

By the Committees on Budget Subcommittee on Health and Human Services Appropriations; and Children, Families, and Elder Affairs; and Senators Storms, Thrasher, and Rich

603-04241-12

2012320c2

1 A bill to be entitled
2 An act relating to background screening; amending s.
3 394.4572, F.S.; providing that mental health personnel
4 working in a facility licensed under ch. 395, F.S.,
5 who work on an intermittent basis for less than 15
6 hours per week of direct, face-to-face contact with
7 patients are exempt from the fingerprinting and
8 screening requirements under certain conditions;
9 providing an exception; amending s. 408.809, F.S.;
10 providing additional conditions for a person to
11 satisfy screening requirements; eliminating a rule
12 that requires the Agency for Health Care
13 Administration to stagger rescreening schedules;
14 providing a rescreening schedule; amending s.
15 409.1757, F.S.; adding law enforcement officers who
16 have a good moral character to the list of
17 professionals who are not required to be
18 refingerprinted or rescreened; amending s. 409.221,
19 F.S.; revising provisions relating to background
20 screening for persons rendering care in the consumer-
21 directed care program; amending s. 413.20, F.S.,
22 relating to general vocational rehabilitation
23 programs; providing a definition; amending s. 413.208,
24 F.S.; requiring registration of service providers;
25 requiring background screening and rescreening of
26 certain persons having contact with vulnerable
27 persons; providing exemptions from background
28 screening; providing disqualifying offenses; providing
29 that the cost of screening shall be borne by the

603-04241-12

2012320c2

30 provider or the person being screened; providing
31 conditions for the denial of registration; providing
32 for notice of denial or termination; requiring
33 providers to remove persons who have not successfully
34 passed screening; providing for applicability;
35 amending s. 430.0402, F.S.; including a person who has
36 access to a client's personal identification
37 information within the definition of the term "direct
38 service provider"; exempting certain professionals
39 licensed by the Department of Health, attorneys in
40 good standing, relatives of clients, and volunteers
41 who assist on an intermittent basis for less than 20
42 hours per month from level 2 background screening;
43 excepting certain licensed professionals and persons
44 screened as a licensure requirement from further
45 screening under certain circumstances; requiring
46 direct service providers working as of a certain date
47 to be screened within a specified period; providing a
48 phase-in for screening direct service providers;
49 requiring that employers of direct service providers
50 and certain other individuals be rescreened every 5
51 years unless fingerprints are retained electronically
52 by the Department of Law Enforcement; removing an
53 offense from the list of disqualifying offenses for
54 purposes of background screening; amending s. 435.02,
55 F.S.; revising and providing definitions relating to
56 employment screening; amending s. 435.04, F.S.;
57 requiring vendors who submit fingerprints on behalf of
58 employers to meet specified criteria; amending s.

603-04241-12

2012320c2

59 435.06, F.S.; authorizing an employer to hire an
60 employee to a position that otherwise requires
61 background screening before the completion of the
62 screening process for the purpose of training the
63 employee; prohibiting the employee from having direct
64 contact with vulnerable persons until the screening
65 process is complete; creating s. 435.12, F.S.;
66 creating the Care Provider Background Screening
67 Clearinghouse under the Agency for Health Care
68 Administration, in consultation with the Department of
69 Law Enforcement; providing rulemaking authority;
70 providing for the implementation and operation of the
71 clearinghouse; providing for the results of certain
72 criminal history checks to be shared among specified
73 agencies; providing for retention of fingerprints;
74 providing for the registration of employers; providing
75 an exemption for certain employees who have undergone
76 a criminal history check before the clearinghouse is
77 operational; creating s. 456.0135, F.S.; requiring an
78 application for initial licensure in a profession
79 regulated by the Department of Health to include
80 fingerprints submitted by an approved vendor after a
81 specified date; providing procedures and conditions
82 for retention of fingerprints; requiring the applicant
83 to pay the costs of fingerprint processing; amending
84 s. 464.203, F.S.; requiring the Board of Nursing to
85 waive background screening requirements for certain
86 certified nursing assistants; amending s. 943.05,
87 F.S.; providing procedures for qualified entities

603-04241-12

2012320c2

88 participating in the Criminal Justice Information
89 Program that elect to participate in the fingerprint
90 retention and search process; providing for the
91 imposition of fees for processing fingerprints;
92 authorizing the Department of Law Enforcement to
93 exclude certain entities from participation for
94 failure to timely remit fingerprint processing fees;
95 amending s. 943.053, F.S.; providing procedures for
96 the submission of fingerprints by private vendors,
97 private entities, and public agencies for certain
98 criminal history checks; requiring the vendor, entity,
99 or agency to enter into an agreement with the
100 Department of Law Enforcement specifying standards for
101 electronic submission of fingerprints; exempting
102 specified criminal justice agencies from the
103 requirement for an agreement; providing procedures for
104 the vendor, entity, or agency to collect certain fees
105 and to remit those fees to the Department of Law
106 Enforcement; authorizing the Department of Law
107 Enforcement to exclude certain entities from
108 participation for failure to timely remit fingerprint
109 processing fees; amending s. 943.0585, F.S.; revising
110 provisions relating to the court-ordered expunction of
111 criminal history records; amending s. 943.059, F.S.;
112 revising provisions relating to the court-ordered
113 sealing of criminal history records; providing an
114 effective date.

115

116 Be It Enacted by the Legislature of the State of Florida:

603-04241-12

2012320c2

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118 Section 1. Paragraph (d) is added to subsection (1) of
119 section 394.4572, Florida Statutes, to read:

120 394.4572 Screening of mental health personnel.—

121 (1)

122 (d) Mental health personnel working in a facility licensed
123 under chapter 395 who work on an intermittent basis for less
124 than 15 hours per week of direct, face-to-face contact with
125 patients, and who are not listed on the Department of Law
126 Enforcement Career Offender Search or the Dru Sjodin National
127 Sex Offender Public Website, are exempt from the fingerprinting
128 and screening requirements, except that persons working in a
129 mental health facility where the primary purpose of the facility
130 is the mental health treatment of minors must be fingerprinted
131 and meet screening requirements.

132 Section 2. Section 408.809, Florida Statutes, is amended to
133 read:

134 408.809 Background screening; prohibited offenses.—

135 (1) Level 2 background screening pursuant to chapter 435
136 must be conducted through the agency on each of the following
137 persons, who are considered employees for the purposes of
138 conducting screening under chapter 435:

139 (a) The licensee, if an individual.

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

142 (c) The financial officer or similarly titled individual
143 who is responsible for the financial operation of the licensee
144 or provider.

145 (d) Any person who is a controlling interest if the agency

603-04241-12

2012320c2

146 has reason to believe that such person has been convicted of any
147 offense prohibited by s. 435.04. For each controlling interest
148 who has been convicted of any such offense, the licensee shall
149 submit to the agency a description and explanation of the
150 conviction at the time of license application.

