~the costs of such screening pursuant to s. 943.053(3). The~~
383 ~~agency shall, as allowable, reimburse nursing facilities for the~~
384 ~~cost of conducting background screening as required by this~~
385 ~~section. This reimbursement will not be subject to any rate~~
386 ~~ceilings or payment targets in the Medicaid Reimbursement plan.~~

387 ~~(4) (a) As provided in s. 435.07, the agency may grant an~~
388 ~~exemption from disqualification to an employee or prospective~~
389 ~~employee who is subject to this section and who has not received~~
390 ~~a professional license or certification from the Department of~~
391 ~~Health.~~

392 ~~(b) As provided in s. 435.07, the appropriate regulatory~~

393 ~~board within the Department of Health, or that department itself~~
 394 ~~when there is no board, may grant an exemption from~~
 395 ~~disqualification to an employee or prospective employee who is~~
 396 ~~subject to this section and who has received a professional~~
 397 ~~license or certification from the Department of Health or a~~
 398 ~~regulatory board within that department.~~

399 ~~(5) Any provision of law to the contrary notwithstanding,~~
 400 ~~persons who have been screened and qualified as required by this~~
 401 ~~section and who have not been unemployed for more than 180 days~~
 402 ~~thereafter, and who under penalty of perjury attest to not~~
 403 ~~having been convicted of a disqualifying offense since the~~
 404 ~~completion of such screening, shall not be required to be~~
 405 ~~rescreened. An employer may obtain, pursuant to s. 435.10,~~
 406 ~~written verification of qualifying screening results from the~~
 407 ~~previous employer or other entity which caused such screening to~~
 408 ~~be performed.~~

409 ~~(6) The agency and the Department of Health shall have~~
 410 ~~authority to adopt rules pursuant to the Administrative~~
 411 ~~Procedure Act to implement this section.~~

412 ~~(7) All employees shall comply with the requirements of~~
 413 ~~this section by October 1, 1998. No current employee of a~~
 414 ~~nursing facility as of the effective date of this act shall be~~
 415 ~~required to submit to rescreening if the nursing facility has in~~
 416 ~~its possession written evidence that the person has been~~
 417 ~~screened and qualified according to level 1 standards as~~
 418 ~~specified in s. 435.03(1). Any current employee who meets the~~
 419 ~~level 1 requirement but does not meet the 5-year residency~~
 420 ~~requirement as specified in this section must provide to the~~

421 ~~employing nursing facility written attestation under penalty of~~
 422 ~~perjury that the employee has not been convicted of a~~
 423 ~~disqualifying offense in another state or jurisdiction. All~~
 424 ~~applicants hired on or after October 1, 1998, shall comply with~~
 425 ~~the requirements of this section.~~

426 ~~(8) There is no monetary or unemployment liability on the~~
 427 ~~part of, and no cause of action for damages arising against an~~
 428 ~~employer that, upon notice of a disqualifying offense listed~~
 429 ~~under chapter 435 or an act of domestic violence, terminates the~~
 430 ~~employee against whom the report was issued, whether or not the~~
 431 ~~employee has filed for an exemption with the Department of~~
 432 ~~Health or the Agency for Health Care Administration.~~

433 Section 6. Subsection (9) of section 400.506, Florida
 434 Statutes, is amended to read:

435 400.506 Licensure of nurse registries; requirements;
 436 penalties.—

437 (9) Each nurse registry must comply with the background
 438 screening requirements ~~procedures set forth~~ in s. 400.512 for
 439 ~~maintaining records of the work history of all persons referred~~
 440 ~~for contract and is subject to the standards and conditions set~~
 441 ~~forth in that section.~~ However, an initial screening may not be
 442 required for persons who have been continuously registered with
 443 the nurse registry since October 1, 2000.

444 Section 7. Section 400.512, Florida Statutes, is amended
 445 to read:

446 400.512 Screening of home health agency personnel; nurse
 447 registry personnel; and companions and homemakers.—The agency
 448 shall require level 2 background screening for personnel as

449 required in s. 408.809(1)(e) pursuant to chapter 435 and s.
450 408.809 employment or contractor screening as provided in
451 chapter 435, using the level 1 standards for screening set forth
452 in that chapter, for home health agency personnel; persons
453 referred for employment by nurse registries; and persons
454 employed by companion or homemaker services registered under s.
455 400.509.

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

461 ~~(b) The appropriate regulatory board within the Department~~
462 ~~of Health, or that department itself when there is no board,~~
463 ~~may, upon request of the licensed health care practitioner,~~
464 ~~grant exemptions from disqualification from employment or~~
465 ~~contracting under this section as provided in s. 435.07.~~

466 ~~(2) The administrator of each home health agency, the~~
467 ~~managing employee of each nurse registry, and the managing~~
468 ~~employee of each companion or homemaker service registered under~~
469 ~~s. 400.509 must sign an affidavit annually, under penalty of~~
470 ~~perjury, stating that all personnel hired or contracted with or~~
471 ~~registered on or after October 1, 2000, who enter the home of a~~
472 ~~patient or client in their service capacity have been screened.~~

473 ~~(3) As a prerequisite to operating as a home health~~
474 ~~agency, nurse registry, or companion or homemaker service under~~
475 ~~s. 400.509, the administrator or managing employee,~~
476 ~~respectively, must submit to the agency his or her name and any~~

477 ~~other information necessary to conduct a complete screening~~
478 ~~according to this section. The agency shall submit the~~
479 ~~information to the Department of Law Enforcement for state~~
480 ~~processing. The agency shall review the record of the~~
481 ~~administrator or manager with respect to the offenses specified~~
482 ~~in this section and shall notify the owner of its findings. If~~
483 ~~disposition information is missing on a criminal record, the~~
484 ~~administrator or manager, upon request of the agency, must~~
485 ~~obtain and supply within 30 days the missing disposition~~
486 ~~information to the agency. Failure to supply missing information~~
487 ~~within 30 days or to show reasonable efforts to obtain such~~
488 ~~information will result in automatic disqualification.~~

489 ~~(4) Proof of compliance with the screening requirements of~~
490 ~~chapter 435 shall be accepted in lieu of the requirements of~~
491 ~~this section if the person has been continuously employed or~~
492 ~~registered without a breach in service that exceeds 180 days,~~
493 ~~the proof of compliance is not more than 2 years old, and the~~
494 ~~person has been screened by the Department of Law Enforcement. A~~
495 ~~home health agency, nurse registry, or companion or homemaker~~
496 ~~service registered under s. 400.509 shall directly provide proof~~
497 ~~of compliance to another home health agency, nurse registry, or~~
498 ~~companion or homemaker service registered under s. 400.509. The~~
499 ~~recipient home health agency, nurse registry, or companion or~~
500 ~~homemaker service registered under s. 400.509 may not accept any~~
501 ~~proof of compliance directly from the person who requires~~
502 ~~screening. Proof of compliance with the screening requirements~~
503 ~~of this section shall be provided upon request to the person~~
504 ~~screened by the home health agencies; nurse registries; or~~

505 ~~companion or homemaker services registered under s. 400.509.~~

506 ~~(5) There is no monetary liability on the part of, and no~~
 507 ~~cause of action for damages arises against, a licensed home~~
 508 ~~health agency, licensed nurse registry, or companion or~~
 509 ~~homemaker service registered under s. 400.509, that, upon notice~~
 510 ~~that the employee or contractor has been found guilty of,~~
 511 ~~regardless of adjudication, or entered a plea of nolo contendere~~
 512 ~~or guilty to, any offense prohibited under s. 435.03 or under~~
 513 ~~any similar statute of another jurisdiction, terminates the~~
 514 ~~employee or contractor, whether or not the employee or~~
 515 ~~contractor has filed for an exemption with the agency in~~
 516 ~~accordance with chapter 435 and whether or not the time for~~
 517 ~~filing has expired.~~

518 ~~(6) The costs of processing the statewide correspondence~~
 519 ~~criminal records checks must be borne by the home health agency,~~
 520 ~~the nurse registry, or the companion or homemaker service~~
 521 ~~registered under s. 400.509, or by the person being screened, at~~
 522 ~~the discretion of the home health agency, nurse registry, or s.~~
 523 ~~400.509 registrant.~~

524 Section 8. Section 400.6065, Florida Statutes, is amended
 525 to read:

526 400.6065 Background screening.—The agency shall require
 527 level 2 background employment or contractor screening for
 528 personnel as required in s. 408.809(1)(e) pursuant to chapter
 529 435 and s. 408.809 as provided in chapter 435, using the level 1
 530 ~~standards for screening set forth in that chapter, for hospice~~
 531 ~~personnel.~~

532 Section 9. Subsection (2) of section 400.801, Florida

533 Statutes, is amended to read:

534 400.801 Homes for special services.—

535 (2) (a) The requirements of part II of chapter 408 apply to
 536 the provision of services that require licensure pursuant to
 537 this section and part II of chapter 408 and entities licensed by
 538 or applying for such licensure from the agency pursuant to this
 539 section. A license issued by the agency is required in order to
 540 operate a home for special services in this state.

541 (b) The agency shall require level 2 background screening
 542 for personnel as required in s. 408.809(1)(e) pursuant to
 543 chapter 435 and s. 408.809.

544 Section 10. Paragraph (d) is added to subsection (2) of
 545 section 400.805, Florida Statutes, to read:

546 400.805 Transitional living facilities.—

547 (2)

548 (d) The agency shall require level 2 background screening
 549 for personnel as required in s. 408.809(1)(e) pursuant to
 550 chapter 435 and s. 408.809.

551 Section 11. Section 400.9065, Florida Statutes, is created
 552 to read:

553 400.9065 Background screening.—The agency shall require
 554 level 2 background screening for personnel as required in s.
 555 408.809(1)(e) pursuant to chapter 435 and s. 408.809.

556 Section 12. Subsection (16) of section 400.934, Florida
 557 Statutes, is amended to read:

558 400.934 Minimum standards.—As a requirement of licensure,
 559 home medical equipment providers shall:

560 (16) Establish procedures for maintaining a record of the

561 employment history, including background screening as required
 562 by ss. ~~s.~~ 400.953, and 408.809(1) and chapter 435 of all home
 563 medical equipment provider personnel. A home medical equipment
 564 provider must require its personnel to submit an employment
 565 history to the home medical equipment provider and must verify
 566 the employment history for at least the previous 5 years, unless
 567 through diligent efforts such verification is not possible.
 568 There is no monetary liability on the part of, and no cause of
 569 action for damages arising against a former employer, a
 570 prospective employee, or a prospective independent contractor
 571 with a licensed home medical equipment provider, who reasonably
 572 and in good faith communicates his or her honest opinions about
 573 a former employee's job performance. This subsection does not
 574 affect the official immunity of an officer or employee of a
 575 public corporation.

576 Section 13. Section 400.953, Florida Statutes, is amended
 577 to read:

578 400.953 Background screening of home medical equipment
 579 provider personnel.—The agency shall require level 2 background
 580 screening for personnel as required in s. 408.809(1)(e) pursuant
 581 to chapter 435 and s. 408.809 ~~employment screening as provided~~
 582 ~~in chapter 435, using the level 1 standards for screening set~~
 583 ~~forth in that chapter, for home medical equipment provider~~
 584 ~~personnel.~~

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

587 ~~(2) The general manager of each home medical equipment~~
 588 ~~provider must sign an affidavit annually, under penalty of~~

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589 ~~perjury, stating that all home medical equipment provider~~
590 ~~personnel hired on or after July 1, 1999, who enter the home of~~
591 ~~a patient in the capacity of their employment have been screened~~
592 ~~and that its remaining personnel have worked for the home~~
593 ~~medical equipment provider continuously since before July 1,~~
594 ~~1999.~~

595 ~~(3) Proof of compliance with the screening requirements of~~
596 ~~s. 110.1127, s. 393.0655, s. 394.4572, s. 397.451, s. 402.305,~~
597 ~~s. 402.313, s. 409.175, s. 464.008, or s. 985.644 or this part~~
598 ~~must be accepted in lieu of the requirements of this section if~~
599 ~~the person has been continuously employed in the same type of~~
600 ~~occupation for which he or she is seeking employment without a~~
601 ~~breach in service that exceeds 180 days, the proof of compliance~~
602 ~~is not more than 2 years old, and the person has been screened~~
603 ~~by the Department of Law Enforcement. An employer or contractor~~
604 ~~shall directly provide proof of compliance to another employer~~
605 ~~or contractor, and a potential employer or contractor may not~~
606 ~~accept any proof of compliance directly from the person~~
607 ~~requiring screening. Proof of compliance with the screening~~
608 ~~requirements of this section shall be provided, upon request, to~~
609 ~~the person screened by the home medical equipment provider.~~

610 ~~(4) There is no monetary liability on the part of, and no~~
611 ~~cause of action for damages arising against, a licensed home~~
612 ~~medical equipment provider that, upon notice that an employee~~
613 ~~has been found guilty of, regardless of adjudication, or entered~~
614 ~~a plea of nolo contendere or guilty to, any offense prohibited~~
615 ~~under s. 435.03 or under any similar statute of another~~
616 ~~jurisdiction, terminates the employee, whether or not the~~

617 ~~employee has filed for an exemption with the agency and whether~~
 618 ~~or not the time for filing has expired.~~

619 ~~(5) The costs of processing the statewide correspondence~~
 620 ~~criminal records checks must be borne by the home medical~~
 621 ~~equipment provider or by the person being screened, at the~~
 622 ~~discretion of the home medical equipment provider.~~

623 ~~(6) Neither the agency nor the home medical equipment~~
 624 ~~provider may use the criminal records or juvenile records of a~~
 625 ~~person for any purpose other than determining whether that~~
 626 ~~person meets minimum standards of good moral character for home~~
 627 ~~medical equipment provider personnel.~~

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

631 ~~1. Fail, by false statement, misrepresentation,~~
 632 ~~impersonation, or other fraudulent means, to disclose in any~~
 633 ~~application for paid employment a material fact used in making a~~
 634 ~~determination as to the person's qualifications to be an~~
 635 ~~employee under this section;~~

