

1 A bill to be entitled
2 An act relating to the Department of Financial
3 Services; amending s. 20.121, F.S.; specifying powers
4 and duties of the Division of Public Assistance Fraud;
5 amending s. 497.101, F.S.; revising provisions
6 relating to membership of the Board of Funeral,
7 Cemetery, and Consumer Services; creating s. 497.1411,
8 F.S.; providing definitions; providing for permanent
9 disqualification of applicants for licensure under
10 chapter 497, F.S., upon conviction of certain
11 offenses; providing for disqualifying periods for such
12 applicants who have been convicted of certain
13 offenses; requiring rulemaking; providing for
14 calculation of disqualifying periods; providing for
15 applicants to show rehabilitation after completion of
16 a disqualifying period; providing for the effect of a
17 pardon or clemency; providing for exemptions from
18 disqualification in certain circumstances; providing
19 procedures for consideration of applications for such
20 exemptions; amending s. 497.157, F.S.; prohibiting
21 persons from acting as or advertising themselves as
22 being certain persons unless they are so licensed;
23 prohibiting persons from engaging in certain
24 activities requiring licensure without holding
25 required licenses; providing criminal penalties;

26 | amending s. 552.081, F.S.; revising the definition of
 27 | two-component explosives for the purpose of regulation
 28 | by the Division of State Fire Marshal; amending s.
 29 | 553.7921, F.S.; revising requirements for repair of an
 30 | existing alarm system that was previously permitted by
 31 | a local enforcement agency; amending s. 633.416, F.S.;
 32 | providing that certain persons serving as volunteer
 33 | firefighters may serve as a regular or permanent
 34 | firefighter for a limited period subject to certain
 35 | restrictions; amending s. 843.08, F.S.; prohibiting
 36 | false personation of personnel or representatives of
 37 | the Division of Investigative and Forensic Services;
 38 | providing criminal penalties; amending s. 943.045,
 39 | F.S.; providing the investigations component of the
 40 | Department of Financial Services is a criminal justice
 41 | agency for specified purposes; providing an effective
 42 | date.

44 | Be It Enacted by the Legislature of the State of Florida:

46 | Section 1. Paragraph (f) of subsection (2) of section
 47 | 20.121, Florida Statutes, is amended to read:

48 | 20.121 Department of Financial Services.—There is created
 49 | a Department of Financial Services.

50 | (2) DIVISIONS.—The Department of Financial Services shall

51 consist of the following divisions and office:

52 (f) The Division of Public Assistance Fraud, which shall
53 function as a criminal justice agency for purposes of ss.
54 943.045-943.08. The division shall conduct investigations
55 pursuant to s. 414.411 within or outside of this state as it
56 deems necessary. If, during an investigation, the division has
57 reason to believe that any criminal law of this state has or may
58 have been violated, it shall refer any records tending to show
59 such violation to state or federal law enforcement or
60 prosecutorial agencies and shall provide investigative
61 assistance to those agencies as required.

62 Section 2. Subsections (1), (2), (3), (6), and (8) of
63 section 497.101, Florida Statutes, are amended to read:

64 497.101 Board of Funeral, Cemetery, and Consumer Services;
65 membership; appointment; terms.—

66 (1) The Board of Funeral, Cemetery, and Consumer Services
67 is created within the Department of Financial Services and shall
68 consist of 10 members, 9 of whom shall be appointed by the
69 Governor from nominations made by the Chief Financial Officer
70 and confirmed by the Senate. The Chief Financial Officer shall
71 nominate one to three persons for each of the nine vacancies on
72 the board, and the Governor shall fill each vacancy on the board
73 by appointing one of the ~~three~~ persons nominated by the Chief
74 Financial Officer to fill that vacancy. If the Governor objects
75 to each of the ~~three~~ nominations for a vacancy, she or he shall

76 | inform the Chief Financial Officer in writing. Upon notification
77 | of an objection by the Governor, the Chief Financial Officer
78 | shall submit one to three additional nominations for that
79 | vacancy until the vacancy is filled. One member must be the
80 | State Health Officer or her or his designee.