151 (e) Any person, as required by authorizing statutes,
152 seeking employment with a licensee or provider who is expected
153 to, or whose responsibilities may require him or her to, provide
154 personal care or services directly to clients or have access to
155 client funds, personal property, or living areas; and any
156 person, as required by authorizing statutes, contracting with a
157 licensee or provider whose responsibilities require him or her
158 to provide personal care or personal services directly to
159 clients. Evidence of contractor screening may be retained by the
160 contractor's employer or the licensee.

161 (2) Every 5 years following his or her licensure,
162 employment, or entry into a contract in a capacity that under
163 subsection (1) would require level 2 background screening under
164 chapter 435, each such person must submit to level 2 background
165 rescreening as a condition of retaining such license or
166 continuing in such employment or contractual status. For any
167 such rescreening, the agency shall request the Department of Law
168 Enforcement to forward the person's fingerprints to the Federal
169 Bureau of Investigation for a national criminal history record
170 check. If the fingerprints of such a person are not retained by
171 the Department of Law Enforcement under s. 943.05(2)(g), the
172 person must file a complete set of fingerprints with the agency
173 and the agency shall forward the fingerprints to the Department
174 of Law Enforcement for state processing, and the Department of

603-04241-12

2012320c2

175 Law Enforcement shall forward the fingerprints to the Federal
176 Bureau of Investigation for a national criminal history record
177 check. The fingerprints may be retained by the Department of Law
178 Enforcement under s. 943.05(2)(g). The cost of the state and
179 national criminal history records checks required by level 2
180 screening may be borne by the licensee or the person
181 fingerprinted. Until the person's background screening results
182 are retained in the clearinghouse created under s. 435.12, the
183 agency may accept as satisfying the requirements of this section
184 proof of compliance with level 2 screening standards submitted
185 within the previous 5 years to meet any provider or professional
186 licensure requirements of the agency, the Department of Health,
187 the Department of Elderly Affairs, the Agency for Persons with
188 Disabilities, the Department of Children and Family Services, or
189 the Department of Financial Services for an applicant for a
190 certificate of authority or provisional certificate of authority
191 to operate a continuing care retirement community under chapter
192 651, provided that:

193 (a) The screening standards and disqualifying offenses for
194 the prior screening are equivalent to those specified in s.
195 435.04 and this section;

196 (b) satisfies the requirements of this section if The
197 person subject to screening has not had a break in service from
198 a position that requires level 2 screening been unemployed for
199 more than 90 days; and

200 (c) Such proof is accompanied, under penalty of perjury, by
201 an affidavit of compliance with the provisions of chapter 435
202 and this section using forms provided by the agency.

203 (3) All fingerprints must be provided in electronic format.

603-04241-12

2012320c2

204 Screening results shall be reviewed by the agency with respect
205 to the offenses specified in s. 435.04 and this section, and the
206 qualifying or disqualifying status of the person named in the
207 request shall be maintained in a database. The qualifying or
208 disqualifying status of the person named in the request shall be
209 posted on a secure website for retrieval by the licensee or
210 designated agent on the licensee's behalf.

211 (4) In addition to the offenses listed in s. 435.04, all
212 persons required to undergo background screening pursuant to
213 this part or authorizing statutes must not have an arrest
214 awaiting final disposition for, must not have been found guilty
215 of, regardless of adjudication, or entered a plea of nolo
216 contendere or guilty to, and must not have been adjudicated
217 delinquent and the record not have been sealed or expunged for
218 any of the following offenses or any similar offense of another
219 jurisdiction:

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

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

222 (c) Section 409.920, relating to Medicaid provider fraud.

223 (d) Section 409.9201, relating to Medicaid fraud.

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

225 (f) Section 817.034, relating to fraudulent acts through
226 mail, wire, radio, electromagnetic, photoelectronic, or
227 photooptical systems.

228 (g) Section 817.234, relating to false and fraudulent
229 insurance claims.

230 (h) Section 817.505, relating to patient brokering.

231 (i) Section 817.568, relating to criminal use of personal
232 identification information.

603-04241-12

2012320c2

233 (j) Section 817.60, relating to obtaining a credit card
234 through fraudulent means.

235 (k) Section 817.61, relating to fraudulent use of credit
236 cards, if the offense was a felony.

237 (l) Section 831.01, relating to forgery.

238 (m) Section 831.02, relating to uttering forged
239 instruments.

240 (n) Section 831.07, relating to forging bank bills, checks,
241 drafts, or promissory notes.

242 (o) Section 831.09, relating to uttering forged bank bills,
243 checks, drafts, or promissory notes.

244 (p) Section 831.30, relating to fraud in obtaining
245 medicinal drugs.

246 (q) Section 831.31, relating to the sale, manufacture,
247 delivery, or possession with the intent to sell, manufacture, or
248 deliver any counterfeit controlled substance, if the offense was
249 a felony.

250 (5) A person who serves as a controlling interest of, is
251 employed by, or contracts with a licensee on July 31, 2010, who
252 has been screened and qualified according to standards specified
253 in s. 435.03 or s. 435.04 must be rescreened by July 31, 2015 in
254 compliance with the following schedule. ~~The agency may adopt~~
255 ~~rules to establish a schedule to stagger the implementation of~~
256 ~~the required rescreening over the 5-year period, beginning July~~
257 ~~31, 2010, through July 31, 2015.~~ If, upon rescreening, such
258 person has a disqualifying offense that was not a disqualifying
259 offense at the time of the last screening, but is a current
260 disqualifying offense and was committed before the last
261 screening, he or she may apply for an exemption from the

603-04241-12

2012320c2

262 appropriate licensing agency and, if agreed to by the employer,
263 may continue to perform his or her duties until the licensing
264 agency renders a decision on the application for exemption if
265 the person is eligible to apply for an exemption and the
266 exemption request is received by the agency within 30 days after
267 receipt of the rescreening results by the person. The
268 rescreening schedule shall be:

269 (a) Individuals for whom the last screening was conducted
270 on or before December 31, 2004, must be rescreened by July 31,
271 2013.

272 (b) Individuals for whom the last screening conducted was
273 between January 1, 2005, and December 31, 2008, must be
274 rescreened by July 31, 2014.

275 (c) Individuals for whom the last screening conducted was
276 between January 1, 2009, through July 31, 2011, must be
277 rescreened by July 31, 2015.

278 (6)~~(5)~~ The costs associated with obtaining the required
279 screening must be borne by the licensee or the person subject to
280 screening. Licensees may reimburse persons for these costs. The
281 Department of Law Enforcement shall charge the agency for
282 screening pursuant to s. 943.053(3). The agency shall establish
283 a schedule of fees to cover the costs of screening.

284 (7)~~(6)~~ (a) As provided in chapter 435, the agency may grant
285 an exemption from disqualification to a person who is subject to
286 this section and who:

287 1. Does not have an active professional license or
288 certification from the Department of Health; or

289 2. Has an active professional license or certification from
290 the Department of Health but is not providing a service within

603-04241-12

2012320c2

291 the scope of that license or certification.

