

CHAPTER 2023-220

Committee Substitute for Senate Bill No. 676

An act relating to level 2 background screenings; amending s. 435.02, F.S.; revising and providing definitions; amending s. 435.04, F.S.; requiring persons with an affiliation to certain qualified entities to undergo security background investigations; expanding authorized records that may be checked during a level 2 background screening; adding additional disqualifying offenses to level 2 background screening requirements; removing obsolete language; amending s. 435.07, F.S.; authorizing the head of a qualified entity to grant a person with an affiliation an exemption from disqualification under certain circumstances; conforming provisions to changes made by the act; amending s. 435.12, F.S.; authorizing certain qualified entities to participate in the Care Provider Background Screening Clearinghouse beginning on a specified date; requiring the Agency for Health Care Administration to perform certain actions beginning on a specified date; requiring the clearinghouse to share eligibility determinations with certain entities; requiring certain persons with a certain break in service from a position with a qualified entity to submit to a national screening beginning on a specified date; revising the timeframe for certain reporting requirements; revising deadlines for rescreening certain employees; removing obsolete language; conforming provisions to changes made by the act; amending s. 943.0438, F.S.; revising the definition of the term “athletic coach”; requiring level 2, instead of level 1, background screenings for current and prospective athletic coaches; providing timeframes for independent sanctioning authorities to disqualify certain persons from acting as an athletic coach for certain reasons; requiring independent sanctioning authorities to participate in a specified system; conforming provisions to changes made by the act; amending s. 943.05, F.S.; expanding the agencies and entities which may use the Criminal Justice Information Program; requiring the program to develop, for federal approval, a specified method for identifying or verifying an individual; amending s. 943.0542, F.S.; requiring qualified entities to submit a request for screening to the Department of Law Enforcement or, after a specified date, the Agency for Health Care Administration; specifying how payments for a statewide criminal history check are to be made; providing requirements for certain qualified entities; specifying when the clearinghouse may provide certain records to a qualified entity; requiring entities making determinations regarding screening to apply certain criteria; revising standards for determinations of whether a criminal history record shows certain information; requiring the agency to make certain determinations regarding the eligibility of certain employees or volunteers beginning on a specified date; requiring the clearinghouse to provide certain notifications beginning on a specified date; conforming provisions to changes made by the act; amending s. 1012.315, F.S.; revising screening requirements for specified individuals; requiring the agency to make certain

determinations regarding the eligibility of certain employees beginning on a specified date; conforming provisions to changes made by the act; amending s. 1012.467, F.S.; requiring the agency to make certain determinations regarding the eligibility of certain noninstructional contractors beginning on a specified date; requiring background screenings to be conducted by the clearinghouse beginning on a specified date; amending s. 1012.56, F.S.; requiring the records of a person applying for educator certification to be referred to the agency beginning on a specified date; requiring background screening to be conducted by the clearinghouse beginning on a specified date; reenacting ss. 1001.10, 1001.42, 1001.51, 1002.33, 1002.333, 1002.421, 1012.32, 1012.56, 1012.795, and 1012.796, F.S., to incorporate the amendments made by this act to s. 1012.315, F.S., in references thereto; reenacting s. 1012.468, F.S., to incorporate the amendments made by this act to s. 1012.467, F.S., in a reference thereto; providing an appropriation; requiring that certain provisions be implemented by the later of a specified date or a date determined by the agency; providing effective dates.

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

Section 1. Subsections (1) through (4) and subsections (5) and (6) of section 435.02, Florida Statutes, are renumbered as subsections (2) through (5) and subsections (7) and (8), respectively, present subsection (4) is amended, and new subsections (1) and (6) are added to that section, to read:

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

(1) “Affiliation” means the status of a person employed or serving as a volunteer or contractor, or seeking to be employed or to serve as a volunteer or contractor, with a qualified entity in a position for which screening is not required by law but is authorized under the National Child Protection Act.

(5)(4) “Employment” means any activity or service sought to be performed by an employee or a person with an affiliation which requires the employee, or for which a person with an affiliation is authorized, to be screened pursuant to this chapter.