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

639 ~~3. Use information from the criminal records obtained~~
 640 ~~under this section for any purpose other than screening that~~
 641 ~~person for employment as specified in this section, or release~~
 642 ~~such information to any other person for any purpose other than~~
 643 ~~screening for employment under this section.~~

644 ~~(b) It is a felony of the third degree, punishable as~~

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645 ~~provided in s. 775.082, s. 775.083, or s. 775.084, for any~~
646 ~~person willfully, knowingly, or intentionally to use information~~
647 ~~from the juvenile records of a person obtained under this~~
648 ~~section for any purpose other than screening for employment~~
649 ~~under this section.~~

650 Section 14. Section 400.955, Florida Statutes, is
651 repealed.

652 Section 15. Section 400.964, Florida Statutes, is amended
653 to read:

654 400.964 Personnel screening requirement.—

655 ~~(1) The agency shall require level 2 background screening~~
656 ~~for personnel as required in s. 408.809(1)(e) pursuant to~~
657 ~~chapter 435 and s. 408.809 as provided in chapter 435 for all~~
658 ~~employees or prospective employees of facilities licensed under~~
659 ~~this part who are expected to be, or whose responsibilities are~~
660 ~~such that they would be considered to be, a direct service~~
661 ~~provider.~~

662 ~~(2) Employers and employees shall comply with the~~
663 ~~requirements of chapter 435.~~

664 ~~(3) Applicants and employees shall be excluded from~~
665 ~~employment pursuant to s. 435.06.~~

666 ~~(4) The applicant is responsible for paying the fees~~
667 ~~associated with obtaining the required screening. Payment for~~
668 ~~the screening must be submitted to the agency as prescribed by~~
669 ~~the agency.~~

670 ~~(5) Notwithstanding any other provision of law, persons~~
671 ~~who have been screened and qualified as required by this section~~
672 ~~and who have not been unemployed for more than 180 days~~

673 ~~thereafter, and who under penalty of perjury attest to not~~
674 ~~having been convicted of a disqualifying offense since the~~
675 ~~completion of such screening are not required to be rescreened.~~
676 ~~An employer may obtain, pursuant to s. 435.10, written~~
677 ~~verification of qualifying screening results from the previous~~
678 ~~employer or other entity that caused such screening to be~~
679 ~~performed.~~

680 ~~(6) The agency may adopt rules to administer this section.~~

681 ~~(7) All employees must comply with the requirements of~~
682 ~~this section by October 1, 2000. A person employed by a facility~~
683 ~~licensed pursuant to this part as of the effective date of this~~
684 ~~act is not required to submit to rescreening if the facility has~~
685 ~~in its possession written evidence that the person has been~~
686 ~~screened and qualified according to level 1 standards as~~
687 ~~specified in s. 435.03. Any current employee who meets the level~~
688 ~~1 requirement but does not meet the 5-year residency requirement~~
689 ~~must provide to the employing facility written attestation under~~
690 ~~penalty of perjury that the employee has not been convicted of a~~
691 ~~disqualifying offense in another state or jurisdiction. All~~
692 ~~applicants hired on or after October 1, 1999, must comply with~~
693 ~~the requirements of this section.~~

694 ~~(8) There is no monetary or unemployment liability on the~~
695 ~~part of, and no cause of action for damages arises against an~~
696 ~~employer that, upon notice of a disqualifying offense listed~~
697 ~~under chapter 435 or an act of domestic violence, terminates the~~
698 ~~employee, whether or not the employee has filed for an exemption~~
699 ~~with the Department of Health or the Agency for Health Care~~
700 ~~Administration.~~

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701 Section 16. Subsection (3) of section 400.980, Florida
 702 Statutes, is amended to read:

703 400.980 Health care services pools.—

704 ~~(3) Upon receipt of a completed, signed, and dated~~
 705 ~~application,~~ The agency shall require level 2 background
 706 screening for personnel as required in s. 408.809(1) (e) pursuant
 707 to chapter 435 and s. 408.809, ~~in accordance with the level 1~~
 708 ~~standards for screening set forth in chapter 435, of every~~
 709 ~~individual who will have contact with patients.~~

710 Section 17. Subsection (5) of section 400.991, Florida
 711 Statutes, is amended to read:

712 400.991 License requirements; background screenings;
 713 prohibitions.—

714 ~~(5) Each applicant for licensure shall comply with the~~
 715 ~~following requirements:~~

716 (a) As used in this subsection, the term "applicant" means
 717 individuals owning or controlling, directly or indirectly, 5
 718 percent or more of an interest in a clinic; the medical or
 719 clinic director, or a similarly titled person who is responsible
 720 for the day-to-day operation of the licensed clinic; the
 721 financial officer or similarly titled individual who is
 722 responsible for the financial operation of the clinic; and
 723 licensed health care practitioners at the clinic.

724 ~~(b) Upon receipt of a completed, signed, and dated~~
 725 ~~application,~~ The agency shall require level 2 background
 726 screening for applicants and personnel as required in s.
 727 408.809(1) (e) pursuant to chapter 435 and s. 408.809 ~~of the~~
 728 ~~applicant, in accordance with the level 2 standards for~~

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729 ~~screening set forth in chapter 435. Proof of compliance with the~~
730 ~~level 2 background screening requirements of chapter 435 which~~
731 ~~has been submitted within the previous 5 years in compliance~~
732 ~~with any other health care licensure requirements of this state~~
733 ~~is acceptable in fulfillment of this paragraph. Applicants who~~
734 ~~own less than 10 percent of a health care clinic are not~~
735 ~~required to submit fingerprints under this section.~~

736 (c) Each applicant must submit to the agency, with the
737 application, a description and explanation of any exclusions,
738 permanent suspensions, or terminations of an applicant from the
739 Medicare or Medicaid programs. Proof of compliance with the
740 requirements for disclosure of ownership and control interest
741 under the Medicaid or Medicare programs may be accepted in lieu
742 of this submission. The description and explanation may indicate
743 whether such exclusions, suspensions, or terminations were
744 voluntary or not voluntary on the part of the applicant.

745 ~~(d) A license may not be granted to a clinic if the~~
746 ~~applicant has been found guilty of, regardless of adjudication,~~
747 ~~or has entered a plea of nolo contendere or guilty to, any~~
748 ~~offense prohibited under the level 2 standards for screening set~~
749 ~~forth in chapter 435, or a violation of insurance fraud under s.~~
750 ~~817.234, within the past 5 years. If the applicant has been~~
751 ~~convicted of an offense prohibited under the level 2 standards~~
752 ~~or insurance fraud in any jurisdiction, the applicant must show~~
753 ~~that his or her civil rights have been restored prior to~~
754 ~~submitting an application.~~

755 Section 18. Paragraph (h) is added to subsection (1) of
756 section 408.806, Florida Statutes, to read:

757 408.806 License application process.—

758 (1) An application for licensure must be made to the
 759 agency on forms furnished by the agency, submitted under oath,
 760 and accompanied by the appropriate fee in order to be accepted
 761 and considered timely. The application must contain information
 762 required by authorizing statutes and applicable rules and must
 763 include:

764 (h) An affidavit, under penalty of perjury, as required in
 765 s. 435.05(3), stating compliance with the provisions of this
 766 section and chapter 435.

767 Section 19. Subsection (2) of section 408.808, Florida
 768 Statutes, is amended to read:

769 408.808 License categories.—

770 (2) PROVISIONAL LICENSE. ~~A provisional license may be~~
 771 ~~issued to an applicant pursuant to s. 408.809(3).~~ An applicant
 772 against whom a proceeding denying or revoking a license is
 773 pending at the time of license renewal may be issued a
 774 provisional license effective until final action not subject to
 775 further appeal. A provisional license may also be issued to an
 776 applicant applying for a change of ownership. A provisional
 777 license shall be limited in duration to a specific period of
 778 time, not to exceed 12 months, as determined by the agency.

779 Section 20. Section 408.809, Florida Statutes, is amended
 780 to read:

781 408.809 Background screening; prohibited offenses.—

782 (1) Level 2 background screening pursuant to chapter 435
 783 must be conducted through the agency on each of the following
 784 persons, who shall be considered an employee for the purposes of

785 | conducting screening under chapter 435:

786 | (a) The licensee, if an individual.

787 | (b) The administrator or a similarly titled person who is
788 | responsible for the day-to-day operation of the provider.

789 | (c) The financial officer or similarly titled individual
790 | who is responsible for the financial operation of the licensee
791 | or provider.

792 | (d) Any person who is a controlling interest if the agency
793 | has reason to believe that such person has been convicted of any
794 | offense prohibited by s. 435.04. For each controlling interest
795 | who has been convicted of any such offense, the licensee shall
796 | submit to the agency a description and explanation of the
797 | conviction at the time of license application.

798 | (e) Any person, as required by authorizing statutes,
799 | seeking employment with a licensee or provider who is expected
800 | to, or whose responsibilities may require him or her to, provide
801 | personal care or services directly to clients or have access to
802 | client funds, personal property, or living areas; and any
803 | person, as required by authorizing statutes, contracting with a
804 | licensee or provider whose responsibilities require him or her
805 | to provide personal care or personal services directly to
806 | clients. Evidence of contractor screening may be retained by the
807 | contractor's employer or the licensee.

808 | (2) Every 5 years following his or her licensure,
809 | employment, or entry into a contract in a capacity that under
810 | subsection (1) would require level 2 background screening under
811 | chapter 435, each such person must submit to level 2 background
812 | rescreening as a condition of retaining such license or

813 continuing in such employment or contractual status. For any
 814 such rescreening, the agency shall request the Department of Law
 815 Enforcement to forward the person's fingerprints to the Federal
 816 Bureau of Investigation for a national criminal history records
 817 check. If the fingerprints of such a person are not retained by
 818 the Department of Law Enforcement under s. 943.05(2)(g), the
 819 person must file a complete set of fingerprints with the agency
 820 and the agency shall forward the fingerprints to the Department
 821 of Law Enforcement for state processing and the Department of
 822 Law Enforcement shall forward the fingerprints to the Federal
 823 Bureau of Investigation for national processing. The
 824 fingerprints may be retained by the Department of Law
 825 Enforcement under s. 943.05(2)(g). The cost of the state and
 826 national criminal history records checks required by level 2
 827 screening may be borne by the licensee or the person
 828 fingerprinted. Proof of compliance with level 2 screening
 829 standards submitted within the previous 5 years to meet any
 830 provider or professional licensure requirements of the agency,
 831 the Department of Health, the Agency for Persons with
 832 Disabilities, ~~or~~ the Department of Children and Family Services,
 833 or the Department of Financial Services for an applicant for a
 834 certificate of authority or provisional certificate of authority
 835 to operate a continuing care retirement community under chapter
 836 651 satisfies the requirements of this section, provided the
 837 person subject to screening has not been unemployed for more
 838 than 90 consecutive days and that such proof is accompanied,
 839 under penalty of perjury, by an affidavit of compliance with the
 840 provisions of chapter 435 and this section using forms provided

841 by the agency. ~~Proof of compliance with the background screening~~
842 ~~requirements of the Department of Financial Services submitted~~
843 ~~within the previous 5 years for an applicant for a certificate~~
844 ~~of authority to operate a continuing care retirement community~~
845 ~~under chapter 651 satisfies the Department of Law Enforcement~~
846 ~~and Federal Bureau of Investigation portions of a level 2~~
847 ~~background check.~~

848 (3) All fingerprints must be provided in electronic
849 format. Screening results shall be reviewed by the agency with
850 respect to the offenses specified in s. 435.04 and this section
851 and the qualifying or disqualifying status of the person named
852 in the request shall be maintained in a database. The qualifying
853 or disqualifying status of the person named in the request shall
854 be posted on a secure website for retrieval by the licensee or a
855 designated agent on the licensee's behalf. ~~A provisional license~~
856 ~~may be granted to an applicant when each individual required by~~
857 ~~this section to undergo background screening has met the~~
858 ~~standards for the Department of Law Enforcement background check~~
859 ~~but the agency has not yet received background screening results~~
860 ~~from the Federal Bureau of Investigation. A standard license may~~
861 ~~be granted to the licensee upon the agency's receipt of a report~~
862 ~~of the results of the Federal Bureau of Investigation background~~
863 ~~screening for each individual required by this section to~~
864 ~~undergo background screening that confirms that all standards~~
865 ~~have been met or upon the granting of an exemption from~~
866 ~~disqualification by the agency as set forth in chapter 435.~~

867 (4) ~~When a person is newly employed in a capacity that~~
868 ~~requires screening under this section, the licensee must notify~~

869 ~~the agency of the change within the time period specified in the~~
870 ~~authorizing statute or rules and must submit to the agency~~
871 ~~information necessary to conduct level 2 screening or provide~~
872 ~~evidence of compliance with background screening requirements of~~
873 ~~this section. The person may serve in his or her capacity~~
874 ~~pending the agency's receipt of the report from the Federal~~
875 ~~Bureau of Investigation if he or she has met the standards for~~
876 ~~the Department of Law Enforcement background check. However, the~~
877 ~~person may not continue to serve in his or her capacity if the~~
878 ~~report indicates any violation of background screening standards~~
879 ~~unless an exemption from disqualification has been granted by~~
880 ~~the agency as set forth in chapter 435.~~

881 ~~(4)-(5)~~ Effective October 1, 2009, In addition to the
882 offenses listed in s. ss. 435.03 and 435.04, all persons
883 required to undergo background screening pursuant to this part
884 or authorizing statutes must not have an arrest awaiting final
885 disposition for, been found guilty of, regardless of
886 adjudication, ~~or~~ entered a plea of nolo contendere or guilty to,
887 or have been adjudicated delinquent and the record has not been
888 sealed or expunged for, any of the following offenses or any
889 similar offense of another jurisdiction:

890 (a) Any authorizing statutes, if the offense was a felony.

891 (b) This chapter, if the offense was a felony.