292 (b) As provided in chapter 435, the appropriate regulatory
293 board within the Department of Health, or the department itself
294 if there is no board, may grant an exemption from
295 disqualification to a person who is subject to this section and
296 who has received a professional license or certification from
297 the Department of Health or a regulatory board within that
298 department and that person is providing a service within the
299 scope of his or her licensed or certified practice.

300 (8)~~(7)~~ The agency and the Department of Health may adopt
301 rules pursuant to ss. 120.536(1) and 120.54 to implement this
302 section, chapter 435, and authorizing statutes requiring
303 background screening and to implement and adopt criteria
304 relating to retaining fingerprints pursuant to s. 943.05(2).

305 (9)~~(8)~~ There is no unemployment compensation or other
306 monetary liability on the part of, and no cause of action for
307 damages arising against, an employer that, upon notice of a
308 disqualifying offense listed under chapter 435 or this section,
309 terminates the person against whom the report was issued,
310 whether or not that person has filed for an exemption with the
311 Department of Health or the agency.

312 Section 3. Section 409.1757, Florida Statutes, is amended
313 to read:

314 409.1757 Persons not required to be refingerprinted or
315 rescreened.—Any ~~provision of law to the contrary~~
316 notwithstanding, human resource personnel who have been
317 fingerprinted or screened pursuant to chapters 393, 394, 397,
318 402, and this chapter, ~~and~~ teachers who have been fingerprinted
319 pursuant to chapter 1012, and law enforcement officers who meet

603-04241-12

2012320c2

320 the requirements of s. 943.13, who have not been unemployed for
321 more than 90 days thereafter, and who under the penalty of
322 perjury attest to the completion of such fingerprinting or
323 screening and to compliance with ~~the provisions of~~ this section
324 and the standards for good moral character as contained in such
325 provisions as ss. 110.1127(3), 393.0655(1), 394.457(6), 397.451,
326 402.305(2), ~~and~~ 409.175(6), and 943.13(7), are ~~shall not be~~
327 required to be refingerprinted or rescreened in order to comply
328 with any caretaker screening or fingerprinting requirements.

329 Section 4. Paragraph (i) of subsection (4) of section
330 409.221, Florida Statutes, is amended to read:

331 409.221 Consumer-directed care program.—

332 (4) CONSUMER-DIRECTED CARE.—

333 (i) *Background screening requirements.*—All persons who
334 render care under this section must undergo level 2 background
335 screening pursuant to chapter 435 and s. 408.809. The agency
336 shall, as allowable, reimburse consumer-employed caregivers for
337 the cost of conducting background screening as required by this
338 section. For purposes of this section, a person who has
339 undergone screening, who is qualified for employment under this
340 section and applicable rule, and who has not been unemployed for
341 more than 90 days following such screening is not required to be
342 rescreened. Such person must attest under penalty of perjury to
343 not having been convicted of a disqualifying offense since
344 completing such screening.

345 Section 5. Present subsections (7) through (26) of section
346 413.20, Florida Statutes, are renumbered as subsections (8)
347 through (27), respectively, and a new subsection (7) is added to
348 that section, to read:

603-04241-12

2012320c2

349 413.20 Definitions.—As used in this part, the term:

350 (7) "Service provider" means a person or entity who
351 provides pursuant to this part employment services, supported
352 employment services, independent living services, self-
353 employment services, personal assistance services, vocational
354 evaluation or tutorial services, or rehabilitation technology
355 services, on a contractual or fee-for-service basis to
356 vulnerable persons as defined in s. 435.02.

357 Section 6. Section 413.208, Florida Statutes, is amended to
358 read:

359 413.208 Service providers; quality assurance; and fitness
360 for responsibilities; background screening.—

361 (1) Service providers must register with the division. To
362 qualify for registration, the division must ~~of Vocational~~
363 ~~Rehabilitation shall certify providers of direct service and~~
364 ensure that the service provider maintains ~~they maintain~~ an
365 internal system of quality assurance, has ~~have~~ proven functional
366 systems, and is ~~are~~ subject to a due-diligence inquiry as to its
367 ~~their~~ fitness to undertake service responsibilities, ~~regardless~~
368 ~~of whether a contract for services is procured competitively or~~
369 ~~noncompetitively.~~

370 (2) (a) As a condition of registration under this section,
371 level 2 background screening pursuant to chapter 435 must be
372 conducted by the division on each of the following persons:

373 1. The administrator or a similarly titled person who is
374 responsible for the day-to-day operation of the service
375 provider.

376 2. The financial officer or similarly titled individual who
377 is responsible for the financial operation of the service

603-04241-12

2012320c2

378 provider.

379 3. Any person employed by, or otherwise engaged on the
380 behalf of, a service provider who is expected to have direct,
381 face-to-face contact with a vulnerable person as defined in s.
382 435.02 while providing services to the person and have access to
383 the person's living areas, funds, personal property, or personal
384 identification information as defined in s. 817.568.

385 4. A director of the service provider.

386 (b) Level 2 background screening pursuant to chapter 435 is
387 not required for the following persons:

388 1. A licensed physician, nurse, or other professional who
389 is licensed by the Department of Health and who has undergone
390 fingerprinting and background screening as part of such
391 licensure if providing a service that is within the scope of her
392 or his licensed practice.

393 2. A relative of the vulnerable person receiving services.
394 For purposes of this section, the term "relative" means an
395 individual who is the father, mother, stepfather, stepmother,
396 son, daughter, brother, sister, grandmother, grandfather, great-
397 grandmother, great-grandfather, grandson, granddaughter, uncle,
398 aunt, first cousin, nephew, niece, husband, wife, father-in-law,
399 mother-in-law, son-in-law, daughter-in-law, brother-in-law,
400 sister-in-law, stepson, stepdaughter, stepbrother, stepsister,
401 half-brother, or half-sister of the vulnerable person.

402 (c) Service providers are responsible for initiating and
403 completing the background screening as a condition of
404 registration.

405 (d)1. Every 5 years following initial screening, each
406 person subject to background screening under this section must

603-04241-12

2012320c2

407 submit to level 2 background rescreening as a condition of the
408 service provider retaining such registration.

409 2. Until the person's background screening results are
410 retained in the clearinghouse created under s. 435.12, the
411 division may accept as satisfying the requirements of this
412 section proof of compliance with level 2 screening standards
413 submitted within the previous 5 years to meet any provider or
414 professional licensure requirements of the Agency for Health
415 Care Administration, the Department of Health, the Department of
416 Elderly Affairs, the Agency for Persons with Disabilities, or
417 the Department of Children and Family Services, provided:

418 a. The screening standards and disqualifying offenses for
419 the prior screening are equivalent to those specified in s.
420 435.04 and this section;

421 b. The person subject to screening has not had a break in
422 service from a position that requires level 2 screening for more
423 than 90 days; and

424 c. Such proof is accompanied, under penalty of perjury, by
425 an affidavit of compliance with the provisions of chapter 435
426 and this section.