81 | (2) Two members of the board shall be funeral directors
82 | licensed under part III of this chapter who are associated with
83 | a funeral establishment. One member of the board shall be a
84 | funeral director licensed under part III of this chapter who is
85 | associated with a funeral establishment licensed under part III
86 | of this chapter that has a valid preneed license issued pursuant
87 | to this chapter and who owns or operates a cinerator facility
88 | approved under chapter 403 and licensed under part VI of this
89 | chapter. Two members of the board shall be persons whose primary
90 | occupation is associated with a cemetery company licensed
91 | pursuant to this chapter. Two ~~Three~~ members of the board shall
92 | be consumers who are residents of the state, have never been
93 | licensed as funeral directors or embalmers, are not connected
94 | with a cemetery or cemetery company licensed pursuant to this
95 | chapter, and are not connected with the death care industry or
96 | the practice of embalming, funeral directing, or direct
97 | disposition. One of the two consumer members shall be at least
98 | 60 years of age, ~~and one shall be licensed as a certified public~~
99 | ~~accountant under chapter 473.~~ One member of the board shall be a
100 | consumer who is a resident of this state; licensed as a

101 certified public accountant under chapter 473; has never been
102 licensed as a funeral director or embalmer; is not a principal
103 or employee of any licensee licensed under this chapter; and
104 does not otherwise have control, as defined in s. 497.005, over
105 any licensee licensed under this chapter. One member of the
106 board shall be a principal of a monument establishment licensed
107 under this chapter as a monument builder. One member shall be
108 the State Health Officer or her or his designee. There shall not
109 be two or more board members who are principals or employees of
110 the same company or partnership or group of companies or
111 partnerships under common control.

112 (3) Board members shall be appointed for terms of 4 years,
113 and the State Health Officer shall serve as long as that person
114 holds that office. The designee of the State Health Officer
115 shall serve at the pleasure of the Governor. ~~When the terms of~~
116 ~~the initial board members expire, the Chief Financial Officer~~
117 ~~shall stagger the terms of the successor members as follows: one~~
118 ~~funeral director, one cemetery representative, the monument~~
119 ~~builder, and one consumer member shall be appointed for terms of~~
120 ~~2 years, and the remaining members shall be appointed for terms~~
121 ~~of 4 years. All subsequent terms shall be for 4 years.~~

122 (6) The headquarters and records of the board shall be in
123 the Division of Funeral, Cemetery, and Consumer Services of the
124 Department of Financial Services in the City of Tallahassee. The
125 board may be contacted through the Division of Funeral,

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126 Cemetery, and Consumer Services of the Department of Financial
127 Services in the City of Tallahassee. The Chief Financial Officer
128 shall annually appoint from among the board members a chair and
129 vice chair of the board. The board shall meet at least every 6
130 months, and more often as necessary. Special meetings of the
131 board shall be convened upon the direction of the Chief
132 Financial Officer. A quorum is necessary for the conduct of
133 business by the board. Unless otherwise provided by law, a
134 majority of the board members eligible to vote shall constitute
135 a quorum for the purpose of conducting its business ~~six board~~
136 ~~members shall constitute a quorum for the conduct of the board's~~
137 ~~business.~~

138 ~~(8) The department shall adopt rules establishing forms by~~
139 ~~which persons may apply for membership on the board and~~
140 ~~procedures for applying for such membership. Such forms shall~~
141 ~~require disclosure of the existence and nature of all current~~
142 ~~and past employments by or contracts with, and direct or~~
143 ~~indirect affiliations or interests in, any entity or business~~
144 ~~that at any time was licensed by the board or by the former~~
145 ~~Board of Funeral and Cemetery Services or the former Board of~~
146 ~~Funeral Directors and Embalmers or that is or was otherwise~~
147 ~~involved in the death care industry, as specified by department~~
148 ~~rule.~~

149 Section 3. Section 497.1411, Florida Statutes, is created
150 to read:

151 497.1411 Disqualification of applicants and licensees;
152 penalties against licensees; rulemaking.—

153 (1) For purposes of this section, the term:

154 (a) "Applicant" means an individual applying for licensure
155 or relicensure under this chapter, and an officer, director,
156 majority owner, partner, manager, or other person who manages or
157 controls an entity applying for licensure or relicensure under
158 this chapter.