892 (c) Section 409.920, relating to Medicaid provider fraud,
893 ~~if the offense was a felony.~~

894 (d) Section 409.9201, relating to Medicaid fraud, ~~if the~~
895 ~~offense was a felony.~~

896 (e) Section 741.28, relating to domestic violence.

897 ~~(f) Chapter 784, relating to assault, battery, and~~
 898 ~~culpable negligence, if the offense was a felony.~~

899 ~~(g) Section 810.02, relating to burglary.~~

900 (f)~~(h)~~ Section 817.034, relating to fraudulent acts
 901 through mail, wire, radio, electromagnetic, photoelectronic, or
 902 photooptical systems.

903 (g)~~(i)~~ Section 817.234, relating to false and fraudulent
 904 insurance claims.

905 (h)~~(j)~~ Section 817.505, relating to patient brokering.

906 (i)~~(k)~~ Section 817.568, relating to criminal use of
 907 personal identification information.

908 (j)~~(l)~~ Section 817.60, relating to obtaining a credit card
 909 through fraudulent means.

910 (k)~~(m)~~ Section 817.61, relating to fraudulent use of
 911 credit cards, if the offense was a felony.

912 (l)~~(n)~~ Section 831.01, relating to forgery.

913 (m)~~(o)~~ Section 831.02, relating to uttering forged
 914 instruments.

915 (n)~~(p)~~ Section 831.07, relating to forging bank bills,
 916 checks, drafts, or promissory notes.

917 (o)~~(q)~~ Section 831.09, relating to uttering forged bank
 918 bills, checks, drafts, or promissory notes.

919 (p)~~(r)~~ Section 831.30, relating to fraud in obtaining
 920 medicinal drugs.

921 (q)~~(s)~~ Section 831.31, relating to the sale, manufacture,
 922 delivery, or possession with the intent to sell, manufacture, or
 923 deliver any counterfeit controlled substance, if the offense was
 924 a felony.

925
 926 A person who serves as a controlling interest of, ~~or~~ is employed
 927 by, or contracts with a licensee on June 30, 2010 ~~September 30,~~
 928 2009, who has been screened and qualified according to standards
 929 specified in s. 435.03 or s. 435.04 must be rescreened by June
 930 30, 2015. The agency may adopt rules pursuant to ss. 120.536(1)
 931 and 120.54 to establish a schedule to stagger the implementation
 932 of the required rescreening over the 5-year period starting June
 933 30, 2010, through June 30, 2015 ~~is not required by law to submit~~
 934 ~~to rescreening if that licensee has in its possession written~~
 935 ~~evidence that the person has been screened and qualified~~
 936 ~~according to the standards specified in s. 435.03 or s. 435.04.~~
 937 ~~However, if such person has a disqualifying offense listed in~~
 938 ~~this section, he or she may apply for an exemption from the~~
 939 ~~appropriate licensing agency before September 30, 2009, and if~~
 940 ~~agreed to by the employer, may continue to perform his or her~~
 941 ~~duties until the licensing agency renders a decision on the~~
 942 ~~application for exemption for offenses listed in this section.~~
 943 ~~Exemptions from disqualification may be granted pursuant to s.~~
 944 ~~435.07.~~

945 (5) (6) The costs associated with obtaining the required
 946 screening must be borne either by the licensee or the person
 947 subject to screening. Licensees may reimburse persons for these
 948 costs. The Department of Law Enforcement shall charge the agency
 949 for screening pursuant to s. 943.053(3). The agency shall
 950 establish a schedule of fees to cover the costs of screening ~~The~~
 951 ~~attestations required under ss. 435.04(5) and 435.05(3) must be~~
 952 ~~submitted at the time of license renewal, notwithstanding the~~

953 ~~provisions of ss. 435.04(5) and 435.05(3) which require annual~~
 954 ~~submission of an affidavit of compliance with background~~
 955 ~~screening requirements.~~

956 (6) (a) As provided in chapter 435, the agency may grant an
 957 exemption from disqualification to a person who is subject to
 958 this section and who:

959 1. Has not received a professional license or
 960 certification from the Department of Health; or

961 2. Has received a professional license or certification
 962 from the Department of Health but is not providing a service
 963 within the scope of that license or certification.

964 (b) As provided in chapter 435, the appropriate regulatory
 965 board within the Department of Health, or the department itself
 966 when there is no board, may grant an exemption from
 967 disqualification to a person who is subject to this section and
 968 who has received a professional license or certification from
 969 the Department of Health or a regulatory board within that
 970 department and that person is providing a service within the
 971 scope of his or her licensed or certified practice.

972 (7) The agency and the Department of Health may adopt
 973 rules pursuant to ss. 120.536(1) and 120.54 to implement this
 974 section, chapter 435, and authorizing statutes requiring
 975 background screening and to implement and adopt criteria
 976 relating to retaining fingerprints pursuant to s. 943.05(2).

977 (8) There is no unemployment compensation or other
 978 monetary liability on the part of, and no cause of action for
 979 damages arising against, an employer that, upon notice of a
 980 disqualifying offense listed under chapter 435 or this section,

981 terminates the person against whom the report was issued,
 982 whether or not that person has filed for an exemption with the
 983 Department of Health or the agency.

984 Section 21. Paragraph (k) of subsection (2) of section
 985 409.175, Florida Statutes, is amended to read:

986 409.175 Licensure of family foster homes, residential
 987 child-caring agencies, and child-placing agencies; public
 988 records exemption.—

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

990 (k) "Screening" means the act of assessing the background
 991 of personnel and includes, but is not limited to, employment
 992 history checks as provided in chapter 435, using the level 2
 993 standards for screening set forth in that chapter. Screening for
 994 employees and volunteers in summer day camps and summer 24-hour
 995 camps and screening for all volunteers included under the
 996 definition of "personnel" shall be conducted as provided in
 997 chapter 435, using the level 2 ~~level 1~~ standards set forth in
 998 that chapter.

999 Section 22. Section 409.1758, Florida Statutes, is
 1000 repealed.

1001 Section 23. Paragraph (i) of subsection (4) of section
 1002 409.221, Florida Statutes, is amended to read:

1003 409.221 Consumer-directed care program.—

1004 (4) CONSUMER-DIRECTED CARE.—

1005 (i) Background screening requirements.—All persons who
 1006 render care under this section must undergo level 2 background
 1007 screening pursuant to chapter 435 ~~shall comply with the~~
 1008 ~~requirements of s. 435.05. Persons shall be excluded from~~

1009 ~~employment pursuant to s. 435.06.~~

1010 ~~1. Persons excluded from employment may request an~~
 1011 ~~exemption from disqualification, as provided in s. 435.07.~~

1012 ~~Persons not subject to certification or professional licensure~~
 1013 ~~may request an exemption from the agency. In considering a~~
 1014 ~~request for an exemption, the agency shall comply with the~~
 1015 ~~provisions of s. 435.07.~~

1016 ~~2.~~ The agency shall, as allowable, reimburse consumer-
 1017 employed caregivers for the cost of conducting background
 1018 screening as required by this section.

1019
 1020 For purposes of this section, a person who has undergone
 1021 screening, who is qualified for employment under this section
 1022 and applicable rule, and who has not been unemployed for more
 1023 than 90 ~~180~~ days following such screening is not required to be
 1024 rescreened. Such person must attest under penalty of perjury to
 1025 not having been convicted of a disqualifying offense since
 1026 completing such screening.

1027 Section 24. Subsection (8) of section 409.907, Florida
 1028 Statutes, is amended to read:

1029 409.907 Medicaid provider agreements.—The agency may make
 1030 payments for medical assistance and related services rendered to
 1031 Medicaid recipients only to an individual or entity who has a
 1032 provider agreement in effect with the agency, who is performing
 1033 services or supplying goods in accordance with federal, state,
 1034 and local law, and who agrees that no person shall, on the
 1035 grounds of handicap, race, color, or national origin, or for any
 1036 other reason, be subjected to discrimination under any program

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1037 or activity for which the provider receives payment from the
1038 agency.

1039 (8) (a) Each provider, or each principal of the provider if
1040 the provider is a corporation, partnership, association, or
1041 other entity, seeking to participate in the Medicaid program
1042 must submit a complete set of his or her fingerprints to the
1043 agency for the purpose of conducting a criminal history records
1044 ~~record~~ check. Principals of the provider include any officer,
1045 director, billing agent, managing employee, or affiliated
1046 person, or any partner or shareholder who has an ownership
1047 interest equal to 5 percent or more in the provider. However, a
1048 director of a not-for-profit corporation or organization is not
1049 a principal for purposes of a background investigation as
1050 required by this section if the director: serves solely in a
1051 voluntary capacity for the corporation or organization, does not
1052 regularly take part in the day-to-day operational decisions of
1053 the corporation or organization, receives no remuneration from
1054 the not-for-profit corporation or organization for his or her
1055 service on the board of directors, has no financial interest in
1056 the not-for-profit corporation or organization, and has no
1057 family members with a financial interest in the not-for-profit
1058 corporation or organization; and if the director submits an
1059 affidavit, under penalty of perjury, to this effect to the
1060 agency and the not-for-profit corporation or organization
1061 submits an affidavit, under penalty of perjury, to this effect
1062 to the agency as part of the corporation's or organization's
1063 Medicaid provider agreement application. Notwithstanding the
1064 above, the agency may require a background check for any person

1065 reasonably suspected by the agency to have been convicted of a
 1066 crime. This subsection shall not apply to:

- 1067 1. A hospital licensed under chapter 395;
- 1068 2. A nursing home licensed under chapter 400;
- 1069 3. A hospice licensed under chapter 400;
- 1070 4. An assisted living facility licensed under chapter 429;
- 1071 5. A unit of local government, except that requirements of
 1072 this subsection apply to nongovernmental providers and entities
 1073 when contracting with the local government to provide Medicaid
 1074 services. The actual cost of the state and national criminal
 1075 history records ~~record~~ checks must be borne by the
 1076 nongovernmental provider or entity; or
- 1077 6. Any business that derives more than 50 percent of its
 1078 revenue from the sale of goods to the final consumer, and the
 1079 business or its controlling parent either is required to file a
 1080 form 10-K or other similar statement with the Securities and
 1081 Exchange Commission or has a net worth of \$50 million or more.

1082 (b) Background screening shall be conducted in accordance
 1083 with chapter 435 and s. 408.809 ~~The agency shall submit the~~
 1084 ~~fingerprints to the Department of Law Enforcement. The~~
 1085 ~~department shall conduct a state criminal background~~
 1086 ~~investigation and forward the fingerprints to the Federal Bureau~~
 1087 ~~of Investigation for a national criminal history record check.~~
 1088 The cost of the state and national criminal history records
 1089 ~~record~~ check shall be borne by the provider.

1090 (c) ~~The agency may permit a provider to participate in the~~
 1091 ~~Medicaid program pending the results of the criminal record~~
 1092 ~~check. However, such permission is fully revocable if the record~~

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1093 ~~check reveals any crime-related history as provided in~~
1094 ~~subsection (10).~~

1095 ~~(d) Proof of compliance with the requirements of level 2~~
1096 ~~screening under chapter 435 s. ~~435.04~~ conducted within 12 months~~
1097 ~~prior to the date that the Medicaid provider application is~~
1098 ~~submitted to the agency shall fulfill the requirements of this~~
1099 ~~subsection. Proof of compliance with the requirements of level 1~~
1100 ~~screening under s. 435.03 conducted within 12 months prior to~~
1101 ~~the date that the Medicaid provider application is submitted to~~
1102 ~~the agency shall meet the requirement that the Department of Law~~
1103 ~~Enforcement conduct a state criminal history record check.~~

1104 Section 25. Subsection (1) of section 429.14, Florida
1105 Statutes, is amended to read:

1106 429.14 Administrative penalties.—

1107 (1) In addition to the requirements of part II of chapter
1108 408, the agency may deny, revoke, and suspend any license issued
1109 under this part and impose an administrative fine in the manner
1110 provided in chapter 120 against a licensee ~~of an assisted living~~
1111 ~~facility~~ for a violation of any provision of this part, part II
1112 of chapter 408, or applicable rules, or for any of the following
1113 actions by a licensee ~~of an assisted living facility~~, for the
1114 actions of any person subject to level 2 background screening
1115 under s. 408.809, or for the actions of any facility employee:

1116 (a) An intentional or negligent act seriously affecting
1117 the health, safety, or welfare of a resident of the facility.

1118 (b) The determination by the agency that the owner lacks
1119 the financial ability to provide continuing adequate care to
1120 residents.

1121 (c) Misappropriation or conversion of the property of a
 1122 resident of the facility.

1123 (d) Failure to follow the criteria and procedures provided
 1124 under part I of chapter 394 relating to the transportation,
 1125 voluntary admission, and involuntary examination of a facility
 1126 resident.

1127 (e) A citation of any of the following deficiencies as
 1128 specified in s. 429.19:

- 1129 1. One or more cited class I deficiencies.
- 1130 2. Three or more cited class II deficiencies.
- 1131 3. Five or more cited class III deficiencies that have
 1132 been cited on a single survey and have not been corrected within
 1133 the times specified.

1134 (f) Failure to comply with the ~~A determination that a~~
 1135 ~~person subject to level 2 background screening under s. 408.809~~
 1136 ~~does not meet the screening standards of this part, s.~~
 1137 408.809(1), chapter 435 s. 435.04 ~~or that the facility is~~
 1138 ~~retaining an employee subject to level 1 background screening~~
 1139 ~~standards under s. 429.174 who does not meet the screening~~
 1140 ~~standards of s. 435.03 and for whom exemptions from~~
 1141 ~~disqualification have not been provided by the agency.~~

1142 (g) ~~A determination that an employee, volunteer,~~
 1143 ~~administrator, or owner, or person who otherwise has access to~~
 1144 ~~the residents of a facility does not meet the criteria specified~~
 1145 ~~in s. 435.03(2), and the owner or administrator has not taken~~
 1146 ~~action to remove the person. Exemptions from disqualification~~
 1147 ~~may be granted as set forth in s. 435.07. No administrative~~
 1148 ~~action may be taken against the facility if the person is~~

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1149 ~~granted an exemption.~~

1150 ~~(h)~~ Violation of a moratorium.