427 (e) In addition to the disqualifying offenses listed in s.
428 435.04, all persons subject to undergo background screening
429 pursuant to this section must not have an arrest awaiting final
430 disposition for, must not have been found guilty of, regardless
431 of adjudication, or entered a plea of nolo contendere or guilty
432 to, and must not have been adjudicated delinquent, and the
433 record has not been expunged for, any offense prohibited under
434 any of the following provisions or similar law of another
435 jurisdiction:

603-04241-12

2012320c2

- 436 1. Section 409.920, relating to Medicaid provider fraud.
437 2. Section 409.9201, relating to Medicaid fraud.
438 3. Section 741.28, relating to domestic violence.
439 4. Section 817.034, relating to fraudulent acts through
440 mail, wire, radio, electromagnetic, photoelectronic, or
441 photooptical systems.
442 5. Section 817.234, relating to false and fraudulent
443 insurance claims.
444 6. Section 817.505, relating to patient brokering.
445 7. Section 817.568, relating to criminal use of personal
446 identification information.
447 8. Section 817.60, relating to obtaining a credit card
448 through fraudulent means.
449 9. Section 817.61, relating to fraudulent use of credit
450 cards, if the offense was a felony.
451 10. Section 831.01, relating to forgery.
452 11. Section 831.02, relating to uttering forged
453 instruments.
454 12. Section 831.07, relating to forging bank bills, checks,
455 drafts, or promissory notes.
456 13. Section 831.09, relating to uttering forged bank bills,
457 checks, drafts, or promissory notes.
458 14. Section 831.31, relating to the sale, manufacture,
459 delivery, or possession with the intent to sell, manufacture, or
460 deliver any counterfeit controlled substance, if the offense was
461 a felony.
462 (f) The division may grant an exemption from
463 disqualification from this section only as provided in s.
464 435.07.

603-04241-12

2012320c2

465 (3) The cost of the state and national criminal history
466 records checks required by level 2 screening and their retention
467 shall be borne by the service provider or the person being
468 screened.

469 (4) (a) The division shall deny, suspend, terminate, or
470 revoke a registration, rate agreement, purchase order, referral,
471 contract, or other agreement, or pursue other remedies in
472 addition to or in lieu of denial, suspension, termination, or
473 revocation, for failure to comply with this section.

474 (b) If the division has reasonable cause to believe that
475 grounds for denial or termination of registration exist, it
476 shall provide written notification to the person affected,
477 identifying the specific record that indicates noncompliance
478 with the standards in this section.

479 (c) Refusal on the part of a provider to remove from
480 contact with any vulnerable person a person who is employed by,
481 or otherwise engaged on behalf of, the provider and who is found
482 to be not in compliance with the standards of this section shall
483 result in revocation of the service provider's registration and
484 contract.

485 Section 7. The background screening requirements of s.
486 413.208, Florida Statutes, as amended by this act, do not apply
487 to existing registrants with the Division of Vocational
488 Rehabilitation within the Department of Education in effect
489 before October 1, 2012. Such requirements apply to all
490 registrants with the division which are renewed or entered into
491 on or after October 1, 2012.

492 Section 8. Section 430.0402, Florida Statutes, is amended
493 to read:

603-04241-12

2012320c2

494 430.0402 Screening of direct service providers.-

495 (1) (a) Except as provided in subsection (2), level 2
496 background screening pursuant to chapter 435 is required for
497 direct service providers. Background screening includes
498 employment history checks as provided in s. 435.03(1) and local
499 criminal records checks through local law enforcement agencies.

500 (b) For purposes of this section, the term "direct service
501 provider" means a person 18 years of age or older who, pursuant
502 to a program to provide services to the elderly, has direct,
503 face-to-face contact with a client while providing services to
504 the client and ~~or~~ has access to the client's living areas, ~~or to~~
505 ~~the client's funds, or personal property, or personal~~
506 identification information as defined in s. 817.568. The term
507 includes coordinators, managers, and supervisors of residential
508 facilities and volunteers.

509 (2) Level 2 background screening pursuant to chapter 435
510 and this section is not required for the following direct
511 service providers:

512 (a)1. Licensed physicians, nurses, or other professionals
513 licensed by the Department of Health who have been fingerprinted
514 and undergone background screening as part of their licensure;
515 and

516 2. Attorneys in good standing with The Florida Bar; ~~are not~~
517 ~~subject to background screening~~ if they are providing a service
518 that is within the scope of their licensed practice.

519 (b) Relatives. For purposes of this section, the term
520 "relative" means an individual who is the father, mother,
521 stepfather, stepmother, son, daughter, brother, sister,
522 grandmother, grandfather, great-grandmother, great-grandfather,

603-04241-12

2012320c2

523 grandson, granddaughter, uncle, aunt, first cousin, nephew,
524 niece, husband, wife, father-in-law, mother-in-law, son-in-law,
525 daughter-in-law, brother-in-law, sister-in-law, stepson,
526 stepdaughter, stepbrother, stepsister, half-brother, or half-
527 sister of the client.

528 (c) Volunteers who assist on an intermittent basis for less
529 than 20 hours per month and who are not listed on the Department
530 of Law Enforcement Career Offender Search or the Dru Sjodin
531 National Sex Offender Public Website.

532 1. The program that provides services to the elderly is
533 responsible for verifying that the volunteer is not listed on
534 either database.

535 2. Once the department is participating as a specified
536 agency in the clearinghouse created under s. 435.12, the
537 provider shall forward the volunteer information to the
538 Department of Elderly Affairs if the volunteer is not listed in
539 either database specified in subparagraph 1. The department must
540 then perform a check of the clearinghouse. If a disqualification
541 is identified in the clearinghouse, the volunteer must undergo
542 level 2 background screening pursuant to chapter 435 and this
543 section.

544 (3) Until the department is participating as a specified
545 agency in the clearinghouse created under s. 435.12, the
546 department may not require additional level 2 screening if the
547 individual is qualified for licensure or employment by the
548 Agency for Health Care Administration pursuant to the agency's
549 background screening standards under s. 408.809 and the
550 individual is providing a service that is within the scope of
551 his or her licensed practice or employment.

603-04241-12

2012320c2

552 ~~(4)(3)~~ Refusal on the part of an employer to dismiss a
553 manager, supervisor, or direct service provider who has been
554 found to be in noncompliance with standards of this section
555 shall result in the automatic denial, termination, or revocation
556 of the license or certification, rate agreement, purchase order,
557 or contract, in addition to any other remedies authorized by
558 law.

559 (5) Individuals serving as direct service providers on July
560 31, 2011, must be screened by July 1, 2013. The department may
561 adopt rules to establish a schedule to stagger the
562 implementation of the required screening over a 1-year period,
563 beginning July 1, 2012, through July 1, 2013.

