

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 s. 408.809, F.S.; adding additional
8 disqualifying offenses to background screening
9 provisions; amending s. 435.04, F.S.; revising
10 information to be submitted for a background
11 screening; adding additional disqualifying offenses;
12 amending s. 435.07, F.S.; revising terminology;
13 requiring that individuals seeking an exemption from
14 disqualification must have completed all nonmonetary
15 conditions imposed by the court for the disqualifying
16 felony; requiring that all persons seeking an
17 exemption from disqualification have paid any court-
18 ordered monetary penalty in full before being eligible
19 to apply; amending s. 435.12, F.S.; requiring that a
20 photograph of the person taken at the time the
21 fingerprints are processed be submitted to the Care
22 Provider Background Screening Clearinghouse before
23 submission of the electronic fingerprints; requiring
24 specified information to be included with the
25 initiation of the screening registration within the
26 clearinghouse; providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:

29
30 Section 1. Subsection (4) of section 322.142, Florida
31 Statutes, is amended to read:
32 322.142 Color photographic or digital imaged licenses.—
33 (4) The department may maintain a film negative or print
34 file. The department shall maintain a record of the digital
35 image and signature of the licensees, together with other data
36 required by the department for identification and retrieval.
37 Reproductions from the file or digital record are exempt from
38 the provisions of s. 119.07(1) and shall be made and issued only
39 for departmental administrative purposes; for the issuance of
40 duplicate licenses; in response to law enforcement agency
41 requests; to the Department of Business and Professional
42 Regulation pursuant to an interagency agreement for the purpose
43 of accessing digital images for reproduction of licenses issued
44 by the Department of Business and Professional Regulation; to
45 the Department of State pursuant to an interagency agreement to
46 facilitate determinations of eligibility of voter registration
47 applicants and registered voters in accordance with ss. 98.045
48 and 98.075; to the Department of Revenue pursuant to an
49 interagency agreement for use in establishing paternity and
50 establishing, modifying, or enforcing support obligations in
51 Title IV-D cases; to the Department of Children and Family
52 Services pursuant to an interagency agreement to conduct
53 protective investigations under part III of chapter 39 and
54 chapter 415; to the Department of Children and Family Services
55 pursuant to an interagency agreement specifying the number of
56 employees in each of that department's regions to be granted

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

72 | Section 2. Paragraphs (f), (g), and (h) through (q) of
73 | subsection (4) of section 408.809, Florida Statutes, are
74 | redesignated as paragraphs (g), (h), and (k) through (t),
75 | respectively, and new paragraphs (f), (i), (j), (u), and (v) are
76 | added to that subsection to read:

77 | 408.809 Background screening; prohibited offenses.—

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

85 any of the following offenses or any similar offense of another
 86 jurisdiction:

87 (f) Section 777.04, relating to attempts, solicitation,
 88 and conspiracy to commit an offense listed in this subsection.

89 (i) Section 817.481, relating to obtaining goods by using
 90 false, expired, etc., credit cards, if the offense was a felony.

91 (j) Section 817.50, relating to fraudulently obtaining
 92 goods, services, etc., from a health care provider.

93 (u) Section 895.03, relating to racketeering and illegal
 94 debts.

95 (v) Section 896.101, relating to the Florida Money
 96 Laundering Act.

97 Section 3. Paragraphs (d) through (yy) of subsection (2)
 98 of section 435.04, Florida Statutes, are redesignated as
 99 paragraphs (e) through (zz), respectively, paragraph (e) of
 100 subsection (1) of that section is amended, and a new paragraph
 101 (d) is added to subsection (2) of that section, to read:

102 435.04 Level 2 screening standards.—

103 (1)

104 (e) Vendors who submit fingerprints on behalf of employers
 105 must:

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

107 2. Have the ability to communicate electronically with the
 108 state agency accepting screening results from the Department of
 109 Law Enforcement and provide the first, middle, and last name;
 110 social security number; date of birth; mailing address; sex; and
 111 race of the applicant ~~a photograph of the applicant taken at the~~
 112 ~~time the fingerprints are submitted.~~

113 (2) The security background investigations under this
114 section must ensure that no persons subject to the provisions of
115 this section have been arrested for and are awaiting final
116 disposition of, have been found guilty of, regardless of
117 adjudication, or entered a plea of nolo contendere or guilty to,
118 or have been adjudicated delinquent and the record has not been
119 sealed or expunged for, any offense prohibited under any of the
120 following provisions of state law or similar law of another
121 jurisdiction:

122 (d) Section 777.04, relating to attempts, solicitation,
123 and conspiracy to commit an offense listed in this subsection.