(6) “Qualified entity” has the same meaning as in s. 943.0542(1).

Section 2. Paragraphs (a), (b), and (d) of subsection (1) and subsection (2) of section 435.04, Florida Statutes, are amended to read:

435.04 Level 2 screening standards.—

(1)(a) All employees required by law to be screened ~~under pursuant to this section and persons with an affiliation with a qualified entity for whom the qualified entity chooses to conduct screening under s. 943.0542~~ must undergo security background investigations as a condition of employment and continued employment which includes, but ~~is not need not be~~ limited to, fingerprinting for statewide criminal history records checks through the

Department of Law Enforcement, and national criminal history records checks through the Federal Bureau of Investigation, and ~~may include~~ local criminal records checks through local law enforcement agencies. A security background investigation under this section also includes a search of the sexual predator and sexual offender registries of any state in which the current or prospective employee resided during the immediate preceding 5 years.

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

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

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

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

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

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

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

(e) Section 782.04, relating to murder.

(f) Section 782.07, relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child.

(g) Section 782.071, relating to vehicular homicide.

(h) Section 782.09, relating to killing of an unborn child by injury to the mother.

(i) Chapter 784, relating to assault, battery, and culpable negligence, if the offense was a felony.

(j) Section 784.011, relating to assault, if the victim of the offense was a minor.

(k) Section 784.021, relating to aggravated assault.

~~(l)(k)~~ Section 784.03, relating to battery, if the victim of the offense was a minor.

(m) Section 784.045, relating to aggravated battery.

(n) Section 784.075, relating to battery on staff of a detention or commitment facility or on a juvenile probation officer.

~~(o)(4)~~ Section 787.01, relating to kidnapping.

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

~~(q)(n)~~ Section 787.025, relating to luring or enticing a child.

~~(r)(o)~~ Section 787.04(2), relating to taking, enticing, or removing a child beyond the state limits with criminal intent pending custody proceedings.

~~(s)(p)~~ Section 787.04(3), relating to carrying a child beyond the state lines with criminal intent to avoid producing a child at a custody hearing or delivering the child to the designated person.

~~(t)(q)~~ Section 790.115(1), relating to exhibiting firearms or weapons within 1,000 feet of a school.

~~(u)(r)~~ Section 790.115(2)(b), relating to possessing an electric weapon or device, destructive device, or other weapon on school property.

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

~~(w)(t)~~ Former s. 794.041, relating to prohibited acts of persons in familial or custodial authority.

~~(x)(u)~~ Section 794.05, relating to unlawful sexual activity with certain minors.

(y) Section 794.08, relating to female genital mutilation.

~~(z)(v)~~ Chapter 796, relating to prostitution.

~~(aa)(w)~~ Section 798.02, relating to lewd and lascivious behavior.

~~(bb)(x)~~ Chapter 800, relating to lewdness and indecent exposure and offenses against students by authority figures.

~~(cc)(y)~~ Section 806.01, relating to arson.

~~(dd)(z)~~ Section 810.02, relating to burglary.

~~(ee)(aa)~~ Section 810.14, relating to voyeurism, if the offense is a felony.

~~(ff)(bb)~~ Section 810.145, relating to video voyeurism, if the offense is a felony.

~~(gg)(ee)~~ Chapter 812, relating to theft, robbery, and related crimes, if the offense is a felony.

~~(hh)(dd)~~ Section 817.563, relating to fraudulent sale of controlled substances, only if the offense was a felony.

~~(ii)(ee)~~ Section 825.102, relating to abuse, aggravated abuse, or neglect of an elderly person or disabled adult.

~~(jj)(ff)~~ Section 825.1025, relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult.

~~(kk)(gg)~~ Section 825.103, relating to exploitation of an elderly person or disabled adult, if the offense was a felony.

~~(ll)(hh)~~ Section 826.04, relating to incest.

~~(mm)(ii)~~ Section 827.03, relating to child abuse, aggravated child abuse, or neglect of a child.

~~(nn)(jj)~~ Section 827.04, relating to contributing to the delinquency or dependency of a child.