564 (6) An employer of a direct service provider who previously
565 qualified for employment or volunteer work under Level 1
566 screening standards or an individual who is required to be
567 screened according to the level 2 screening standards contained
568 in chapter 435, pursuant to this section, shall be rescreened
569 every 5 years following the date of his or her last background
570 screening or exemption, unless such individual's fingerprints
571 are continuously retained and monitored by the Department of Law
572 Enforcement in the federal fingerprint retention program
573 according to the procedures specified in s. 943.05.

574 ~~(7)(4)~~ The background screening conducted pursuant to this
575 section must ensure that, in addition to the disqualifying
576 offenses listed in s. 435.04, no person subject to the
577 provisions of this section has an arrest awaiting final
578 disposition for, has been found guilty of, regardless of
579 adjudication, or entered a plea of nolo contendere or guilty to,
580 or has been adjudicated delinquent and the record has not been

603-04241-12

2012320c2

581 sealed or expunged for, any offense prohibited under any of the
582 following provisions of state law or similar law of another
583 jurisdiction:

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

585 (a)~~(b)~~ Section 409.920, relating to Medicaid provider
586 fraud.

587 (b)~~(e)~~ Section 409.9201, relating to Medicaid fraud.

588 (c)~~(d)~~ Section 817.034, relating to fraudulent acts through
589 mail, wire, radio, electromagnetic, photoelectronic, or
590 photooptical systems.

591 (d)~~(e)~~ Section 817.234, relating to false and fraudulent
592 insurance claims.

593 (e)~~(f)~~ Section 817.505, relating to patient brokering.

594 (f)~~(g)~~ Section 817.568, relating to criminal use of
595 personal identification information.

596 (g)~~(h)~~ Section 817.60, relating to obtaining a credit card
597 through fraudulent means.

598 (h)~~(i)~~ Section 817.61, relating to fraudulent use of credit
599 cards, if the offense was a felony.

600 (i)~~(j)~~ Section 831.01, relating to forgery.

601 (j)~~(k)~~ Section 831.02, relating to uttering forged
602 instruments.

603 (k)~~(l)~~ Section 831.07, relating to forging bank bills,
604 checks, drafts, or promissory notes.

605 (l)~~(m)~~ Section 831.09, relating to uttering forged bank
606 bills, checks, drafts, or promissory notes.

607 Section 9. Section 435.02, Florida Statutes, is amended to
608 read:

609 435.02 Definitions.—For the purposes of this chapter, the

603-04241-12

2012320c2

610 term:

611 (1) "Agency" means any state, county, or municipal agency
612 that grants licenses or registration permitting the operation of
613 an employer or is itself an employer or that otherwise
614 facilitates the screening of employees pursuant to this chapter.
615 If there is no state agency or the municipal or county agency
616 chooses not to conduct employment screening, "agency" means the
617 Department of Children and Family Services.

618 (2) "Employee" means any person required by law to be
619 screened pursuant to this chapter, including, but not limited
620 to, persons who are contractors, licensees, or volunteers.

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

623 (4) "Employment" means any activity or service sought to be
624 performed by an employee which requires the employee to be
625 screened pursuant to this chapter.

626 (5) "Specified agency" means the Department of Health, the
627 Department of Children and Family Services, the Division of
628 Vocational Rehabilitation within the Department of Education,
629 the Agency for Health Care Administration, the Department of
630 Elderly Affairs, the Department of Juvenile Justice, and the
631 Agency for Persons with Disabilities when these agencies are
632 conducting state and national criminal history background
633 screening on persons who work with children or persons who are
634 elderly or disabled.

635 (6)~~(5)~~ "Vulnerable person" means a minor as defined in s.
636 1.01 or a vulnerable adult as defined in s. 415.102.

637 Section 10. Paragraph (e) is added to subsection (1) of
638 section 435.04, Florida Statutes, to read:

603-04241-12

2012320c2

639 435.04 Level 2 screening standards.—

640 (1)

641 (e) Vendors who submit fingerprints on behalf of employers

642 must:

643 1. Meet the requirements of s. 943.053; and

644 2. Have the ability to communicate electronically with the

645 state agency accepting screening results from the Department of

646 Law Enforcement and provide a photograph of the applicant taken

647 at the time the fingerprints are submitted.

648 Section 11. Paragraph (d) is added to subsection (2) of
649 section 435.06, Florida Statutes, to read:

650 435.06 Exclusion from employment.—

651 (2)

652 (d) An employer may hire an employee to a position that
653 requires background screening before the employee completes the
654 screening process for training and orientation purposes.

655 However, the employee may not have direct contact with
656 vulnerable persons until the screening process is completed and
657 the employee demonstrates that he or she exhibits no behaviors
658 that warrant the denial or termination of employment.

659 Section 12. Section 435.12, Florida Statutes, is created to
660 read:

661 435.12 Care Provider Background Screening Clearinghouse.—

662 (1) The Agency for Health Care Administration in
663 consultation with the Department of Law Enforcement shall create
664 a secure web-based system, which shall be known as the "Care
665 Provider Background Screening Clearinghouse" or "clearinghouse,"
666 and which shall be implemented to the full extent practicable no
667 later than September 30, 2013, subject to the specified agencies

603-04241-12

2012320c2

668 being funded and equipped to participate in such program. The
669 clearinghouse shall allow the results of criminal history checks
670 provided to the specified agencies for screening of persons
671 qualified as care providers under s. 943.0542 to be shared among
672 the specified agencies when a person has applied to volunteer,
673 be employed, be licensed, or enter into a contract that requires
674 a state and national fingerprint-based criminal history check.
675 The Agency for Health Care Administration and the Department of
676 Law Enforcement may adopt rules to create forms or implement
677 procedures needed to carry out this section.

678 (2) (a) To ensure that the information in the clearinghouse
679 is current, the fingerprints of an employee required to be
680 screened by a specified agency and included in the clearinghouse
681 must be:

682 1. Retained by the Department of Law Enforcement pursuant
683 to s. 943.05(2)(g) and (h) and (3), and the Department of Law
684 Enforcement must report the results of searching those
685 fingerprints against state incoming arrest fingerprint
686 submissions to the Agency for Health Care Administration for
687 inclusion in the clearinghouse.

688 2. Resubmitted for a Federal Bureau of Investigation
689 national criminal history check every 5 years until such time as
690 the fingerprints are retained by the Federal Bureau of
691 Investigation.

692 3. Subject to retention on a 5-year renewal basis with fees
693 collected at the time of initial submission or resubmission of
694 fingerprints.

695 (b) Until such time as the fingerprints are retained at the
696 Federal Bureau of Investigation, an employee with a break in

603-04241-12

2012320c2

697 service of more than 90 days from a position that requires
698 screening by a specified agency must submit to a national
699 screening if the person returns to a position that requires
700 screening by a specified agency.

701 (c) An employer of persons subject to screening by a
702 specified agency must register with the clearinghouse and
703 maintain the employment status of all employees within the
704 clearinghouse. Initial employment status and any changes in
705 status must be reported within 10 business days.