159 (b) "Felony of the first degree" and "capital felony"
160 include all felonies designated as such in this state, at the
161 time of the commission of the offense, as well as any offense in
162 another jurisdiction that is substantially similar to an offense
163 so designated in this state.

164 (c) "Financial services business" means any financial
165 activity regulated by the Department of Financial Services, the
166 Office of Insurance Regulation, or the Office of Financial
167 Regulation.

168 (2) An applicant who has been found guilty of or has
169 pleaded guilty or nolo contendere to any of the following
170 crimes, regardless of adjudication, is permanently barred from
171 licensure under this chapter:

172 (a) A felony of the first degree.

173 (b) A capital felony.

174 (c) A felony money laundering offense.

175 (d) A felony embezzlement.

176 (3) An applicant who has been found guilty of or has
177 pleaded guilty or nolo contendere to a crime not included in
178 subsection (2), regardless of adjudication, is subject to:

179 (a) A 10-year disqualifying period for all felonies
180 involving moral turpitude that are not specifically included in
181 the permanent bar contained in subsection (2).

182 (b) A 5-year disqualifying period for all felonies to
183 which neither the permanent bar in subsection (2) nor the 10-
184 year disqualifying period in paragraph (a) applies.

185 (c) A 5-year disqualifying period for all misdemeanors
186 directly related to the financial services business.

187 (4) The department shall adopt rules to administer this
188 section. The rules must provide for additional disqualifying
189 periods due to the commitment of multiple crimes and may include
190 other factors reasonably related to the applicant's criminal
191 history. The rules shall provide for mitigating and aggravating
192 factors. However, mitigation may not result in a period of
193 disqualification of less than 5 years and may not mitigate the
194 disqualifying periods in paragraphs (3)(b) and (c).

195 (5) For purposes of this section, a disqualifying period
196 begins upon the applicant's final release from supervision or
197 upon completion of the applicant's criminal sentence. The
198 department may not issue a license to an applicant unless all
199 related fines, court costs and fees, and court-ordered
200 restitution have been paid.

201 (6) After the disqualifying period has expired, the burden
202 is on the applicant to demonstrate that he or she has been
203 rehabilitated, does not pose a risk to the public, is fit and
204 trustworthy to engage in business regulated by this chapter, and
205 is otherwise qualified for licensure.

206 (7) Notwithstanding subsections (2) and (3), upon a grant
207 of a pardon or the restoration of civil rights pursuant to
208 chapter 940 and s. 8, Art. IV of the State Constitution with
209 respect to a finding of guilt or a plea under subsection (2) or
210 subsection (3), or such pardon or the restoration of civil
211 rights under the laws of another jurisdiction with respect to a
212 conviction in that jurisdiction, such finding or plea no longer
213 bars or disqualifies the applicant from licensure under this
214 chapter; however, such a pardon or restoration of civil rights
215 does not require the department to award such license.

216 (8) (a) The Board of Funeral, Cemetery, and Consumer
217 Services may grant an exemption from disqualification to any
218 person disqualified from licensure under this section because of
219 a criminal record if:

220 1. The applicant has paid in full any fee, fine, fund,
221 lien, civil judgment, restitution, or cost of prosecution
222 imposed by the court as part of the judgment and sentence for
223 any disqualifying offense; and

224 2. At least 5 years have elapsed since the applicant
225 completed or has been lawfully released from confinement,

226 supervision, or nonmonetary condition imposed by the court for a
227 disqualifying offense.

228 (b) For the board to grant an exemption under this
229 subsection, the applicant must clearly and convincingly
230 demonstrate that he or she would not pose a risk to persons or
231 property if licensed under this chapter, evidence of which must
232 include, but need not be limited to, facts and circumstances
233 surrounding the disqualifying offense, the time that has elapsed
234 since the offense, the nature of the offense and harm caused to
235 the victim, the applicant's history before and after the
236 offense, and any other evidence or circumstances indicating that
237 the applicant will not present a danger if licensed or
238 certified.

