

1 A bill to be entitled
2 An act relating to background screening; amending s.
3 322.142, F.S.; allowing the Department of Highway
4 Safety and Motor Vehicles to share driver license
5 photographs with the Agency for Health Care
6 Administration pursuant to an interagency agreement;
7 amending ss. 408.809 and 435.04, F.S.; adding
8 additional disqualifying offenses to background
9 screening provisions; amending s. 435.07, F.S.;
10 revising terminology; requiring that individuals
11 seeking an exemption from disqualification must have
12 completed all nonmonetary conditions imposed by the
13 court for the disqualifying felony; requiring that all
14 persons seeking an exemption from disqualification
15 have paid any court-ordered monetary penalty in full
16 before being eligible to apply; amending s. 435.12,
17 F.S.; requiring that a photograph of the person taken
18 at the time the fingerprints are processed be
19 submitted to the Care Provider Background Screening
20 Clearinghouse before submission of the electronic
21 fingerprints; requiring specified information to be
22 included with the initiation of the screening
23 registration within the clearinghouse; providing an
24 effective date.

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

28 Section 1. Subsection (4) of section 322.142, Florida

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29 Statutes, is amended to read:

30 322.142 Color photographic or digital imaged licenses.—

31 (4) The department may maintain a film negative or print
32 file. The department shall maintain a record of the digital
33 image and signature of the licensees, together with other data
34 required by the department for identification and retrieval.
35 Reproductions from the file or digital record are exempt from
36 the provisions of s. 119.07(1) and shall be made and issued only
37 for departmental administrative purposes; for the issuance of
38 duplicate licenses; in response to law enforcement agency
39 requests; to the Department of Business and Professional
40 Regulation pursuant to an interagency agreement for the purpose
41 of accessing digital images for reproduction of licenses issued
42 by the Department of Business and Professional Regulation; to
43 the Department of State pursuant to an interagency agreement to
44 facilitate determinations of eligibility of voter registration
45 applicants and registered voters in accordance with ss. 98.045
46 and 98.075; to the Department of Revenue pursuant to an
47 interagency agreement for use in establishing paternity and
48 establishing, modifying, or enforcing support obligations in
49 Title IV-D cases; to the Department of Children and Family
50 Services pursuant to an interagency agreement to conduct
51 protective investigations under part III of chapter 39 and
52 chapter 415; to the Department of Children and Family Services
53 pursuant to an interagency agreement specifying the number of
54 employees in each of that department's regions to be granted
55 access to the records for use as verification of identity to
56 expedite the determination of eligibility for public assistance

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57 | and for use in public assistance fraud investigations; to the
58 | Agency for Health Care Administration pursuant to an interagency
59 | agreement for the purpose of verifying photographs in the Care
60 | Provider Background Screening Clearinghouse authorized in s.
61 | 435.12; to the Department of Financial Services pursuant to an
62 | interagency agreement to facilitate the location of owners of
63 | unclaimed property, the validation of unclaimed property claims,
64 | and the identification of fraudulent or false claims; or to
65 | district medical examiners pursuant to an interagency agreement
66 | for the purpose of identifying a deceased individual,
67 | determining cause of death, and notifying next of kin of any
68 | investigations, including autopsies and other laboratory
69 | examinations, authorized in s. 406.011.

70 | Section 2. Paragraphs (h) through (q) of subsection (4) of
71 | section 408.809, Florida Statutes, are redesignated as
72 | paragraphs (j) through (s), respectively, and new paragraphs (h)
73 | and (i) are added to that subsection to read:

74 | 408.809 Background screening; prohibited offenses.—

75 | (4) In addition to the offenses listed in s. 435.04, all
76 | persons required to undergo background screening pursuant to
77 | this part or authorizing statutes must not have an arrest
78 | awaiting final disposition for, must not have been found guilty
79 | of, regardless of adjudication, or entered a plea of nolo
80 | contendere or guilty to, and must not have been adjudicated
81 | delinquent and the record not have been sealed or expunged for
82 | any of the following offenses or any similar offense of another
83 | jurisdiction:

84 | (h) Section 817.481, relating to obtaining goods by using

85 false, expired, etc., credit cards, if the offense was a felony.

86 (i) Section 817.50, relating to fraudulently obtaining
 87 goods, services, etc., from a health care provider.

88 Section 3. Paragraphs (d) through (yy) of subsection (2)
 89 of section 435.04, Florida Statutes, are redesignated as
 90 paragraphs (e) through (zz), respectively, paragraph (e) of
 91 subsection (1) of that section is amended, and a new paragraph
 92 (d) is added to subsection (2) of that section, to read:

93 435.04 Level 2 screening standards.—

94 (1)

95 (e) Vendors who submit fingerprints on behalf of employers
 96 must:

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

98 2. Have the ability to communicate electronically with the
 99 state agency accepting screening results from the Department of
 100 Law Enforcement and provide the necessary information required
 101 by law, or the agency, in order to process the submission a
 102 ~~photograph of the applicant taken at the time the fingerprints~~
 103 ~~are submitted.~~

104 (2) The security background investigations under this
 105 section must ensure that no persons subject to the provisions of
 106 this section have been arrested for and are awaiting final
 107 disposition of, have been found guilty of, regardless of
 108 adjudication, or entered a plea of nolo contendere or guilty to,
 109 or have been adjudicated delinquent and the record has not been
 110 sealed or expunged for, any offense prohibited under any of the
 111 following provisions of state law or similar law of another
 112 jurisdiction:

113 (d) Section 777.04, relating to attempts, solicitation,
114 and conspiracy to commit an offense.