706 (3) An employee who has undergone a fingerprint-based
707 criminal history check by a specified agency before the
708 clearinghouse is operational is not required to be checked again
709 solely for the purpose of entry in the clearinghouse. Every
710 employee who is or will become subject to fingerprint-based
711 criminal history checks to be eligible to be licensed, have
712 their license renewed, or meet screening or rescreening
713 requirements by a specified agency once the specified agency
714 participates in the clearinghouse shall be subject to the
715 requirements of this section with respect to entry of records in
716 the clearinghouse and retention of fingerprints for reporting
717 the results of searching against state incoming arrest
718 fingerprint submissions.

719 Section 13. Section 456.0135, Florida Statutes, is created
720 to read:

721 456.0135 General background screening provisions.—

722 (1) An application for initial licensure received on or
723 after January 1, 2013, under chapter 458, chapter 459, chapter
724 460, chapter 461, or chapter 464, or s. 465.022 shall include
725 fingerprints pursuant to procedures established by the

603-04241-12

2012320c2

726 department through a vendor approved by the Department of Law
727 Enforcement and fees imposed for the initial screening and
728 retention of fingerprints. Fingerprints must be submitted
729 electronically to the Department of Law Enforcement for state
730 processing and the Department of Law Enforcement shall forward
731 the fingerprints to the Federal Bureau of Investigation for
732 national processing. Each board, or the department if there is
733 no board, shall screen the results to determine if an applicant
734 meets licensure requirements. For any subsequent renewal of the
735 applicant's license which requires a national criminal history
736 check, the department shall request the Department of Law
737 Enforcement to forward the retained fingerprints of the
738 applicant to the Federal Bureau of Investigation.

739 (2) All fingerprints submitted to the Department of Law
740 Enforcement as required under subsection (1) shall be retained
741 by the Department of Law Enforcement as provided under s.
742 943.05(2)(g) and (h) and (3). The department shall notify the
743 Department of Law Enforcement regarding any person whose
744 fingerprints have been retained but who is no longer licensed.

745 (3) The costs of fingerprint processing, including the cost
746 for retaining fingerprints, shall be borne by the applicant
747 subject to the background screening.

748 Section 14. Subsection (1) of section 464.203, Florida
749 Statutes, is amended to read:

750 464.203 Certified nursing assistants; certification
751 requirement.—

752 (1) The board shall issue a certificate to practice as a
753 certified nursing assistant to any person who demonstrates a
754 minimum competency to read and write and successfully passes the

603-04241-12

2012320c2

755 required background screening pursuant to s. 400.215. If the
756 person has successfully passed the required background screening
757 pursuant to s. 400.215 or s. 408.809 within 90 days before
758 applying for a certificate to practice and the person's
759 background screening results are not retained in the
760 clearinghouse created under s. 435.12, the board shall waive the
761 requirement that the applicant successfully pass an additional
762 background screening pursuant to s. 400.215. The person must
763 also meet ~~and meets~~ one of the following requirements:

764 (a) Has successfully completed an approved training program
765 and achieved a minimum score, established by rule of the board,
766 on the nursing assistant competency examination, which consists
767 of a written portion and skills-demonstration portion approved
768 by the board and administered at a site and by personnel
769 approved by the department.

770 (b) Has achieved a minimum score, established by rule of
771 the board, on the nursing assistant competency examination,
772 which consists of a written portion and skills-demonstration
773 portion, approved by the board and administered at a site and by
774 personnel approved by the department and:

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

777 (c) Is currently certified in another state; is listed on
778 that state's certified nursing assistant registry; and has not
779 been found to have committed abuse, neglect, or exploitation in
780 that state.

781 (d) Has completed the curriculum developed by the
782 Department of Education and achieved a minimum score,
783 established by rule of the board, on the nursing assistant

603-04241-12

2012320c2

784 competency examination, which consists of a written portion and
785 skills-demonstration portion, approved by the board and
786 administered at a site and by personnel approved by the
787 department.

788 Section 15. Paragraph (h) of subsection (2) of section
789 943.05, Florida Statutes, is amended to read:

790 943.05 Criminal Justice Information Program; duties; crime
791 reports.-

792 (2) The program shall:

793 (h) For each agency or qualified entity that officially
794 requests retention of fingerprints or for which retention is
795 otherwise required by law, search all arrest fingerprint
796 submissions received under s. 943.051 against the fingerprints
797 retained in the statewide automated fingerprint identification
798 system under paragraph (g).

799 1. Any arrest record that is identified with the retained
800 fingerprints of a person subject to background screening as
801 provided in paragraph (g) shall be reported to the appropriate
802 agency or qualified entity.

803 2. To participate in this search process, agencies or
804 qualified entities must notify each person fingerprinted that
805 his or her fingerprints will be retained, pay an annual fee to
806 the department, and inform the department of any change in the
807 affiliation, employment, or contractual status of each person
808 whose fingerprints are retained under paragraph (g) if such
809 change removes or eliminates the agency or qualified entity's
810 basis or need for receiving reports of any arrest of that
811 person, so that the agency or qualified entity is not obligated
812 to pay the upcoming annual fee for the retention and searching

603-04241-12

2012320c2

813 of that person's fingerprints to the department. The department
814 shall adopt a rule setting the amount of the annual fee to be
815 imposed upon each participating agency or qualified entity for
816 performing these searches and establishing the procedures for
817 the retention of fingerprints and the dissemination of search
818 results. The fee may be borne by the agency, qualified entity,
819 or person subject to fingerprint retention or as otherwise
820 provided by law. Consistent with the recognition of criminal
821 justice agencies expressed in s. 943.053(3), these services
822 shall be provided to criminal justice agencies for criminal
823 justice purposes free of charge. Qualified entities that elect
824 to participate in the fingerprint retention and search process
825 shall timely remit the fee to the department by a payment
826 mechanism approved by the department. If requested by the
827 qualified entity, and with the approval of the department, such
828 fees may be timely remitted to the department by a qualified
829 entity upon receipt of an invoice for such fees from the
830 department. Failure of a qualified entity to pay the amount due
831 on a timely basis or as invoiced by the department may result in
832 the refusal by the department to permit the qualified entity to
833 continue to participate in the fingerprint retention and search
834 process until all fees due and owing are paid.

835 3. Agencies that participate in the fingerprint retention
836 and search process may adopt rules pursuant to ss. 120.536(1)
837 and 120.54 to require employers to keep the agency informed of
838 any change in the affiliation, employment, or contractual status
839 of each person whose fingerprints are retained under paragraph
840 (g) if such change removes or eliminates the agency's basis or
841 need for receiving reports of any arrest of that person, so that

603-04241-12

2012320c2

842 the agency is not obligated to pay the upcoming annual fee for
843 the retention and searching of that person's fingerprints to the
844 department.