1151 ~~(h)~~(i) Failure of the license applicant, the licensee
 1152 during relicensure, or a licensee that holds a provisional
 1153 license to meet the minimum license requirements of this part,
 1154 or related rules, at the time of license application or renewal.

1155 ~~(i)~~(j) An intentional or negligent life-threatening act in
 1156 violation of the uniform firesafety standards for assisted
 1157 living facilities or other firesafety standards that threatens
 1158 the health, safety, or welfare of a resident of a facility, as
 1159 communicated to the agency by the local authority having
 1160 jurisdiction or the State Fire Marshal.

1161 ~~(j)~~(k) Knowingly operating any unlicensed facility or
 1162 providing without a license any service that must be licensed
 1163 under this chapter or chapter 400.

1164 ~~(k)~~(l) Any act constituting a ground upon which
 1165 application for a license may be denied.

1166 Section 26. Section 429.174, Florida Statutes, is amended
 1167 to read:

1168 429.174 Background screening; ~~exemptions.~~The agency shall
 1169 require level 2 background screening for personnel as required
 1170 in s. 408.809(1)(e) pursuant to chapter 435 and s. 408.809 ~~The~~
 1171 ~~owner or administrator of an assisted living facility must~~
 1172 ~~conduct level 1 background screening, as set forth in chapter~~
 1173 ~~435, on all employees hired on or after October 1, 1998, who~~
 1174 ~~perform personal services as defined in s. 429.02(16).~~ ~~The~~
 1175 ~~agency may exempt an individual from employment disqualification~~
 1176 ~~as set forth in chapter 435. Such persons shall be considered as~~

1177 ~~having met this requirement if:~~

1178 ~~(1) Proof of compliance with level 1 screening~~
 1179 ~~requirements obtained to meet any professional license~~
 1180 ~~requirements in this state is provided and accompanied, under~~
 1181 ~~penalty of perjury, by a copy of the person's current~~
 1182 ~~professional license and an affidavit of current compliance with~~
 1183 ~~the background screening requirements.~~

1184 ~~(2) The person required to be screened has been~~
 1185 ~~continuously employed in the same type of occupation for which~~
 1186 ~~the person is seeking employment without a breach in service~~
 1187 ~~which exceeds 180 days, and proof of compliance with the level 1~~
 1188 ~~screening requirement which is no more than 2 years old is~~
 1189 ~~provided. Proof of compliance shall be provided directly from~~
 1190 ~~one employer or contractor to another, and not from the person~~
 1191 ~~screened. Upon request, a copy of screening results shall be~~
 1192 ~~provided by the employer retaining documentation of the~~
 1193 ~~screening to the person screened.~~

1194 ~~(3) The person required to be screened is employed by a~~
 1195 ~~corporation or business entity or related corporation or~~
 1196 ~~business entity that owns, operates, or manages more than one~~
 1197 ~~facility or agency licensed under this chapter, and for whom a~~
 1198 ~~level 1 screening was conducted by the corporation or business~~
 1199 ~~entity as a condition of initial or continued employment.~~

1200 Section 27. Subsection (4) of section 429.67, Florida
 1201 Statutes, is amended to read:

1202 429.67 Licensure.—

1203 (4) ~~Upon receipt of a completed license application or~~
 1204 ~~license renewal, and the fee,~~ The agency shall require level 2

1205 ~~initiate a level 1 background screening for personnel as~~
 1206 ~~required in s. 408.809(1)(e), including as provided under~~
 1207 ~~chapter 435 on the adult family-care home provider, the~~
 1208 ~~designated relief person, and all adult household members,~~
 1209 ~~pursuant to chapter 435 and s. 408.809, and all staff members.~~

1210 ~~(a) Proof of compliance with level 1 screening standards~~
 1211 ~~which has been submitted within the previous 5 years to meet any~~
 1212 ~~facility or professional licensure requirements of the agency or~~
 1213 ~~the Department of Health satisfies the requirements of this~~
 1214 ~~subsection. Such proof must be accompanied, under penalty of~~
 1215 ~~perjury, by a copy of the person's current professional license~~
 1216 ~~and an affidavit of current compliance with the background~~
 1217 ~~screening requirements.~~

1218 ~~(b) The person required to be screened must have been~~
 1219 ~~continuously employed in the same type of occupation for which~~
 1220 ~~the person is seeking employment without a breach in service~~
 1221 ~~that exceeds 180 days, and proof of compliance with the level 1~~
 1222 ~~screening requirement which is no more than 2 years old must be~~
 1223 ~~provided. Proof of compliance shall be provided directly from~~
 1224 ~~one employer or contractor to another, and not from the person~~
 1225 ~~screened. Upon request, a copy of screening results shall be~~
 1226 ~~provided to the person screened by the employer retaining~~
 1227 ~~documentation of the screening.~~

1228 Section 28. Section 429.69, Florida Statutes, is amended
 1229 to read:

1230 429.69 Denial, revocation, and suspension of a license.—In
 1231 addition to the requirements of part II of chapter 408, the
 1232 agency may deny, suspend, and revoke a license for any of the

1233 following reasons:

1234 (1) Failure to comply with the ~~of any of the persons~~
 1235 ~~required to undergo~~ background screening standards of this part,
 1236 s. 408.809(1), or chapter 435 under s. 429.67 to meet the level
 1237 ~~1 screening standards of s. 435.03, unless an exemption from~~
 1238 ~~disqualification has been provided by the agency.~~

1239 (2) Failure to correct cited fire code violations that
 1240 threaten the health, safety, or welfare of residents.

1241 Section 29. Paragraph (c) of subsection (2) of section
 1242 429.911, Florida Statutes, is amended to read:

1243 429.911 Denial, suspension, revocation of license;
 1244 emergency action; administrative fines; investigations and
 1245 inspections.-

1246 (2) Each of the following actions by the owner of an adult
 1247 day care center or by its operator or employee is a ground for
 1248 action by the agency against the owner of the center or its
 1249 operator or employee:

1250 (c) ~~A Failure to comply with the~~ of persons subject to
 1251 level 2 background screening standards of this part, s.
 1252 408.809(1), or chapter 435 under s. 408.809 to meet the
 1253 ~~screening standards of s. 435.04, or the retention by the center~~
 1254 ~~of an employee subject to level 1 background screening standards~~
 1255 ~~under s. 429.174 who does not meet the screening standards of s.~~
 1256 ~~435.03 and for whom exemptions from disqualification have not~~
 1257 ~~been provided by the agency.~~

1258 Section 30. Section 429.919, Florida Statutes, is amended
 1259 to read:

1260 429.919 Background screening.-The agency shall require

1261 level 2 background screening for personnel as required in s.
 1262 408.809(1)(e) pursuant to chapter 435 and s. 408.809 ~~The owner~~
 1263 ~~or administrator of an adult day care center must conduct level~~
 1264 ~~1 background screening as set forth in chapter 435 on all~~
 1265 ~~employees hired on or after October 1, 1998, who provide basic~~
 1266 ~~services or supportive and optional services to the~~
 1267 ~~participants. Such persons satisfy this requirement if:~~
 1268 ~~(1) Proof of compliance with level 1 screening~~
 1269 ~~requirements obtained to meet any professional license~~
 1270 ~~requirements in this state is provided and accompanied, under~~
 1271 ~~penalty of perjury, by a copy of the person's current~~
 1272 ~~professional license and an affidavit of current compliance with~~
 1273 ~~the background screening requirements.~~
 1274 ~~(2) The person required to be screened has been~~
 1275 ~~continuously employed, without a breach in service that exceeds~~
 1276 ~~180 days, in the same type of occupation for which the person is~~
 1277 ~~seeking employment and provides proof of compliance with the~~
 1278 ~~level 1 screening requirement which is no more than 2 years old.~~
 1279 ~~Proof of compliance must be provided directly from one employer~~
 1280 ~~or contractor to another, and not from the person screened. Upon~~
 1281 ~~request, a copy of screening results shall be provided to the~~
 1282 ~~person screened by the employer retaining documentation of the~~
 1283 ~~screening.~~
 1284 ~~(3) The person required to be screened is employed by a~~
 1285 ~~corporation or business entity or related corporation or~~
 1286 ~~business entity that owns, operates, or manages more than one~~
 1287 ~~facility or agency licensed under chapter 400 or this chapter,~~
 1288 ~~and for whom a level 1 screening was conducted by the~~

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1289 ~~corporation or business entity as a condition of initial or~~
 1290 ~~continued employment.~~

1291 Section 31. Section 430.60, Florida Statutes, is created
 1292 to read:

1293 430.60 Screening of direct service providers.-

1294 (1) (a) Level 2 background screening pursuant to chapter
 1295 435 is required for direct service providers. Background
 1296 screening shall include employment history checks as provided in
 1297 s. 435.03(1) and local criminal history records checks through
 1298 local law enforcement agencies.

1299 (b) For purposes of this section, the term "direct service
 1300 provider" means a person 18 years of age or older who is
 1301 unrelated to his or her clients and who has direct, face-to-face
 1302 contact with a client while providing services to the client and
 1303 has access to the client's living areas or to the client's funds
 1304 or personal property. The term includes coordinators, managers,
 1305 and supervisors of residential facilities and volunteers.

1306 (2) Licensed physicians, nurses, or other professionals
 1307 licensed by the Department of Health are not subject to
 1308 background screening pursuant to this section if they are
 1309 providing a service that is within the scope of their licensed
 1310 practice.

1311 (3) Refusal on the part of an employer to dismiss a
 1312 manager, supervisor, or direct service provider who has been
 1313 found to be in noncompliance with standards of this section
 1314 shall result in the automatic denial, termination, or revocation
 1315 of the license or certification, rate agreement, purchase order,
 1316 or contract, in addition to any other remedies authorized by

1317 law.

1318 (4) The background screening conducted pursuant to this
1319 section must ensure that, in addition to the disqualifying
1320 offenses listed in s. 435.04, no person subject to the
1321 provisions of this section has an arrest awaiting final
1322 disposition for, has been found guilty of, regardless of
1323 adjudication, has entered a plea of nolo contendere or guilty
1324 to, or has been adjudicated delinquent and the record has not
1325 been sealed or expunged for, any offense prohibited under any of
1326 the following provisions of the Florida Statutes or under any
1327 similar statute of another jurisdiction:

1328 (a) Any authorizing statutes, if the offense was a felony.

1329 (b) Section 409.920, relating to Medicaid provider fraud.

1330 (c) Section 409.9201, relating to Medicaid fraud.

1331 (d) Section 817.034, relating to fraudulent acts through
1332 mail, wire, radio, electromagnetic, photoelectronic, or
1333 photooptical systems.

1334 (e) Section 817.234, relating to false and fraudulent
1335 insurance claims.

1336 (f) Section 817.505, relating to patient brokering.

1337 (g) Section 817.568, relating to criminal use of personal
1338 identification information.

1339 (h) Section 817.60, relating to obtaining a credit card
1340 through fraudulent means.

1341 (i) Section 817.61, relating to fraudulent use of credit
1342 cards, if the offense was a felony.

1343 (j) Section 831.01, relating to forgery.

1344 (k) Section 831.02, relating to uttering forged

1345 instruments.

1346 (l) Section 831.07, relating to forging bank bills,
 1347 checks, drafts, or promissory notes.

1348 (m) Section 831.09, relating to uttering forged bank
 1349 bills, checks, drafts, or promissory notes.

1350 Section 32. Section 435.01, Florida Statutes, is amended
 1351 to read:

1352 435.01 Applicability of this chapter; statutory
 1353 references; rulemaking.-

1354 (1) (a) Unless otherwise provided by law, whenever a
 1355 background screening for employment or a background security
 1356 check is required by law to be conducted pursuant to this
 1357 chapter for employment, unless otherwise provided by law, the
 1358 provisions of this chapter shall apply.

1359 (b) Unless expressly provided otherwise, a reference in
 1360 any section of the Florida Statutes to chapter 435 or to any
 1361 section or sections or portion of a section of chapter 435
 1362 includes, and shall be understood as including, all subsequent
 1363 amendments to chapter 435 or to the referenced section or
 1364 sections or portions of a section. The purpose of this chapter
 1365 is to facilitate uniform background screening and, to this end,
 1366 a reference to this chapter, or to any section or subdivision
 1367 within this chapter, constitutes a general reference under the
 1368 doctrine of incorporation by reference.

1369 (2) Agencies may adopt rules pursuant to ss. 120.536(1)
 1370 and 120.54 necessary to implement the provisions of this
 1371 chapter.

1372 Section 33. Section 435.02, Florida Statutes, is amended

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1373 to read:

1374 435.02 Definitions.—For the purposes of this chapter, the
 1375 term:

1376 (1)(3) "Licensing Agency" means any state, ~~or~~ county, or
 1377 municipal agency that which grants licenses or registration
 1378 permitting the operation of an employer or is itself an employer
 1379 or that otherwise facilitates the screening of employees
 1380 pursuant to this chapter. When there is no state ~~licensing~~
 1381 agency or the municipal or county licensing agency chooses not
 1382 to conduct employment screening, "~~licensing~~ agency" means the
 1383 Department of Children and Family Services.

1384 (2)(1) "Employee" means any person required by law to be
 1385 screened pursuant to the provisions of this chapter.

1386 (3)(2) "Employer" means any person or entity required by
 1387 law to conduct screening of employees pursuant to this chapter.

1388 (4) "Employment" means any activity or service sought to
 1389 be performed by an employee that requires the employee to be
 1390 subject to screening pursuant to this chapter.

1391 (5) "Vulnerable person" means a minor or a vulnerable
 1392 adult as defined in s. 415.102.