~~(oo)(kk)~~ Former s. 827.05, relating to negligent treatment of children.

~~(pp)(ll)~~ Section 827.071, relating to sexual performance by a child.

~~(qq)(mm)~~ Section 843.01, relating to resisting arrest with violence.

~~(rr)(nn)~~ Section 843.025, relating to depriving a law enforcement, correctional, or correctional probation officer means of protection or communication.

~~(ss)(oo)~~ Section 843.12, relating to aiding in an escape.

~~(tt)(pp)~~ Section 843.13, relating to aiding in the escape of juvenile inmates in correctional institutions.

~~(uu)(qq)~~ Chapter 847, relating to obscene literature.

~~(vv)(rr)~~ Section 874.05, relating to encouraging or recruiting another to join a criminal gang.

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

~~(xx)(tt)~~ Section 916.1075, relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.

~~(yy)(uu)~~ Section 944.35(3), relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.

~~(zz)(vv)~~ Section 944.40, relating to escape.

~~(aaa)(ww)~~ Section 944.46, relating to harboring, concealing, or aiding an escaped prisoner.

~~(bbb)(xx)~~ Section 944.47, relating to introduction of contraband into a correctional facility.

~~(ccc)(yy)~~ Section 985.701, relating to sexual misconduct in juvenile justice programs.

~~(ddd)(zz)~~ Section 985.711, relating to contraband introduced into detention facilities.

Section 3. Paragraph (a) of subsection (1), paragraphs (a) and (b) of subsection (3), and paragraphs (a) and (b) of subsection (4) of section 435.07, Florida Statutes, are amended to read:

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

(1)(a) The head of the appropriate agency or qualified entity may grant to any employee or person with an affiliation otherwise disqualified from employment an exemption from disqualification for:

1. Felonies for which at least 3 years have elapsed since the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court for the disqualifying felony;

2. Misdemeanors prohibited under any of the statutes cited in this chapter or under similar statutes of other jurisdictions for which the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court;

3. Offenses that were felonies when committed but that are now misdemeanors and for which the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court; or

4. Findings of delinquency. For offenses that would be felonies if committed by an adult and the record has not been sealed or expunged, the exemption may not be granted until at least 3 years have elapsed since the applicant for the exemption has completed or been lawfully released

from confinement, supervision, or nonmonetary condition imposed by the court for the disqualifying offense.

For the purposes of this subsection, the term “felonies” means both felonies prohibited under any of the statutes cited in this chapter or under similar statutes of other jurisdictions.

(3)(a) In order for the head of an agency or qualified entity to grant an exemption to an any employee or a person with an affiliation, the employee or person with an affiliation must demonstrate by clear and convincing evidence that the employee or person with an affiliation should not be disqualified from employment. Employees or persons with an affiliation seeking an exemption have the burden of setting forth clear and convincing evidence of rehabilitation, including, but not limited to, the circumstances surrounding the criminal incident for which an exemption is sought, the time period that has elapsed since the incident, the nature of the harm caused to the victim, and the history of the employee or person with an affiliation since the incident, or any other evidence or circumstances indicating that the employee or person with an affiliation will not present a danger if employment, affiliation, or continued employment or continued affiliation is allowed.

(b) The agency may consider as part of its deliberations of the ~~employee’s rehabilitation of the employee or person with an affiliation~~ the fact that the employee or person with an affiliation has, subsequent to the conviction for the disqualifying offense for which the exemption is being sought, been arrested for or convicted of another crime, even if that crime is not a disqualifying offense.

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

(b) Disqualification from employment or affiliation under this chapter may not be removed from, nor may an exemption be granted to, any person who is a:

1. Sexual predator as designated pursuant to s. 775.21;
2. Career offender pursuant to s. 775.261; or
3. Sexual offender pursuant to s. 943.0435, unless the requirement to register as a sexual offender has been removed pursuant to s. 943.04354.