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

126 435.07 Exemptions from disqualification.—Unless otherwise
127 provided by law, the provisions of this section apply to
128 exemptions from disqualification for disqualifying offenses
129 revealed pursuant to background screenings required under this
130 chapter, regardless of whether those disqualifying offenses are
131 listed in this chapter or other laws.

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

135 1.(a) Felonies for which at least 3 years have elapsed
136 since the applicant for the exemption has completed or been
137 lawfully released from confinement, supervision, or nonmonetary
138 condition imposed by the court ~~sanction~~ for the disqualifying
139 felony;

140 2.(b) Misdemeanors prohibited under any of the statutes

141 cited in this chapter or under similar statutes of other
142 jurisdictions for which the applicant for the exemption has
143 completed or been lawfully released from confinement,
144 supervision, or nonmonetary condition imposed by the court
145 sanction;

146 ~~3.(e)~~ Offenses that were felonies when committed but that
147 are now misdemeanors and for which the applicant for the
148 exemption has completed or been lawfully released from
149 confinement, supervision, or nonmonetary condition imposed by
150 the court sanction; or

151 ~~4.(d)~~ Findings of delinquency. For offenses that would be
152 felonies if committed by an adult and the record has not been
153 sealed or expunged, the exemption may not be granted until at
154 least 3 years have elapsed since the applicant for the exemption
155 has completed or been lawfully released from confinement,
156 supervision, or nonmonetary condition imposed by the court
157 sanction for the disqualifying offense.

158 (b) A person who wishes to apply for an exemption who was
159 ordered to pay any amount for any fee, fine, fund, lien, civil
160 judgment, application, costs of prosecution, trust, or
161 restitution as part of the judgment and sentence for any
162 disqualifying felony or misdemeanor must have paid the court-
163 ordered amount in full before being eligible for an exemption;

164
165 For the purposes of this subsection, the term "felonies" means
166 both felonies prohibited under any of the statutes cited in this
167 chapter or under similar statutes of other jurisdictions.

168 (2) Persons employed, or applicants for employment, by

169 treatment providers who treat adolescents 13 years of age and
170 older who are disqualified from employment solely because of
171 crimes under s. 817.563, s. 893.13, or s. 893.147 may be
172 exempted from disqualification from employment pursuant to this
173 chapter without application of the waiting period in
174 subparagraph (1) (a) 1. ~~paragraph (1) (a).~~

175 Section 5. Subsection (2) of section 435.12, Florida
176 Statutes, is amended to read:

177 435.12 Care Provider Background Screening Clearinghouse.—

178 (2) (a) To ensure that the information in the clearinghouse
179 is current, the fingerprints of an employee required to be
180 screened by a specified agency and included in the clearinghouse
181 must be:

182 1. Retained by the Department of Law Enforcement pursuant
183 to s. 943.05(2) (g) and (h) and (3), and the Department of Law
184 Enforcement must report the results of searching those
185 fingerprints against state incoming arrest fingerprint
186 submissions to the Agency for Health Care Administration for
187 inclusion in the clearinghouse.

188 2. Resubmitted for a Federal Bureau of Investigation
189 national criminal history check every 5 years until such time as
190 the fingerprints are retained by the Federal Bureau of
191 Investigation.

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

195 4. Submitted with a photograph of the person taken at the
196 time the fingerprints are submitted.

CS/CS/HB 1021

2013

197 (b) Until such time as the fingerprints are retained at
198 the Federal Bureau of Investigation, an employee with a break in
199 service of more than 90 days from a position that requires
200 screening by a specified agency must submit to a national
201 screening if the person returns to a position that requires
202 screening by a specified agency.

203 (c) An employer of persons subject to screening by a
204 specified agency must register with the clearinghouse and
205 maintain the employment status of all employees within the
206 clearinghouse. Initial employment status and any changes in
207 status must be reported within 10 business days.

208 (d) An employer must register and initiate all criminal
209 history checks through the clearinghouse before referring an
210 employee or potential employee for electronic fingerprint
211 submission to the Department of Law Enforcement. The
212 registration must include the employee's full name (first,
213 middle, last), social security number, date of birth, mailing
214 address, sex, and race.

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