1393 Section 34. Section 435.03, Florida Statutes, is amended
 1394 to read:

1395 435.03 Level 1 screening standards.—

1396 (1) All employees required by law to be screened pursuant
 1397 to this section must ~~shall be required to~~ undergo background
 1398 screening as a condition of employment and continued employment
 1399 that includes. ~~For the purposes of this subsection, level 1~~
 1400 ~~screenings shall include, but~~ need not be limited to, employment

1401 history checks, ~~and~~ statewide criminal correspondence checks
 1402 through the ~~Florida~~ Department of Law Enforcement, a check of
 1403 the Dru Sjodin National Sex Offender Registry, and ~~may include~~
 1404 local criminal history records checks through local law
 1405 enforcement agencies.

1406 (2) Any person required by law to be screened pursuant to
 1407 this section must not have an arrest awaiting final disposition
 1408 for, ~~for whom employment screening is required by statute must~~
 1409 ~~not~~ have been found guilty of, regardless of adjudication, ~~or~~
 1410 entered a plea of nolo contendere or guilty to, or have been
 1411 adjudicated delinquent and the record has not been sealed or
 1412 expunged for, any offense prohibited under any provision of s.
 1413 435.04(2) of the following provisions of the Florida Statutes or
 1414 under any similar statute of another jurisdiction. ~~+~~

1415 ~~(a) Section 393.135, relating to sexual misconduct with~~
 1416 ~~certain developmentally disabled clients and reporting of such~~
 1417 ~~sexual misconduct.~~

1418 ~~(b) Section 394.4593, relating to sexual misconduct with~~
 1419 ~~certain mental health patients and reporting of such sexual~~
 1420 ~~misconduct.~~

1421 ~~(c) Section 415.111, relating to abuse, neglect, or~~
 1422 ~~exploitation of a vulnerable adult.~~

1423 ~~(d) Section 782.04, relating to murder.~~

1424 ~~(e) Section 782.07, relating to manslaughter, aggravated~~
 1425 ~~manslaughter of an elderly person or disabled adult, or~~
 1426 ~~aggravated manslaughter of a child.~~

1427 ~~(f) Section 782.071, relating to vehicular homicide.~~

1428 ~~(g) Section 782.09, relating to killing of an unborn quick~~

1429 ~~child by injury to the mother.~~

1430 ~~(h) Section 784.011, relating to assault, if the victim of~~

1431 ~~the offense was a minor.~~

1432 ~~(i) Section 784.021, relating to aggravated assault.~~

1433 ~~(j) Section 784.03, relating to battery, if the victim of~~

1434 ~~the offense was a minor.~~

1435 ~~(k) Section 784.045, relating to aggravated battery.~~

1436 ~~(l) Section 787.01, relating to kidnapping.~~

1437 ~~(m) Section 787.02, relating to false imprisonment.~~

1438 ~~(n) Section 794.011, relating to sexual battery.~~

1439 ~~(o) Former s. 794.041, relating to prohibited acts of~~

1440 ~~persons in familial or custodial authority.~~

1441 ~~(p) Chapter 796, relating to prostitution.~~

1442 ~~(q) Section 798.02, relating to lewd and lascivious~~

1443 ~~behavior.~~

1444 ~~(r) Chapter 800, relating to lewdness and indecent~~

1445 ~~exposure.~~

1446 ~~(s) Section 806.01, relating to arson.~~

1447 ~~(t) Chapter 812, relating to theft, robbery, and related~~

1448 ~~crimes, if the offense was a felony.~~

1449 ~~(u) Section 817.563, relating to fraudulent sale of~~

1450 ~~controlled substances, only if the offense was a felony.~~

1451 ~~(v) Section 825.102, relating to abuse, aggravated abuse,~~

1452 ~~or neglect of an elderly person or disabled adult.~~

1453 ~~(w) Section 825.1025, relating to lewd or lascivious~~

1454 ~~offenses committed upon or in the presence of an elderly person~~

1455 ~~or disabled adult.~~

1456 ~~(x) Section 825.103, relating to exploitation of an~~

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1457 ~~elderly person or disabled adult, if the offense was a felony.~~

1458 ~~(y) Section 826.04, relating to incest.~~

1459 ~~(z) Section 827.03, relating to child abuse, aggravated~~
1460 ~~child abuse, or neglect of a child.~~

1461 ~~(aa) Section 827.04, relating to contributing to the~~
1462 ~~delinquency or dependency of a child.~~

1463 ~~(bb) Former s. 827.05, relating to negligent treatment of~~
1464 ~~children.~~

1465 ~~(cc) Section 827.071, relating to sexual performance by a~~
1466 ~~child.~~

1467 ~~(dd) Chapter 847, relating to obscene literature.~~

1468 ~~(ee) Chapter 893, relating to drug abuse prevention and~~
1469 ~~control, only if the offense was a felony or if any other person~~
1470 ~~involved in the offense was a minor.~~

1471 ~~(ff) Section 916.1075, relating to sexual misconduct with~~
1472 ~~certain forensic clients and reporting of such sexual~~
1473 ~~misconduct.~~

1474 (3) The security background investigations under this
1475 section must ensure that no person subject to the provisions of
1476 this section has been found guilty of, regardless of
1477 adjudication, or entered a plea of nolo contendere or guilty to,
1478 any offense that constitutes domestic violence as defined in s.
1479 741.28, whether such act was committed in this state or in
1480 another jurisdiction. ~~Standards must also ensure that the~~
1481 ~~person:~~

1482 ~~(a) For employees and employers licensed or registered~~
1483 ~~pursuant to chapter 400 or chapter 429, and for employees and~~
1484 ~~employers of developmental disabilities centers as defined in s.~~

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1485 ~~393.063, intermediate care facilities for the developmentally~~
 1486 ~~disabled as defined in s. 400.960, and mental health treatment~~
 1487 ~~facilities as defined in s. 394.455, meets the requirements of~~
 1488 ~~this chapter.~~

1489 ~~(b) Has not committed an act that constitutes domestic~~
 1490 ~~violence as defined in s. 741.28.~~

1491 Section 35. Section 435.04, Florida Statutes, is amended
 1492 to read:

1493 435.04 Level 2 screening standards.—

1494 (1)(a) All employees required by law to be screened
 1495 pursuant to this section must ~~in positions designated by law as~~
 1496 ~~positions of trust or responsibility shall be required to~~
 1497 undergo security background investigations as a condition of
 1498 employment and continued employment that includes. ~~For the~~
 1499 ~~purposes of this subsection, security background investigations~~
 1500 ~~shall include, but need not be limited to, fingerprinting for~~
 1501 statewide criminal history records ~~all purposes and checks in~~
 1502 ~~this subsection, statewide criminal and juvenile records checks~~
 1503 through the ~~Florida~~ Department of Law Enforcement, and national
 1504 ~~federal~~ criminal history records checks through the Federal
 1505 Bureau of Investigation, and may include local criminal history
 1506 records checks through local law enforcement agencies.

1507 (b) Fingerprints submitted pursuant to this section on or
 1508 after July 1, 2012, must be submitted electronically to the
 1509 Department of Law Enforcement.

1510 (c) An agency may contract with one or more vendors to
 1511 perform all or part of the electronic fingerprinting pursuant to
 1512 this section. Such contracts must ensure that the owners and

1513 personnel of the vendor performing the electronic fingerprinting
 1514 are qualified and will ensure the integrity and security of all
 1515 personal information.

1516 (d) An agency may require by rule adopted pursuant to
 1517 chapter 120 that fingerprints submitted pursuant to this section
 1518 must be submitted electronically to the Department of Law
 1519 Enforcement on a date earlier than July 1, 2012.

1520 (2) The security background investigations under this
 1521 section must ensure that no persons subject to the provisions of
 1522 this section have been arrested for and are awaiting final
 1523 disposition of, have been found guilty of, regardless of
 1524 adjudication, ~~or~~ entered a plea of nolo contendere or guilty to,
 1525 or have been adjudicated delinquent and the record has not been
 1526 sealed or expunged for, any offense prohibited under any of the
 1527 following provisions of the Florida Statutes or under any
 1528 similar statute of another jurisdiction:

1529 (a) Section 393.135, relating to sexual misconduct with
 1530 certain developmentally disabled clients and reporting of such
 1531 sexual misconduct.

1532 (b) Section 394.4593, relating to sexual misconduct with
 1533 certain mental health patients and reporting of such sexual
 1534 misconduct.

1535 (c) Section 415.111, relating to adult abuse, neglect, or
 1536 exploitation of aged persons or disabled adults.

1537 (d) Section 782.04, relating to murder.

1538 (e) Section 782.07, relating to manslaughter, aggravated
 1539 manslaughter of an elderly person or disabled adult, or
 1540 aggravated manslaughter of a child.

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- 1541 (f) Section 782.071, relating to vehicular homicide.
- 1542 (g) Section 782.09, relating to killing of an unborn quick
- 1543 child by injury to the mother.
- 1544 (h) Chapter 784, relating to assault, battery, and
- 1545 culpable negligence, if the offense was a felony.
- 1546 (i)~~(h)~~ Section 784.011, relating to assault, if the victim
- 1547 of the offense was a minor.
- 1548 ~~(i) Section 784.021, relating to aggravated assault.~~
- 1549 (j) Section 784.03, relating to battery, if the victim of
- 1550 the offense was a minor.
- 1551 ~~(k) Section 784.045, relating to aggravated battery.~~
- 1552 ~~(l) Section 784.075, relating to battery on a detention or~~
- 1553 ~~commitment facility staff.~~
- 1554 (k)~~(m)~~ Section 787.01, relating to kidnapping.
- 1555 (l)~~(n)~~ Section 787.02, relating to false imprisonment.
- 1556 (m) Section 787.025, relating to luring or enticing a
- 1557 child.
- 1558 (n)~~(o)~~ Section 787.04(2), relating to taking, enticing, or
- 1559 removing a child beyond the state limits with criminal intent
- 1560 pending custody proceedings.
- 1561 (o)~~(p)~~ Section 787.04(3), relating to carrying a child
- 1562 beyond the state lines with criminal intent to avoid producing a
- 1563 child at a custody hearing or delivering the child to the
- 1564 designated person.
- 1565 (p)~~(q)~~ Section 790.115(1), relating to exhibiting firearms
- 1566 or weapons within 1,000 feet of a school.
- 1567 (q)~~(r)~~ Section 790.115(2)(b), relating to possessing an
- 1568 electric weapon or device, destructive device, or other weapon

1569 on school property.

1570 (r)~~(s)~~ Section 794.011, relating to sexual battery.

1571 (s)~~(t)~~ Former s. 794.041, relating to prohibited acts of

1572 persons in familial or custodial authority.

1573 (t) Section 794.05, relating to unlawful sexual activity

1574 with certain minors.

1575 (u) Chapter 796, relating to prostitution.

1576 (v) Section 798.02, relating to lewd and lascivious

1577 behavior.

1578 (w) Chapter 800, relating to lewdness and indecent

1579 exposure.

1580 (x) Section 806.01, relating to arson.

1581 (y) Section 810.02, relating to burglary.

1582 (z) Section 810.14, relating to voyeurism, if the offense

1583 is a felony.

1584 (aa) Section 810.145, relating to video voyeurism, if the

1585 offense is a felony.

1586 (bb)~~(y)~~ Chapter 812, relating to theft, robbery, and

1587 related crimes, if the offense is a felony.

1588 (cc)~~(z)~~ Section 817.563, relating to fraudulent sale of

1589 controlled substances, only if the offense was a felony.

1590 (dd)~~(aa)~~ Section 825.102, relating to abuse, aggravated

1591 abuse, or neglect of an elderly person or disabled adult.

1592 (ee)~~(bb)~~ Section 825.1025, relating to lewd or lascivious

1593 offenses committed upon or in the presence of an elderly person

1594 or disabled adult.

1595 (ff)~~(ee)~~ Section 825.103, relating to exploitation of an

1596 elderly person or disabled adult, if the offense was a felony.

1597 (gg)~~(dd)~~ Section 826.04, relating to incest.

1598 (hh)~~(ee)~~ Section 827.03, relating to child abuse,

1599 aggravated child abuse, or neglect of a child.

1600 (ii)~~(ff)~~ Section 827.04, relating to contributing to the

1601 delinquency or dependency of a child.

1602 (jj)~~(gg)~~ Former s. 827.05, relating to negligent treatment

1603 of children.

1604 (kk)~~(hh)~~ Section 827.071, relating to sexual performance

1605 by a child.

1606 (ll)~~(ii)~~ Section 843.01, relating to resisting arrest with

1607 violence.

1608 (mm)~~(jj)~~ Section 843.025, relating to depriving a law

1609 enforcement, correctional, or correctional probation officer

1610 means of protection or communication.

1611 (nn)~~(kk)~~ Section 843.12, relating to aiding in an escape.

1612 (oo)~~(ll)~~ Section 843.13, relating to aiding in the escape

1613 of juvenile inmates in correctional institutions.

1614 (pp)~~(mm)~~ Chapter 847, relating to obscene literature.

1615 (qq)~~(nn)~~ Section 874.05(1), relating to encouraging or

1616 recruiting another to join a criminal gang.

1617 (rr)~~(oo)~~ Chapter 893, relating to drug abuse prevention

1618 and control, only if the offense was a felony or if any other

1619 person involved in the offense was a minor.

1620 (ss)~~(pp)~~ Section 916.1075, relating to sexual misconduct

1621 with certain forensic clients and reporting of such sexual

1622 misconduct.

1623 (tt)~~(qq)~~ Section 944.35(3), relating to inflicting cruel

1624 or inhuman treatment on an inmate resulting in great bodily

1625 | harm.

1626 | (uu) Section 944.40, relating to escape.

1627 | ~~(vv)-(rr)~~ Section 944.46, relating to harboring,

1628 | concealing, or aiding an escaped prisoner.

1629 | ~~(ww)-(ss)~~ Section 944.47, relating to introduction of

1630 | contraband into a correctional facility.

1631 | ~~(xx)-(tt)~~ Section 985.701, relating to sexual misconduct in

1632 | juvenile justice programs.