845 Section 16. Subsection (12) of section 943.053, Florida
846 Statutes, is amended, and subsection (13) is added to that
847 section, to read:

848 943.053 Dissemination of criminal justice information;
849 fees.—

850 (12) Notwithstanding any other provision of law, when a
851 criminal history check or a duty to disclose the absence of a
852 criminal history check is mandated by state law, or when a
853 privilege or benefit is conferred by state law in return for
854 exercising an option of conducting a criminal history check, the
855 referenced criminal history check, whether it is an initial or
856 renewal check, shall include a Florida criminal history provided
857 by the department as set forth in this section. Such Florida
858 criminal history information may be provided by a private vendor
859 only if that information is directly obtained from the
860 department for each request. When a national criminal history
861 check is required or authorized by state law, the national
862 criminal history check shall be submitted by and through the
863 department in the manner established by the department for such
864 checks, unless otherwise required by federal law. The fee for
865 criminal history information as established by state law or, in
866 the case of national checks, by the Federal Government, shall be
867 borne by the person or entity submitting the request, or as
868 provided by law. Criminal history information provided by any
869 other governmental entity of this state or any private entity
870 shall not be substituted for criminal history information

603-04241-12

2012320c2

871 provided by the department when the criminal history check or a
872 duty to disclose the absence of a criminal history check is
873 required by statute or is made a condition of a privilege or
874 benefit by law. When fingerprints are required or permitted to
875 be used as a basis for identification in conducting such a
876 criminal history check, the fingerprints must be taken by a law
877 enforcement agency employee, a government agency employee, a
878 qualified electronic fingerprint service provider, or a private
879 employer. Fingerprints taken by the subject of the criminal
880 history check may not be accepted or used for the purpose of
881 identification in conducting the criminal history check.

882 (13) (a) For the department to accept an electronic
883 fingerprint submission from:

884 1. A private vendor engaged in the business of providing
885 electronic fingerprint submission; or

886 2. A private entity or public agency that submits the
887 fingerprints of its own employees, volunteers, contractors,
888 associates, or applicants for the purpose of conducting a
889 required or permitted criminal history background check,

890
891 the vendor, entity, or agency submitting the fingerprints must
892 enter into an agreement with the department which, at a minimum,
893 obligates the vendor, entity, or agency to comply with certain
894 specified standards to ensure that all persons having direct or
895 indirect responsibility for taking, identifying, and
896 electronically submitting fingerprints are qualified to do so
897 and ensures the integrity and security of all personal
898 information gathered from the persons whose fingerprints are
899 submitted.

603-04241-12

2012320c2

900 (b) Such standards shall include, but need not be limited
901 to, requiring that:

902 1. All persons responsible for taking fingerprints and
903 collecting personal identifying information from the persons
904 being fingerprinted to meet current written state and federal
905 guidelines for identity verification and for recording legible
906 fingerprints;

907 2. The department and the Federal Bureau of Investigation's
908 technical standards for the electronic submission of
909 fingerprints are satisfied;

910 3. The fingerprint images electronically submitted satisfy
911 the department's and the Federal Bureau of Investigation's
912 quality standards; and

913 4. A person may not take his or her own fingerprints for
914 submission to the department.

915 (c) The requirement for entering into an agreement with the
916 department for this purpose does not apply to criminal justice
917 agencies as defined at s. 943.045(10).

918 (d) The agreement with the department must require the
919 vendor, entity, or agency to collect from the person or entity
920 on whose behalf the fingerprints are submitted the fees
921 prescribed by state and federal law for processing the
922 fingerprints for a criminal history check. The agreement must
923 provide that such fees be timely remitted to the department by a
924 payment mechanism approved by the department. If requested by
925 the vendor, entity, or agency, and with the approval of the
926 department, such fees may be timely remitted to the department
927 by a vendor, entity, or agency upon receipt of an invoice for
928 such fees from the department. Failure of a vendor, entity, or

603-04241-12

2012320c2

929 agency to pay the amount due on a timely basis or as invoiced by
930 the department may result in the refusal by the department to
931 accept future fingerprint submissions until all fees due and
932 owing are paid.

933 Section 17. Paragraph (a) of subsection (4) of section
934 943.0585, Florida Statutes, is amended to read:

935 943.0585 Court-ordered expunction of criminal history
936 records.—The courts of this state have jurisdiction over their
937 own procedures, including the maintenance, expunction, and
938 correction of judicial records containing criminal history
939 information to the extent such procedures are not inconsistent
940 with the conditions, responsibilities, and duties established by
941 this section. Any court of competent jurisdiction may order a
942 criminal justice agency to expunge the criminal history record
943 of a minor or an adult who complies with the requirements of
944 this section. The court shall not order a criminal justice
945 agency to expunge a criminal history record until the person
946 seeking to expunge a criminal history record has applied for and
947 received a certificate of eligibility for expunction pursuant to
948 subsection (2). A criminal history record that relates to a
949 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
950 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
951 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
952 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
953 any violation specified as a predicate offense for registration
954 as a sexual predator pursuant to s. 775.21, without regard to
955 whether that offense alone is sufficient to require such
956 registration, or for registration as a sexual offender pursuant
957 to s. 943.0435, may not be expunged, without regard to whether

603-04241-12

2012320c2

958 adjudication was withheld, if the defendant was found guilty of
959 or pled guilty or nolo contendere to the offense, or if the
960 defendant, as a minor, was found to have committed, or pled
961 guilty or nolo contendere to committing, the offense as a
962 delinquent act. The court may only order expunction of a
963 criminal history record pertaining to one arrest or one incident
964 of alleged criminal activity, except as provided in this
965 section. The court may, at its sole discretion, order the
966 expunction of a criminal history record pertaining to more than
967 one arrest if the additional arrests directly relate to the
968 original arrest. If the court intends to order the expunction of
969 records pertaining to such additional arrests, such intent must
970 be specified in the order. A criminal justice agency may not
971 expunge any record pertaining to such additional arrests if the
972 order to expunge does not articulate the intention of the court
973 to expunge a record pertaining to more than one arrest. This
974 section does not prevent the court from ordering the expunction
975 of only a portion of a criminal history record pertaining to one
976 arrest or one incident of alleged criminal activity.

977 Notwithstanding any law to the contrary, a criminal justice
978 agency may comply with laws, court orders, and official requests
979 of other jurisdictions relating to expunction, correction, or
980 confidential handling of criminal history records or information
981 derived therefrom. This section does not confer any right to the
982 expunction of any criminal history record, and any request for
983 expunction of a criminal history record may be denied at the
984 sole discretion of the court.

985 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any
986 criminal history record of a minor or an adult which is ordered

603-04241-12

2012320c2

987 expunged by a court of competent jurisdiction pursuant to this
988 section must be physically destroyed or obliterated by any
989 criminal justice agency having custody of such record; except
990 that any criminal history record in the custody of the
991 department must be retained in all cases. A criminal history
992 record ordered expunged that is retained by the department is
993 confidential and exempt from the provisions of s. 119.07(1) and
994 s. 24(a), Art. I of the State Constitution and not available to
995 any person or entity except upon order of a court of competent
996 jurisdiction. A criminal justice agency may retain a notation
997 indicating compliance with an order to expunge.