239 (c) The board has discretion whether to grant or deny an
240 exemption under this subsection. The board's decision is subject
241 to chapter 120, except that a formal proceeding under s.
242 120.57(1) is available only if there are disputed issues of
243 material fact that the department relied upon in reaching its
244 decision.

245 Section 4. Subsections (2) through (5) of section 497.157,
246 Florida Statutes, are renumbered as subsections (4) through (7),
247 respectively, new subsections (2), (3) and (8) are added to that
248 section, and present subsection (3) is amended, to read:

249 497.157 Unlicensed practice; remedies concerning
250 violations by unlicensed persons.—

251 (2) A person may not be, act as, or advertise or hold
252 himself or herself out to be a funeral director, embalmer, or
253 direct disposer, unless he or she is currently licensed by the
254 department.

255 (3) A person may not be, act as, or advertise or hold
256 himself or herself out to be a preneed sales agent unless he or
257 she is currently licensed by the department and appointed by a
258 preneed main licensee for which they are executing preneed
259 contracts.

260 (5)~~(3)~~ Where the department determines that an emergency
261 exists regarding any violation of this chapter by any unlicensed
262 person or entity, the department may issue and serve an
263 immediate final order upon such unlicensed person or entity, in
264 accordance with s. 120.569(2)(n). Such an immediate final order
265 may impose such prohibitions and requirements as are reasonably
266 necessary to protect the public health, safety, and welfare, and
267 shall be effective when served.

268 (a) For the purpose of enforcing such an immediate final
269 order, the department may file an emergency or other proceeding
270 in the circuit courts of the state seeking enforcement of the
271 immediate final order by injunctive or other order of the court.
272 The court shall issue its injunction or other order enforcing
273 the immediate final order pending administrative resolution of
274 the matter under subsection (4)~~(2)~~, unless the court determines
275 that such action would work a manifest injustice under the

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276 | circumstances. Venue for judicial actions under this paragraph
277 | shall be, at the election of the department, in the courts of
278 | Leon County, or in a county where the respondent resides or has
279 | a place of business.

280 | (b) After serving an immediate final order to cease and
281 | desist upon any person or entity, the department shall within 10
282 | days issue and serve upon the same person or entity an
283 | administrative complaint as set forth in subsection (4) ~~(2)~~,
284 | except that, absent order of a court to the contrary, the
285 | immediate final order shall be effective throughout the pendency
286 | of proceedings under subsection (4) ~~(2)~~.

287 | (8) Any person who is not licensed under this chapter and
288 | who engages in activity requiring licensure under this chapter
289 | commits a felony of the third degree, punishable as provided in
290 | s. 775.082, s. 775.083, or s. 775.084.

291 | Section 5. Subsection (13) of section 552.081, Florida
292 | Statutes, is amended to read:

293 | 552.081 Definitions.—As used in this chapter:

294 | (13) "Two-component explosives" means any two inert
295 | components which, when mixed, become capable of detonation by
296 | any detonator ~~a No. 6 blasting cap~~, and shall be classified as a
297 | Class "A" explosive when so mixed.

298 | Section 6. Subsection (2) of section 553.7921, Florida
299 | Statutes, is renumbered as subsection (3), subsection (1) of
300 | that section is amended, and a new subsection (2) is added to

301 that section, to read:

302 553.7921 Fire alarm permit application to local
303 enforcement agency.—

304 (1) A contractor must file a Uniform Fire Alarm Permit
305 Application as provided in subsection (3) ~~(2)~~ with the local
306 enforcement agency and must receive the fire alarm permit
307 before:

308 ~~(a) installing or replacing a fire alarm if the local~~
309 ~~enforcement agency requires a plan review for the installation~~
310 ~~or replacement; or~~

311 ~~(b) Repairing an existing alarm system that was previously~~
312 ~~permitted by the local enforcement agency if the local~~
313 ~~enforcement agency requires a fire alarm permit for the repair.~~

314 (2) If the local enforcement agency requires a fire alarm
315 permit to repair an existing alarm system that was previously
316 permitted by the local enforcement agency, a contractor may
317 begin work after filing a Uniform Fire Alarm Permit Application
318 as provided in subsection (3). A fire alarm repaired pursuant to
319 this subsection shall not be considered compliant until the
320 required permit has been issued and the local enforcement agency
321 has approved the repair.