1633 | ~~(yy)-(uu)~~ Section 985.711, relating to contraband

1634 | introduced into detention facilities.

1635 | (3) The security background investigations under this

1636 | section must ensure that no person subject to this section has

1637 | been found guilty of, regardless of adjudication, or entered a

1638 | plea of nolo contendere or guilty to, any offense that

1639 | constitutes domestic violence as defined in s. 741.28, whether

1640 | such act was committed in this state or in another jurisdiction.

1641 | ~~The security background investigations conducted under this~~

1642 | ~~section for employees of the Department of Juvenile Justice must~~

1643 | ~~ensure that no persons subject to the provisions of this section~~

1644 | ~~have been found guilty of, regardless of adjudication, or~~

1645 | ~~entered a plea of nolo contendere or guilty to, any offense~~

1646 | ~~prohibited under any of the following provisions of the Florida~~

1647 | ~~Statutes or under any similar statute of another jurisdiction:~~

1648 | ~~(a) Section 784.07, relating to assault or battery of law~~

1649 | ~~enforcement officers, firefighters, emergency medical care~~

1650 | ~~providers, public transit employees or agents, or other~~

1651 | ~~specified officers.~~

1652 | ~~(b) Section 810.02, relating to burglary, if the offense~~

1653 ~~is a felony.~~

1654 ~~(c) Section 944.40, relating to escape.~~

1655

1656 ~~The Department of Juvenile Justice may not remove a~~
 1657 ~~disqualification from employment or grant an exemption to any~~
 1658 ~~person who is disqualified under this section for any offense~~
 1659 ~~disposed of during the most recent 7-year period.~~

1660 ~~(4) Standards must also ensure that the person:~~

1661 ~~(a) For employees or employers licensed or registered~~
 1662 ~~pursuant to chapter 400 or chapter 429, does not have a~~
 1663 ~~confirmed report of abuse, neglect, or exploitation as defined~~
 1664 ~~in s. 415.102(6), which has been uncontested or upheld under s.~~
 1665 ~~415.103.~~

1666 ~~(b) Has not committed an act that constitutes domestic~~
 1667 ~~violence as defined in s. 741.30.~~

1668 ~~(5) Under penalty of perjury, all employees in such~~
 1669 ~~positions of trust or responsibility shall attest to meeting the~~
 1670 ~~requirements for qualifying for employment and agreeing to~~
 1671 ~~inform the employer immediately if convicted of any of the~~
 1672 ~~disqualifying offenses while employed by the employer. Each~~
 1673 ~~employer of employees in such positions of trust or~~
 1674 ~~responsibilities which is licensed or registered by a state~~
 1675 ~~agency shall submit to the licensing agency annually or at the~~
 1676 ~~time of license renewal, under penalty of perjury, an affidavit~~
 1677 ~~of compliance with the provisions of this section.~~

1678 Section 36. Section 435.05, Florida Statutes, is amended
 1679 to read:

1680 435.05 Requirements for covered employees and employers.-

1681 Except as otherwise provided by law, the following requirements
 1682 shall apply to covered employees and employers:

1683 (1) (a) Every person required by law to be screened
 1684 pursuant to the provisions of this chapter must ~~employed in a~~
 1685 ~~position for which employment screening is required must, within~~
 1686 ~~5 working days after starting to work, submit to the employer a~~
 1687 complete set of information necessary to conduct a screening
 1688 under this chapter ~~section~~.

1689 (b) For level 1 screening, the employer must submit the
 1690 information necessary for screening to the ~~Florida~~ Department of
 1691 Law Enforcement within 5 working days after receiving it. The
 1692 ~~Florida~~ Department of Law Enforcement will conduct a search of
 1693 its records and will respond to the employer or agency. The
 1694 employer will inform the employee whether screening has revealed
 1695 any disqualifying information.

1696 (c) For level 2 screening, the employer or ~~licensing~~
 1697 agency must submit the information necessary for screening to
 1698 the ~~Florida~~ Department of Law Enforcement within 5 working days
 1699 after receiving it. The ~~Florida~~ Department of Law Enforcement
 1700 will perform a criminal history records check of its ~~conduct a~~
 1701 ~~search of its criminal and juvenile records and will request~~
 1702 that the Federal Bureau of Investigation perform a national
 1703 criminal history records check ~~conduct a search~~ of its records
 1704 for each employee for whom the request is made. The ~~Florida~~
 1705 Department of Law Enforcement will respond to the employer or
 1706 ~~licensing~~ agency, and the employer or ~~licensing~~ agency will
 1707 inform the employee whether screening has revealed disqualifying
 1708 information.

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1709 (d) The person whose background is being checked must
1710 supply any missing criminal or other necessary information upon
1711 request to the requesting employer or agency within 30 days
1712 after receiving the ~~employer makes a~~ request for the information
1713 ~~or be subject to automatic disqualification.~~

1714 (2) Every employee must attest, subject to penalty of
1715 perjury, to meeting the requirements for qualifying for
1716 employment pursuant to this chapter and agreeing to inform the
1717 employer immediately if arrested for any of the disqualifying
1718 offenses while employed by the employer ~~Unless otherwise~~
1719 ~~prohibited by state or federal law, new employees may be placed~~
1720 ~~on probationary status pending a determination of compliance~~
1721 ~~with minimum standards set forth in this chapter.~~

1722 (3) Each employer that is licensed or registered with an
1723 agency and is required by law to conduct level 2 background
1724 screening must submit to the agency ~~sign an affidavit~~ annually
1725 or at the time of license renewal, under penalty of perjury, a
1726 signed affidavit attesting to compliance with the provisions of
1727 this chapter ~~stating that all covered employees have been~~
1728 ~~screened or are newly hired and are awaiting the results of the~~
1729 ~~required screening checks.~~

1730 Section 37. Section 435.06, Florida Statutes, is amended
1731 to read:

1732 435.06 Exclusion from employment.—

1733 (1) When an employer or ~~licensing~~ agency has reasonable
1734 cause to believe that grounds exist for the denial or
1735 termination of employment of any employee as a result of
1736 background screening, it shall notify the employee in writing,

1737 stating the specific record that ~~which~~ indicates noncompliance
1738 with the standards in this chapter ~~section~~. It shall be the
1739 responsibility of the affected employee to contest his or her
1740 disqualification or to request exemption from disqualification.
1741 The only basis for contesting the disqualification shall be
1742 proof of mistaken identity.

1743 (2) (a) An employer may not hire, select, or otherwise
1744 allow an employee to have contact with any vulnerable person
1745 that would place the employee in a role that would require
1746 background screening until such time as the screening process is
1747 completed and demonstrates the absence of any grounds for the
1748 denial or termination of employment. If the screening process
1749 shows any grounds for the denial or termination of employment,
1750 the employer may not hire, select, or otherwise allow the
1751 employee to have contact with any vulnerable person that would
1752 place the employee in a role that would require background
1753 screening unless the employee is granted an exemption for the
1754 disqualification by the agency as provided under s. 435.07.

1755 (b) If at any time an employer becomes aware that an
1756 employee has been arrested for a disqualifying offense, the
1757 employer must remove the employee from contact with any
1758 vulnerable person that would place the employee in a role that
1759 would require background screening until such time as the arrest
1760 is resolved in such a way that the employer determines that the
1761 employee is still eligible for employment under this chapter.

1762 (c) The employer must either terminate the employment of
1763 any of its personnel found to be in noncompliance with the
1764 minimum standards of this chapter ~~for good moral character~~

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1765 ~~contained in this section~~ or place the employee in a position
 1766 for which background screening is not required unless the
 1767 employee is granted an exemption from disqualification pursuant
 1768 to s. 435.07.

1769 (3) Any employee ~~person who is required to undergo~~
 1770 ~~employment screening and~~ who refuses to cooperate in such
 1771 screening or refuses to timely submit the information necessary
 1772 to complete the screening, including fingerprints when required,
 1773 must ~~shall~~ be disqualified for employment in such position or,
 1774 if employed, must ~~shall~~ be dismissed.

1775 (4) There is no unemployment compensation or other
 1776 monetary liability on the part of, and no cause of action for
 1777 damages arising against, an employer that, upon notice of a
 1778 conviction or arrest for a disqualifying offense listed under
 1779 this chapter, terminates the person against whom the report was
 1780 issued or who was arrested, regardless of whether that person
 1781 has filed for an exemption pursuant to this chapter.

1782 Section 38. Section 435.07, Florida Statutes, is amended
 1783 to read:

1784 435.07 Exemptions from disqualification.—Unless otherwise
 1785 provided by law, the provisions of this section shall apply to
 1786 exemptions from disqualification for disqualifying offenses
 1787 revealed pursuant to background screenings required by law to be
 1788 conducted pursuant to this chapter, regardless of whether those
 1789 disqualifying offenses are listed in this chapter or are in
 1790 other statutes.

1791 (1) The head of the appropriate ~~licensing~~ agency may grant
 1792 to any employee otherwise disqualified from employment an

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1793 exemption from disqualification for:

1794 (a) Felonies for which at least 3 years have elapsed since
 1795 the applicant for the exemption has completed or been lawfully
 1796 released from any confinement, supervision, or sanction for the
 1797 disqualifying felony committed more than 3 years prior to the
 1798 date of disqualification;

1799 (b) Misdemeanors prohibited under any of the Florida
 1800 Statutes cited in this chapter or under similar statutes of
 1801 other jurisdictions for which the applicant for the exemption
 1802 has completed or been lawfully released from any confinement,
 1803 supervision, or sanction for the disqualifying misdemeanor;

1804 (c) Offenses that were felonies when committed but are now
 1805 misdemeanors and for which the applicant for the exemption has
 1806 completed or been lawfully released from any confinement,
 1807 supervision, or sanction for the disqualifying offense; or

1808 (d) Findings of delinquency. For offenses that would be
 1809 felonies if committed by an adult and the record has not been
 1810 sealed or expunged, then the exemption may not be granted until
 1811 at least 3 years have elapsed since the applicant for the
 1812 exemption has completed or been lawfully released from any
 1813 confinement, supervision, or sanction for the disqualifying
 1814 offense; or

1815 ~~(e) Commissions of acts of domestic violence as defined in~~
 1816 ~~s. 741.30.~~

1817
 1818 For the purposes of this subsection, the term "felonies" means
 1819 both felonies prohibited under any of the Florida Statutes cited
 1820 in this chapter or under similar statutes of other

1821 jurisdictions.

1822 (2) Persons employed, or applicants for employment, by
 1823 treatment providers who treat adolescents 13 years of age and
 1824 older who are disqualified from employment solely because of
 1825 crimes under s. 817.563, s. 893.13, or s. 893.147 may be
 1826 exempted from disqualification from employment pursuant to this
 1827 chapter section without application of the ~~3-year~~ waiting period
 1828 in paragraph (1) (a).

1829 (3) (a) In order for the head of an agency ~~a licensing~~
 1830 ~~department~~ to grant an exemption to any employee, the employee
 1831 must demonstrate by clear and convincing evidence that the
 1832 employee should not be disqualified from employment. Employees
 1833 seeking an exemption have the burden of setting forth clear and
 1834 convincing ~~sufficient~~ evidence of rehabilitation, including, but
 1835 not limited to, the circumstances surrounding the criminal
 1836 incident for which an exemption is sought, the time period that
 1837 has elapsed since the incident, the nature of the harm caused to
 1838 the victim, and the history of the employee since the incident,
 1839 or any other evidence or circumstances indicating that the
 1840 employee will not present a danger if employment or continued
 1841 employment is allowed.

1842 (b) The agency may consider as part of its deliberations
 1843 of the employee's rehabilitation the fact that the employee has,
 1844 subsequent to the conviction for the disqualifying offense for
 1845 which the exemption is being sought, been arrested for or
 1846 convicted of another crime, even if that crime is not a
 1847 disqualifying offense.

1848 (c) The decision of the head of an agency ~~licensing~~

1849 ~~department~~ regarding an exemption may be contested through the
 1850 hearing procedures set forth in chapter 120. The standard of
 1851 review by the administrative law judge is whether the agency's
 1852 intended action is an abuse of discretion.

1853 (4) (a) Disqualification from employment under this chapter
 1854 ~~subsection (1)~~ may not be removed from, nor may an exemption be
 1855 granted to, any personnel who is found guilty of, regardless of
 1856 adjudication, or who has entered a plea of nolo contendere or
 1857 guilty to, any felony covered by s. 435.03 or s. 435.04 solely
 1858 by reason of any pardon, executive clemency, or restoration of
 1859 civil rights.

1860 (b) Disqualification from employment under this chapter
 1861 may not be removed from, nor may an exemption be granted to, any
 1862 person who has been designated as a:

- 1863 1. Sexual predator pursuant to s. 775.21;
- 1864 2. Career offender pursuant to s. 775.261; or
- 1865 3. Sexual offender pursuant to s. 943.0435, unless the
 1866 person has had the sexual offender designation removed pursuant
 1867 to s. 943.04354.

1868 (5) Exemptions granted by one ~~licensing~~ agency shall be
 1869 considered by subsequent ~~licensing~~ agencies, but are not binding
 1870 on the subsequent ~~licensing~~ agency.

1871 Section 39. Section 435.08, Florida Statutes, is amended
 1872 to read:

1873 435.08 Payment for processing of fingerprints and state
 1874 criminal history records checks.—Either the employer or the
 1875 employee is responsible for paying the costs of screening.
 1876 Payment shall be submitted to the ~~Florida~~ Department of Law

1877 Enforcement with the request for screening. The appropriate
 1878 agency is responsible for collecting and paying any fee related
 1879 to fingerprints retained on its behalf to the Department of Law
 1880 Enforcement for costs resulting from the fingerprint information
 1881 retention services. The amount of the annual fee and procedures
 1882 for the submission and retention of fingerprint information and
 1883 for the dissemination of search results shall be established by
 1884 rule of the Department of Law Enforcement.