998 (a) The person who is the subject of a criminal history
999 record that is expunged under this section or under other
1000 provisions of law, including former s. 893.14, former s. 901.33,
1001 and former s. 943.058, may lawfully deny or fail to acknowledge
1002 the arrests covered by the expunged record, except when the
1003 subject of the record:

- 1004 1. Is a candidate for employment with a criminal justice
1005 agency;
- 1006 2. Is a defendant in a criminal prosecution;
- 1007 3. Concurrently or subsequently petitions for relief under
1008 this section or s. 943.059;
- 1009 4. Is a candidate for admission to The Florida Bar;
- 1010 5. Is seeking to be employed or licensed by or to contract
1011 with the Department of Children and Family Services, the
1012 Division of Vocational Rehabilitation within the Department of
1013 Education, the Agency for Health Care Administration, the Agency
1014 for Persons with Disabilities, the Department of Health, the
1015 Department of Elderly Affairs, or the Department of Juvenile

603-04241-12

2012320c2

1016 Justice or to be employed or used by such contractor or licensee
1017 in a sensitive position having direct contact with children, the
1018 ~~developmentally disabled, the aged, or the elderly as provided~~
1019 ~~in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.~~
1020 ~~402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(5),~~
1021 ~~chapter 916, s. 985.644, chapter 400, or chapter 429;~~

1022 6. Is seeking to be employed or licensed by the Department
1023 of Education, any district school board, any university
1024 laboratory school, any charter school, any private or parochial
1025 school, or any local governmental entity that licenses child
1026 care facilities; or

1027 7. Is seeking authorization from a seaport listed in s.
1028 311.09 for employment within or access to one or more of such
1029 seaports pursuant to s. 311.12.

1030 Section 18. Paragraph (a) of subsection (4) of section
1031 943.059, Florida Statutes, is amended to read:

1032 943.059 Court-ordered sealing of criminal history records.—
1033 The courts of this state shall continue to have jurisdiction
1034 over their own procedures, including the maintenance, sealing,
1035 and correction of judicial records containing criminal history
1036 information to the extent such procedures are not inconsistent
1037 with the conditions, responsibilities, and duties established by
1038 this section. Any court of competent jurisdiction may order a
1039 criminal justice agency to seal the criminal history record of a
1040 minor or an adult who complies with the requirements of this
1041 section. The court shall not order a criminal justice agency to
1042 seal a criminal history record until the person seeking to seal
1043 a criminal history record has applied for and received a
1044 certificate of eligibility for sealing pursuant to subsection

603-04241-12

2012320c2

1045 (2). A criminal history record that relates to a violation of s.
1046 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
1047 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter
1048 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
1049 916.1075, a violation enumerated in s. 907.041, or any violation
1050 specified as a predicate offense for registration as a sexual
1051 predator pursuant to s. 775.21, without regard to whether that
1052 offense alone is sufficient to require such registration, or for
1053 registration as a sexual offender pursuant to s. 943.0435, may
1054 not be sealed, without regard to whether adjudication was
1055 withheld, if the defendant was found guilty of or pled guilty or
1056 nolo contendere to the offense, or if the defendant, as a minor,
1057 was found to have committed or pled guilty or nolo contendere to
1058 committing the offense as a delinquent act. The court may only
1059 order sealing of a criminal history record pertaining to one
1060 arrest or one incident of alleged criminal activity, except as
1061 provided in this section. The court may, at its sole discretion,
1062 order the sealing of a criminal history record pertaining to
1063 more than one arrest if the additional arrests directly relate
1064 to the original arrest. If the court intends to order the
1065 sealing of records pertaining to such additional arrests, such
1066 intent must be specified in the order. A criminal justice agency
1067 may not seal any record pertaining to such additional arrests if
1068 the order to seal does not articulate the intention of the court
1069 to seal records pertaining to more than one arrest. This section
1070 does not prevent the court from ordering the sealing of only a
1071 portion of a criminal history record pertaining to one arrest or
1072 one incident of alleged criminal activity. Notwithstanding any
1073 law to the contrary, a criminal justice agency may comply with

603-04241-12

2012320c2

1074 laws, court orders, and official requests of other jurisdictions
1075 relating to sealing, correction, or confidential handling of
1076 criminal history records or information derived therefrom. This
1077 section does not confer any right to the sealing of any criminal
1078 history record, and any request for sealing a criminal history
1079 record may be denied at the sole discretion of the court.

1080 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal
1081 history record of a minor or an adult which is ordered sealed by
1082 a court of competent jurisdiction pursuant to this section is
1083 confidential and exempt from the provisions of s. 119.07(1) and
1084 s. 24(a), Art. I of the State Constitution and is available only
1085 to the person who is the subject of the record, to the subject's
1086 attorney, to criminal justice agencies for their respective
1087 criminal justice purposes, which include conducting a criminal
1088 history background check for approval of firearms purchases or
1089 transfers as authorized by state or federal law, to judges in
1090 the state courts system for the purpose of assisting them in
1091 their case-related decisionmaking responsibilities, as set forth
1092 in s. 943.053(5), or to those entities set forth in
1093 subparagraphs (a)1., 4., 5., 6., and 8. for their respective
1094 licensing, access authorization, and employment purposes.

1095 (a) The subject of a criminal history record sealed under
1096 this section or under other provisions of law, including former
1097 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
1098 deny or fail to acknowledge the arrests covered by the sealed
1099 record, except when the subject of the record:

- 1100 1. Is a candidate for employment with a criminal justice
1101 agency;
- 1102 2. Is a defendant in a criminal prosecution;

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- 1103 3. Concurrently or subsequently petitions for relief under
1104 this section or s. 943.0585;
- 1105 4. Is a candidate for admission to The Florida Bar;
- 1106 5. Is seeking to be employed or licensed by or to contract
1107 with the Department of Children and Family Services, the
1108 Division of Vocational Rehabilitation within the Department of
1109 Education, the Agency for Health Care Administration, the Agency
1110 for Persons with Disabilities, the Department of Health, the
1111 Department of Elderly Affairs, or the Department of Juvenile
1112 Justice or to be employed or used by such contractor or licensee
1113 in a sensitive position having direct contact with children, the
1114 ~~developmentally disabled, the aged, or the elderly as provided~~
1115 ~~in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.~~
1116 ~~402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(5), s.~~
1117 ~~415.103, chapter 916, s. 985.644, chapter 400, or chapter 429;~~
- 1118 6. Is seeking to be employed or licensed by the Department
1119 of Education, any district school board, any university
1120 laboratory school, any charter school, any private or parochial
1121 school, or any local governmental entity that licenses child
1122 care facilities;
- 1123 7. Is attempting to purchase a firearm from a licensed
1124 importer, licensed manufacturer, or licensed dealer and is
1125 subject to a criminal history check under state or federal law;
1126 or
- 1127 8. Is seeking authorization from a Florida seaport
1128 identified in s. 311.09 for employment within or access to one
1129 or more of such seaports pursuant to s. 311.12.
- 1130 Section 19. This act shall take effect upon becoming a law.