322 Section 7. Subsection (1) of section 633.416, Florida
323 Statutes, is amended to read:

324 633.416 Firefighter employment and volunteer firefighter
325 service; saving clause.—

326 (1) A fire service provider may not employ an individual
 327 to:

328 (a) Extinguish fires for the protection of life or
 329 property or to supervise individuals who perform such services
 330 unless the individual holds a current and valid Firefighter
 331 Certificate of Compliance. However, a person who is currently
 332 serving as a volunteer firefighter and holds a volunteer
 333 firefighter certificate of completion with a fire service
 334 provider, who is then employed as a regular or permanent
 335 firefighter, by such fire service provider, may function, for a
 336 period of 1 year under the direct supervision of an individual
 337 holding a valid firefighter certificate of compliance, in the
 338 same capacity in which he or she acted as a volunteer
 339 firefighter, provided that he or she has completed all training
 340 required by the volunteer organization. Under no circumstance
 341 can this period extend beyond 1 year either collectively or
 342 consecutively from the start of employment to obtain a
 343 Firefighter Certificate of Compliance; or

344 (b) Serve as the administrative and command head of a fire
 345 service provider for a period in excess of 1 year unless the
 346 individual holds a current and valid Firefighter Certificate of
 347 Compliance or Special Certificate of Compliance.

348 Section 8. Section 843.08, Florida Statutes, is amended to
 349 read:

350 843.08 False personation.—A person who falsely assumes or

351 | pretends to be a firefighter, a sheriff, an officer of the
352 | Florida Highway Patrol, an officer of the Fish and Wildlife
353 | Conservation Commission, an officer of the Department of
354 | Environmental Protection, ~~a fire or arson investigator of the~~
355 | ~~Department of Financial Services,~~ an officer of the Department
356 | of Financial Services, or any personnel or representative of the
357 | Division of Investigative and Forensic Services, an officer of
358 | the Department of Corrections, a correctional probation officer,
359 | a deputy sheriff, a state attorney or an assistant state
360 | attorney, a statewide prosecutor or an assistant statewide
361 | prosecutor, a state attorney investigator, a coroner, a police
362 | officer, a lottery special agent or lottery investigator, a
363 | beverage enforcement agent, a school guardian as described in s.
364 | 30.15(1)(k), a security officer licensed under chapter 493, any
365 | member of the Florida Commission on Offender Review or any
366 | administrative aide or supervisor employed by the commission,
367 | any personnel or representative of the Department of Law
368 | Enforcement, or a federal law enforcement officer as defined in
369 | s. 901.1505, and takes upon himself or herself to act as such,
370 | or to require any other person to aid or assist him or her in a
371 | matter pertaining to the duty of any such officer, commits a
372 | felony of the third degree, punishable as provided in s.
373 | 775.082, s. 775.083, or s. 775.084. However, a person who
374 | falsely personates any such officer during the course of the
375 | commission of a felony commits a felony of the second degree,

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376 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
377 If the commission of the felony results in the death or personal
378 injury of another human being, the person commits a felony of
379 the first degree, punishable as provided in s. 775.082, s.
380 775.083, or s. 775.084.

381 Section 9. Paragraph (f) is added to subsection (11) of
382 section 943.045, Florida Statutes, to read:

383 943.045 Definitions; ss. 943.045-943.08.—The following
384 words and phrases as used in ss. 943.045-943.08 shall have the
385 following meanings:

386 (11) "Criminal justice agency" means:

387 (f) The investigations component of the Department of
388 Financial Services, which investigates the crimes of fraud and
389 official misconduct in all public assistance given to residents
390 of the state or provided to others by the state.

391 Section 10. This act shall take effect July 1, 2020.