1885 Section 40. Paragraph (d) of subsection (4) of section
 1886 456.039, Florida Statutes, is amended to read:

1887 456.039 Designated health care professionals; information
 1888 required for licensure.-

1889 (4)

1890 ~~(d) Any applicant for initial licensure or renewal of~~
 1891 ~~licensure as a health care practitioner who submits to the~~
 1892 ~~Department of Health a set of fingerprints or information~~
 1893 ~~required for the criminal history check required under this~~
 1894 ~~section shall not be required to provide a subsequent set of~~
 1895 ~~fingerprints or other duplicate information required for a~~
 1896 ~~criminal history check to the Agency for Health Care~~
 1897 ~~Administration, the Department of Juvenile Justice, or the~~
 1898 ~~Department of Children and Family Services for employment or~~
 1899 ~~licensure with such agency or department if the applicant has~~
 1900 ~~undergone a criminal history check as a condition of initial~~
 1901 ~~licensure or licensure renewal as a health care practitioner~~
 1902 ~~with the Department of Health or any of its regulatory boards,~~
 1903 ~~notwithstanding any other provision of law to the contrary. In~~
 1904 ~~lieu of such duplicate submission, the Agency for Health Care~~

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1905 ~~Administration, the Department of Juvenile Justice, and the~~
 1906 ~~Department of Children and Family Services shall obtain criminal~~
 1907 ~~history information for employment or licensure of health care~~
 1908 ~~practitioners by such agency and departments from the Department~~
 1909 ~~of Health's health care practitioner credentialing system.~~

1910 Section 41. Subsection (1) of section 464.203, Florida
 1911 Statutes, is amended to read:

1912 464.203 Certified nursing assistants; certification
 1913 requirement.—

1914 (1) The board shall issue a certificate to practice as a
 1915 certified nursing assistant to any person who demonstrates a
 1916 minimum competency to read and write and successfully passes the
 1917 required background ~~Level I or Level II~~ screening pursuant to s.
 1918 400.215 and meets one of the following requirements:

1919 (a) Has successfully completed an approved training
 1920 program and achieved a minimum score, established by rule of the
 1921 board, on the nursing assistant competency examination, which
 1922 consists of a written portion and skills-demonstration portion
 1923 approved by the board and administered at a site and by
 1924 personnel approved by the department.

1925 (b) Has achieved a minimum score, established by rule of
 1926 the board, on the nursing assistant competency examination,
 1927 which consists of a written portion and skills-demonstration
 1928 portion, approved by the board and administered at a site and by
 1929 personnel approved by the department and:

- 1930 1. Has a high school diploma, or its equivalent; or
- 1931 2. Is at least 18 years of age.

1932 (c) Is currently certified in another state; is listed on

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1933 that state's certified nursing assistant registry; and has not
 1934 been found to have committed abuse, neglect, or exploitation in
 1935 that state.

1936 (d) Has completed the curriculum developed under the
 1937 Enterprise Florida Jobs and Education Partnership Grant and
 1938 achieved a minimum score, established by rule of the board, on
 1939 the nursing assistant competency examination, which consists of
 1940 a written portion and skills-demonstration portion, approved by
 1941 the board and administered at a site and by personnel approved
 1942 by the department.

1943 Section 42. Subsection (9) of section 489.115, Florida
 1944 Statutes, is amended to read:

1945 489.115 Certification and registration; endorsement;
 1946 reciprocity; renewals; continuing education.—

1947 (9) An initial applicant shall submit, along with the
 1948 application, a complete set of fingerprints to in a form and
 1949 ~~manner required by~~ the department. The fingerprints shall be
 1950 submitted to the Department of Law Enforcement for state
 1951 processing, and the Department of Law Enforcement shall forward
 1952 them to the Federal Bureau of Investigation for national
 1953 processing, to determine whether the applicant has a criminal
 1954 history record for the purpose of conducting a level 2
 1955 ~~background check pursuant to s. 435.04~~. The department shall and
 1956 the board may review the background results to determine if an
 1957 applicant meets licensure requirements. The cost for the
 1958 fingerprint processing shall be borne by the person subject to
 1959 the background screening. These fees are to be collected by the
 1960 authorized agencies or vendors. The authorized agencies or

1961 vendors are responsible for paying the processing costs to the
 1962 Department of Law Enforcement.

1963 Section 43. Paragraphs (g) and (h) of subsection (2) of
 1964 section 943.05, Florida Statutes, are amended, and subsection
 1965 (4) is added to that section, to read:

1966 943.05 Criminal Justice Information Program; duties; crime
 1967 reports.—

1968 (2) The program shall:

1969 (g) Upon official written request, and subject to the
 1970 department having sufficient funds and equipment to participate
 1971 in such a request, from the agency executive director or
 1972 secretary, or from his or her designee, or from qualified
 1973 entities participating in the volunteer and employee criminal
 1974 history screening system under s. 943.0542, or as otherwise
 1975 required ~~As authorized~~ by law, retain fingerprints submitted by
 1976 criminal and noncriminal justice agencies to the department for
 1977 a criminal history background screening in a manner provided by
 1978 rule and enter the fingerprints in the statewide automated
 1979 fingerprint identification system authorized by paragraph (b).
 1980 Such fingerprints shall thereafter be available for all purposes
 1981 and uses authorized for arrest fingerprint submissions ~~cards~~
 1982 entered into the statewide automated fingerprint identification
 1983 system pursuant to s. 943.051.

1984 (h) ~~1.~~ For each agency or qualified entity that officially
 1985 requests retention of fingerprints or for which retention is
 1986 otherwise required ~~As authorized~~ by law, search all arrest
 1987 fingerprint submissions ~~cards~~ received under s. 943.051 against
 1988 the fingerprints retained in the statewide automated fingerprint

1989 identification system under paragraph (g).

1990 1. Any arrest record that is identified with the retained

1991 fingerprints of a person subject to background screening as

1992 provided in paragraph (g) shall be reported to the appropriate

1993 agency or qualified entity.

1994 2. ~~To Agencies may~~ participate in this search process,

1995 agencies or qualified entities must notify each person

1996 fingerprinted that his or her fingerprints will be retained, pay

1997 ~~by payment of~~ an annual fee to the department, and inform by

1998 ~~informing~~ the department of any change in the affiliation,

1999 employment, or contractual status ~~or place of affiliation,~~

2000 ~~employment, or contracting of~~ each person ~~the persons~~ whose

2001 fingerprints are retained under paragraph (g) when such change

2002 removes or eliminates the agency or qualified entity's basis or

2003 need for receiving reports of any arrest of that person, so that

2004 the agency or qualified entity will not be obligated to pay the

2005 upcoming annual fee for the retention and searching of that

2006 person's fingerprints to the department. The department shall

2007 adopt a rule setting the amount of the annual fee to be imposed

2008 upon each participating agency or qualified entity for

2009 performing these searches and establishing the procedures for

2010 the retention of fingerprints and the dissemination of search

2011 results. The fee may be borne by the agency, qualified entity,

2012 or person subject to fingerprint retention or as otherwise

2013 ~~provided by law. Fees may be waived or reduced by the executive~~

2014 ~~director for good cause shown.~~ Consistent with the recognition

2015 of criminal justice agencies expressed in s. 943.053(3), these

2016 services will be provided to criminal justice agencies for

2017 criminal justice purposes free of charge.

2018 3. Agencies that participate in the fingerprint retention
 2019 and search process may adopt rules pursuant to ss. 120.536(1)
 2020 and 120.54 to require employers to keep the agency informed of
 2021 any change in the affiliation, employment, or contractual status
 2022 of each person whose fingerprints are retained under paragraph
 2023 (g) when such change removes or eliminates the agency's basis or
 2024 need for receiving reports of any arrest of that person, so that
 2025 the agency will not be obligated to pay the upcoming annual fee
 2026 for the retention and searching of that person's fingerprints to
 2027 the department.

2028 (4) Upon notification that a federal fingerprint retention
 2029 program is in effect, and subject to the department being funded
 2030 and equipped to participate in such a program, the department
 2031 shall, when state and national criminal history records checks
 2032 and retention of submitted prints are authorized or required by
 2033 law, retain the fingerprints as provided in paragraphs (2)(g)
 2034 and (h) and advise the Federal Bureau of Investigation to retain
 2035 the fingerprints at the national level for searching against
 2036 arrest fingerprint submissions received at the national level.

2037 Section 44. Subsections (6) and (11) of section 943.053,
 2038 Florida Statutes, are amended to read:

2039 943.053 Dissemination of criminal justice information;
 2040 fees.—

2041 (6) Notwithstanding any other provision of law, the
 2042 department shall provide to the ~~Florida~~ Department of Revenue
 2043 ~~Child Support Enforcement~~ access to Florida criminal history
 2044 records which are not exempt from disclosure under chapter 119,

2045 and to such information as may be lawfully available from other
 2046 states via the National Law Enforcement Telecommunications
 2047 System, for the purpose of locating subjects who owe or
 2048 potentially owe support, as defined in s. 409.2554, or to whom
 2049 such obligation is owed pursuant to Title IV-D of the Social
 2050 Security Act. Such information may be provided to child support
 2051 enforcement authorities in other states for these specific
 2052 purposes.

2053 (11) A criminal justice agency that is authorized under
 2054 federal rules or law to conduct a criminal history background
 2055 check on an agency employee who is not certified by the Criminal
 2056 Justice Standards and Training Commission under s. 943.12 may
 2057 submit to the department the fingerprints of the noncertified
 2058 employee to obtain state and national criminal history
 2059 information. ~~Effective January 15, 2007,~~ The fingerprints
 2060 submitted shall be retained and entered in the statewide
 2061 automated fingerprint identification system authorized by s.
 2062 943.05 and shall be available for all purposes and uses
 2063 authorized for arrest fingerprint submissions ~~cards~~ entered in
 2064 the statewide automated fingerprint identification system
 2065 pursuant to s. 943.051. The department shall search all arrest
 2066 fingerprint submissions ~~cards~~ received pursuant to s. 943.051
 2067 against the fingerprints retained in the statewide automated
 2068 fingerprint identification system pursuant to this section. In
 2069 addition to all purposes and uses authorized for arrest
 2070 fingerprint submissions ~~cards~~ for which submitted fingerprints
 2071 may be used, any arrest record that is identified with the
 2072 retained employee fingerprints must be reported to the

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2073 submitting employing agency.

2074 Section 45. Section 985.644, Florida Statutes, is amended
2075 to read:

2076 985.644 Departmental contracting powers; personnel
2077 standards and screening.—

2078 (1) ~~The department of Juvenile Justice or the Department~~
2079 ~~of Children and Family Services, as appropriate,~~ may contract
2080 with the Federal Government, other state departments and
2081 agencies, county and municipal governments and agencies, public
2082 and private agencies, and private individuals and corporations
2083 in carrying out the purposes of, and the responsibilities
2084 established in, this chapter.

2085 (a) ~~When the Department of Juvenile Justice or the~~
2086 ~~Department of Children and Family Services contracts with a~~
2087 ~~provider for any program for children, all personnel, including~~
2088 ~~owners, operators, employees, and volunteers, in the facility~~
2089 ~~must be of good moral character.~~ Each contract entered into by
2090 the either department for services delivered on an appointment
2091 or intermittent basis by a provider that does not have regular
2092 custodial responsibility for children and each contract with a
2093 school for before or aftercare services must ensure that the all
2094 owners, operators, and all personnel who have direct contact
2095 with children are subject to level 2 background screening
2096 pursuant to chapter 435 of good moral character.

2097 (b) A volunteer who assists the department or any program
2098 for children on an intermittent basis for less than 40 hours per
2099 month need not be screened if the volunteer is under direct and
2100 constant supervision by persons who meet the screening

2101 requirements.

2102 ~~(b) The Department of Juvenile Justice and the Department~~
 2103 ~~of Children and Family Services shall require employment~~
 2104 ~~screening pursuant to chapter 435, using the level 2 standards~~
 2105 ~~set forth in that chapter for personnel in programs for children~~
 2106 ~~or youths.~~

2107 ~~(c) The Department of Juvenile Justice or the Department~~
 2108 ~~of Children and Family Services may grant exemptions from~~
 2109 ~~disqualification from working with children as provided in s.~~
 2110 ~~435.07.~~

2111 (2) ~~The department may contract with the Federal~~
 2112 ~~Government, other state departments and agencies, county and~~
 2113 ~~municipal governments and agencies, public and private agencies,~~
 2114 ~~and private individuals and corporations in carrying out the~~
 2115 ~~purposes and the responsibilities of the delinquency services~~
 2116 ~~and programs of the department.~~

2117 ~~(3)~~ The department shall adopt a rule pursuant to chapter
 2118 120 establishing a procedure to provide notice of policy changes
 2119 that affect contracted delinquency services and programs. A
 2120 policy is defined as an operational requirement that applies to
 2121 only the specified contracted delinquency service or program.

2122 The procedure shall include:

- 2123 (a) Public notice of policy development.
- 2124 (b) Opportunity for public comment on the proposed policy.
- 2125 (c) Assessment for fiscal impact upon the department and
 2126 providers.
- 2127 (d) The department's response to comments received.

2128 ~~(4) When the department contracts with a provider for any~~

2129 ~~delinquency service or program, all personnel, including all~~
 2130 ~~owners, operators, employees, and volunteers in the facility or~~
 2131 ~~providing the service or program shall be of good moral~~
 2132 ~~character. A volunteer who assists on an intermittent basis for~~
 2133 ~~less than 40 hours per month is not required to be screened if~~
 2134 ~~the volunteer is under direct and constant supervision by~~
 2135 ~~persons who meet the screening requirements.~~

2136 (3)-(5) (a) All employees of the department and all
 2137 personnel of contract providers for any program for children,
 2138 including all owners, operators, employees, persons who have
 2139 access to confidential juvenile records, and volunteers, must
 2140 complete ~~For any person employed by the department, or by a~~
 2141 ~~provider under contract with the department, in delinquency~~
 2142 ~~facilities, services, or programs, the department shall require:~~

2143 1. A level 2 employment screening pursuant to chapter 435
 2144 prior to employment. The security background investigations
 2145 conducted under this section must ensure that, in addition to
 2146 the disqualifying offenses listed in s. 435.04, no person
 2147 subject to the background screening provisions of this section
 2148 has an arrest awaiting final disposition for, been found guilty
 2149 of, regardless of adjudication, or entered a plea of nolo
 2150 contendere or guilty to, or has been adjudicated delinquent and
 2151 the record has not been sealed or expunged for, any offense
 2152 prohibited under any of the following provisions of the Florida
 2153 Statutes or under any similar statute of another jurisdiction:

2154 a. Section 784.07, relating to assault or battery of law
 2155 enforcement officers, firefighters, emergency medical care
 2156 providers, public transit employees or agents, or other

2157 specified officers.