115 Section 4. Subsections (1) and (2) of section 435.07,
116 Florida Statutes, are amended to read:

117 435.07 Exemptions from disqualification.—Unless otherwise
118 provided by law, the provisions of this section apply to
119 exemptions from disqualification for disqualifying offenses
120 revealed pursuant to background screenings required under this
121 chapter, regardless of whether those disqualifying offenses are
122 listed in this chapter or other laws.

123 (1) (a) The head of the appropriate agency may grant to any
124 employee otherwise disqualified from employment an exemption
125 from disqualification for:

126 1.(a) Felonies for which at least 3 years have elapsed
127 since the applicant for the exemption has completed or been
128 lawfully released from confinement, supervision, or nonmonetary
129 condition imposed by the court ~~sanction~~ for the disqualifying
130 felony;

131 2.(b) Misdemeanors prohibited under any of the statutes
132 cited in this chapter or under similar statutes of other
133 jurisdictions for which the applicant for the exemption has
134 completed or been lawfully released from confinement,
135 supervision, or nonmonetary condition imposed by the court
136 ~~sanction~~;

137 3.(c) Offenses that were felonies when committed but that
138 are now misdemeanors and for which the applicant for the
139 exemption has completed or been lawfully released from
140 confinement, supervision, or nonmonetary condition imposed by

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141 | the court sanction; or

142 | 4.(d) Findings of delinquency. For offenses that would be
143 | felonies if committed by an adult and the record has not been
144 | sealed or expunged, the exemption may not be granted until at
145 | least 3 years have elapsed since the applicant for the exemption
146 | has completed or been lawfully released from confinement,
147 | supervision, or nonmonetary condition imposed by the court
148 | ~~sanction~~ for the disqualifying offense.

149 | (b) A person who wishes to apply for an exemption who was
150 | ordered to pay any amount for any fee, fine, fund, lien, civil
151 | judgment, application, costs of prosecution, trust, or
152 | restitution as part of the judgment and sentence for any
153 | disqualifying felony or misdemeanor must have paid the court-
154 | ordered amount in full before being eligible for an exemption;
155 |

156 | For the purposes of this subsection, the term "felonies" means
157 | both felonies prohibited under any of the statutes cited in this
158 | chapter or under similar statutes of other jurisdictions.

159 | (2) Persons employed, or applicants for employment, by
160 | treatment providers who treat adolescents 13 years of age and
161 | older who are disqualified from employment solely because of
162 | crimes under s. 817.563, s. 893.13, or s. 893.147 may be
163 | exempted from disqualification from employment pursuant to this
164 | chapter without application of the waiting period in
165 | subparagraph (1)(a)1. paragraph ~~(1)(a)~~.

166 | Section 5. Subsection (2) of section 435.12, Florida
167 | Statutes, is amended to read:

168 | 435.12 Care Provider Background Screening Clearinghouse.-

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169 (2) (a) To ensure that the information in the clearinghouse
170 is current, the fingerprints of an employee required to be
171 screened by a specified agency and included in the clearinghouse
172 must be:

173 1. Retained by the Department of Law Enforcement pursuant
174 to s. 943.05(2)(g) and (h) and (3), and the Department of Law
175 Enforcement must report the results of searching those
176 fingerprints against state incoming arrest fingerprint
177 submissions to the Agency for Health Care Administration for
178 inclusion in the clearinghouse.

179 2. Resubmitted for a Federal Bureau of Investigation
180 national criminal history check every 5 years until such time as
181 the fingerprints are retained by the Federal Bureau of
182 Investigation.

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

186 4. Submitted with a photograph of the person taken at the
187 time the fingerprints are submitted.

188 (b) Until such time as the fingerprints are retained at
189 the Federal Bureau of Investigation, an employee with a break in
190 service of more than 90 days from a position that requires
191 screening by a specified agency must submit to a national
192 screening if the person returns to a position that requires
193 screening by a specified agency.

194 (c) An employer of persons subject to screening by a
195 specified agency must register with the clearinghouse and
196 maintain the employment status of all employees within the

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197 clearinghouse. Initial employment status and any changes in
198 status must be reported within 10 business days.

199 (d) An employer must register and initiate all criminal
200 history checks through the clearinghouse before referring an
201 employee or potential employee for electronic fingerprint
202 submission to the Department of Law Enforcement. The
203 registration must include the employee's full name (first,
204 middle, last), social security number, date of birth, mailing
205 address, sex, and race.

206 Section 6. This act shall take effect July 1, 2013.