2158 b. Section 817.568, relating to criminal use of personal
 2159 identification information.

2160 2. A national ~~federal~~ criminal history records check by
 2161 the Federal Bureau of Investigation every 5 years following the
 2162 date of the person's employment.

2163 (b) Except for law enforcement, correctional, and
 2164 correctional probation officers, to whom s. 943.13(5) applies,
 2165 the department shall electronically submit to the Department of
 2166 Law Enforcement:

2167 1. Fingerprint information obtained during the employment
 2168 screening required by subparagraph (a)1.

2169 2. ~~Beginning on December 15, 2005,~~ Fingerprint information
 2170 for all persons employed by the department, or by a provider
 2171 under contract with the department, in delinquency facilities,
 2172 services, or programs if such fingerprint information has not
 2173 previously been electronically submitted to the Department of
 2174 Law Enforcement under this paragraph.

2175 (c) All fingerprint information electronically submitted
 2176 to the Department of Law Enforcement under paragraph (b) shall
 2177 be retained by the Department of Law Enforcement and entered
 2178 into the statewide automated fingerprint identification system
 2179 authorized by s. 943.05(2)(b). Thereafter, such fingerprint
 2180 information shall be available for all purposes and uses
 2181 authorized for arrest fingerprint information entered into the
 2182 statewide automated fingerprint identification system pursuant
 2183 to s. 943.051 until the fingerprint information is removed
 2184 pursuant to paragraph (e). The Department of Law Enforcement

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2185 shall search all arrest fingerprint information received
2186 pursuant to s. 943.051 against the fingerprint information
2187 entered into the statewide automated fingerprint system pursuant
2188 to this subsection. Any arrest records identified as a result of
2189 the search shall be reported to the department in the manner and
2190 timeframe established by the Department of Law Enforcement by
2191 rule.

2192 (d) The department shall pay an annual fee to the
2193 Department of Law Enforcement for its costs resulting from the
2194 fingerprint information retention services required by this
2195 subsection. The amount of the annual fee and procedures for the
2196 submission and retention of fingerprint information and for the
2197 dissemination of search results shall be established by the
2198 Department of Law Enforcement by a rule that is applicable to
2199 the department individually pursuant to this subsection or that
2200 is applicable to the department and other employing agencies
2201 pursuant to rulemaking authority otherwise provided by law.

2202 (e) The department shall notify the Department of Law
2203 Enforcement when a person whose fingerprint information is
2204 retained by the Department of Law Enforcement under this
2205 subsection is no longer employed by the department, or by a
2206 provider under contract with the department, in a delinquency
2207 facility, service, or program. This notice shall be provided by
2208 the department to the Department of Law Enforcement no later
2209 than 6 months after the date of the change in the person's
2210 employment status. Fingerprint information for persons
2211 identified by the department in the notice shall be removed from
2212 the statewide automated fingerprint system.

2213 (6) The department may grant exemptions from
 2214 disqualification from working with children as provided in s.
 2215 435.07.

2216 (7) The department may adopt rules pursuant to ss.
 2217 120.536(1) and 120.54 to describe the procedure and requirements
 2218 necessary to implement the employment screening and fingerprint
 2219 retention services for all employees of the department and all
 2220 personnel of contract providers for any program for children,
 2221 including all owners, operators, employees, and volunteers,
 2222 including the collection of associated fees.

2223 Section 46. Paragraph (a) of subsection (1) of section
 2224 381.60225, Florida Statutes, is amended to read:

2225 381.60225 Background screening.-

2226 (1) Each applicant for certification must comply with the
 2227 following requirements:

2228 (a) Upon receipt of a completed, signed, and dated
 2229 application, the Agency for Health Care Administration shall
 2230 require background screening, in accordance with the level 2
 2231 standards for screening set forth in chapter 435, of the
 2232 managing employee, or other similarly titled individual
 2233 responsible for the daily operation of the organization, agency,
 2234 or entity, and financial officer, or other similarly titled
 2235 individual who is responsible for the financial operation of the
 2236 organization, agency, or entity, including billings for
 2237 services. The applicant must comply with the procedures for
 2238 level 2 background screening as set forth in chapter 435, ~~as~~
 2239 ~~well as the requirements of s. 435.03(3).~~

2240 Section 47. Subsection (32) of section 409.912, Florida

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2241 Statutes, is amended to read:

2242 409.912 Cost-effective purchasing of health care.—The
2243 agency shall purchase goods and services for Medicaid recipients
2244 in the most cost-effective manner consistent with the delivery
2245 of quality medical care. To ensure that medical services are
2246 effectively utilized, the agency may, in any case, require a
2247 confirmation or second physician's opinion of the correct
2248 diagnosis for purposes of authorizing future services under the
2249 Medicaid program. This section does not restrict access to
2250 emergency services or poststabilization care services as defined
2251 in 42 C.F.R. part 438.114. Such confirmation or second opinion
2252 shall be rendered in a manner approved by the agency. The agency
2253 shall maximize the use of prepaid per capita and prepaid
2254 aggregate fixed-sum basis services when appropriate and other
2255 alternative service delivery and reimbursement methodologies,
2256 including competitive bidding pursuant to s. 287.057, designed
2257 to facilitate the cost-effective purchase of a case-managed
2258 continuum of care. The agency shall also require providers to
2259 minimize the exposure of recipients to the need for acute
2260 inpatient, custodial, and other institutional care and the
2261 inappropriate or unnecessary use of high-cost services. The
2262 agency shall contract with a vendor to monitor and evaluate the
2263 clinical practice patterns of providers in order to identify
2264 trends that are outside the normal practice patterns of a
2265 provider's professional peers or the national guidelines of a
2266 provider's professional association. The vendor must be able to
2267 provide information and counseling to a provider whose practice
2268 patterns are outside the norms, in consultation with the agency,

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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2269 | to improve patient care and reduce inappropriate utilization.
2270 | The agency may mandate prior authorization, drug therapy
2271 | management, or disease management participation for certain
2272 | populations of Medicaid beneficiaries, certain drug classes, or
2273 | particular drugs to prevent fraud, abuse, overuse, and possible
2274 | dangerous drug interactions. The Pharmaceutical and Therapeutics
2275 | Committee shall make recommendations to the agency on drugs for
2276 | which prior authorization is required. The agency shall inform
2277 | the Pharmaceutical and Therapeutics Committee of its decisions
2278 | regarding drugs subject to prior authorization. The agency is
2279 | authorized to limit the entities it contracts with or enrolls as
2280 | Medicaid providers by developing a provider network through
2281 | provider credentialing. The agency may competitively bid single-
2282 | source-provider contracts if procurement of goods or services
2283 | results in demonstrated cost savings to the state without
2284 | limiting access to care. The agency may limit its network based
2285 | on the assessment of beneficiary access to care, provider
2286 | availability, provider quality standards, time and distance
2287 | standards for access to care, the cultural competence of the
2288 | provider network, demographic characteristics of Medicaid
2289 | beneficiaries, practice and provider-to-beneficiary standards,
2290 | appointment wait times, beneficiary use of services, provider
2291 | turnover, provider profiling, provider licensure history,
2292 | previous program integrity investigations and findings, peer
2293 | review, provider Medicaid policy and billing compliance records,
2294 | clinical and medical record audits, and other factors. Providers
2295 | shall not be entitled to enrollment in the Medicaid provider
2296 | network. The agency shall determine instances in which allowing

2297 Medicaid beneficiaries to purchase durable medical equipment and
 2298 other goods is less expensive to the Medicaid program than long-
 2299 term rental of the equipment or goods. The agency may establish
 2300 rules to facilitate purchases in lieu of long-term rentals in
 2301 order to protect against fraud and abuse in the Medicaid program
 2302 as defined in s. 409.913. The agency may seek federal waivers
 2303 necessary to administer these policies.

2304 (32) Each managed care plan that is under contract with
 2305 the agency to provide health care services to Medicaid
 2306 recipients shall annually conduct a background check with the
 2307 Florida Department of Law Enforcement of all persons with
 2308 ownership interest of 5 percent or more or executive management
 2309 responsibility for the managed care plan and shall submit to the
 2310 agency information concerning any such person who has been found
 2311 guilty of, regardless of adjudication, or has entered a plea of
 2312 nolo contendere or guilty to, any of the offenses listed in s.
 2313 435.04 ~~435.03~~.

2314 Section 48. Paragraph (e) of subsection (1) of section
 2315 464.018, Florida Statutes, is amended to read:

2316 464.018 Disciplinary actions.—

2317 (1) The following acts constitute grounds for denial of a
 2318 license or disciplinary action, as specified in s. 456.072(2):

2319 (e) Having been found guilty of, regardless of
 2320 adjudication, or entered a plea of nolo contendere or guilty to,
 2321 any offense prohibited under s. 435.04 ~~435.03~~ or under any
 2322 similar statute of another jurisdiction; or having committed an
 2323 act which constitutes domestic violence as defined in s. 741.28.

2324 Section 49. Paragraph (m) of subsection (1) of section

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2325 468.3101, Florida Statutes, is amended to read:

2326 468.3101 Disciplinary grounds and actions.—

2327 (1) The department may make or require to be made any
 2328 investigations, inspections, evaluations, and tests, and require
 2329 the submission of any documents and statements, which it
 2330 considers necessary to determine whether a violation of this
 2331 part has occurred. The following acts shall be grounds for
 2332 disciplinary action as set forth in this section:

2333 (m) Having been found guilty of, regardless of
 2334 adjudication, or pleading guilty or nolo contendere to, any
 2335 offense prohibited under s. 435.04 ~~435.03~~ or under any similar
 2336 statute of another jurisdiction.

2337 Section 50. Subsection (3) of section 744.309, Florida
 2338 Statutes, is amended to read:

2339 744.309 Who may be appointed guardian of a resident ward.—

2340 (3) DISQUALIFIED PERSONS.—No person who has been convicted
 2341 of a felony or who, from any incapacity or illness, is incapable
 2342 of discharging the duties of a guardian, or who is otherwise
 2343 unsuitable to perform the duties of a guardian, shall be
 2344 appointed to act as guardian. Further, no person who has been
 2345 judicially determined to have committed abuse, abandonment, or
 2346 neglect against a child as defined in s. 39.01 or s. 984.03(1),
 2347 (2), and (37), or who has been found guilty of, regardless of
 2348 adjudication, or entered a plea of nolo contendere or guilty to,
 2349 any offense prohibited under s. 435.04 ~~435.03~~ or under any
 2350 similar statute of another jurisdiction, shall be appointed to
 2351 act as a guardian. Except as provided in subsection (5) or
 2352 subsection (6), a person who provides substantial services to

2353 the proposed ward in a professional or business capacity, or a
 2354 creditor of the proposed ward, may not be appointed guardian and
 2355 retain that previous professional or business relationship. A
 2356 person may not be appointed a guardian if he or she is in the
 2357 employ of any person, agency, government, or corporation that
 2358 provides service to the proposed ward in a professional or
 2359 business capacity, except that a person so employed may be
 2360 appointed if he or she is the spouse, adult child, parent, or
 2361 sibling of the proposed ward or the court determines that the
 2362 potential conflict of interest is insubstantial and that the
 2363 appointment would clearly be in the proposed ward's best
 2364 interest. The court may not appoint a guardian in any other
 2365 circumstance in which a conflict of interest may occur.

2366 Section 51. Subsection (12) of section 744.474, Florida
 2367 Statutes, is amended to read:

2368 744.474 Reasons for removal of guardian.—A guardian may be
 2369 removed for any of the following reasons, and the removal shall
 2370 be in addition to any other penalties prescribed by law:

2371 (12) Having been found guilty of, regardless of
 2372 adjudication, or entered a plea of nolo contendere or guilty to,
 2373 any offense prohibited under s. 435.04 ~~435.03~~ or under any
 2374 similar statute of another jurisdiction.

2375 Section 52. Paragraph (a) of subsection (6) of section
 2376 985.04, Florida Statutes, is amended to read:

2377 985.04 Oaths; records; confidential information.—

2378 (6) (a) Records maintained by the department, including
 2379 copies of records maintained by the court, which pertain to a
 2380 child found to have committed a delinquent act which, if

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2381 committed by an adult, would be a crime specified in s. ~~ss.~~
 2382 ~~435.03~~ and 435.04 may not be destroyed under this section for a
 2383 period of 25 years after the youth's final referral to the
 2384 department, except in cases of the death of the child. Such
 2385 records, however, shall be sealed by the court for use only in
 2386 meeting the screening requirements for personnel in s. 402.3055
 2387 and the other sections cited above, or under departmental rule;
 2388 however, current criminal history information must be obtained
 2389 from the Department of Law Enforcement in accordance with s.
 2390 943.053. The information shall be released to those persons
 2391 specified in the above cited sections for the purposes of
 2392 complying with those sections. The court may punish by contempt
 2393 any person who releases or uses the records for any unauthorized
 2394 purpose.

2395 Section 53. The changes made by this act are intended to
 2396 be prospective in nature. It is not intended that persons who
 2397 are employed or licensed on the effective date of this act be
 2398 rescreened until such time as they are otherwise required to be
 2399 rescreened pursuant to law, at which time they must meet the
 2400 requirements for screening as set forth in this act.

2401 Section 54. This act shall take effect July 1, 2010.