Section 4. Effective upon this act becoming a law, subsections (1) and (2) and paragraph (a) of subsection (3) of section 435.12, Florida Statutes, are amended to read:

435.12 Care Provider Background Screening Clearinghouse.—

(1) The Agency for Health Care Administration in consultation with the Department of Law Enforcement shall create a secure web-based system, which shall be known as the “Care Provider Background Screening Clearinghouse” or “clearinghouse,” ~~and which shall be implemented to the full extent practicable no later than September 30, 2013, subject to the specified agencies being funded and equipped to participate in such program.~~ The clearinghouse ~~must~~ shall allow the results of criminal history checks provided to the specified agencies ~~and, beginning January 1, 2026, or a later date as determined by the Agency for Health Care Administration, to qualified entities participating in the clearinghouse~~ for screening of persons qualified as care providers under s. 943.0542 to be shared among the specified agencies ~~and qualified entities~~ when a person has applied to volunteer, be employed, be licensed, ~~or enter into a contract, or has an affiliation that allows or that requires a state and national fingerprint-based criminal history check. Beginning January 1, 2025, or a later date as determined by the Agency for Health Care Administration, the Agency for Health Care Administration shall review and determine eligibility for all criminal history checks submitted to the clearinghouse for the Department of Education. The clearinghouse shall share eligibility determinations with the Department of Education and the qualified entities.~~ The Agency for Health Care Administration and the Department of Law Enforcement may adopt rules to create forms or implement procedures needed to carry out this section.

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

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

2. Retained by the Federal Bureau of Investigation in the national retained print arrest notification program as soon as the Department of Law Enforcement begins participation in such program. Arrest prints will be searched against retained prints at the Federal Bureau of Investigation and notification of arrests will be forwarded to the Florida Department of Law Enforcement and reported to the Agency for Health Care Administration for inclusion in the clearinghouse.

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

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

5. Submitted with a photograph of the person taken at the time the fingerprints are submitted.

(b) Until such time as the fingerprints are enrolled in the national retained print arrest notification program at the Federal Bureau of Investigation:

1. ~~A person, an employee~~ with a break in service of more than 90 days from a position that requires screening by a specified agency must submit to a national screening if the person returns to a position that requires screening by a specified agency.

2. Effective January 1, 2026, or a later date as determined by the Agency for Health Care Administration, for the participation of qualified entities in the clearinghouse under s. 435.12, a person with a break in service of more than 90 days from a position for which screening is conducted by a qualified entity participating in the clearinghouse must submit to a national screening if the person returns to a position for which screening is conducted by a qualified entity.

(c) An employer of persons subject to screening or a qualified entity participating in the clearinghouse ~~by a specified agency~~ must register with the clearinghouse and maintain the employment or affiliation status of all persons included in employees within the clearinghouse.

1. Before January 1, 2024, initial employment status and any changes in status must be reported within 10 business days after a person receives his or her initial status or after a change in the person’s status has been made.

2. Effective January 1, 2024, initial status and any changes in status must be reported within 5 business days after a person receives his or her initial status or after a change in the person’s status has been made.

(d) An employer or a qualified entity participating in the clearinghouse must register with and initiate all criminal history checks through the clearinghouse before referring an employee or potential employee or a person with a current or potential affiliation with a qualified entity for electronic fingerprint submission to the Department of Law Enforcement. The registration must include the person’s employee’s full first name, middle initial, and last name; social security number; date of birth; mailing address; sex; and race. Individuals, persons, applicants, and controlling interests that cannot legally obtain a social security number must provide an individual taxpayer identification number.

(3)(a) Employees of each district unit under s. 1001.30, special district units under s. 1011.24, the Florida School for the Deaf and the Blind under s. 1002.36, the Florida Virtual School under s. 1002.37, virtual instruction programs under s. 1002.45, charter schools under s. 1002.33, hope operators under s. 1002.333, private schools participating in an educational scholarship program established pursuant to chapter 1002, and alternative schools

under s. 1008.341 must be rescreened in compliance with the following schedule:

1. Employees for whom the last screening was conducted on or before June 30, 2021 2019, must be rescreened by June 30, 2025 2024.

2. Employees for whom the last screening was conducted between July 1, 2021 2019, and June 30, 2022 2021, must be rescreened by June 30, 2026 2025.

3. Employees for whom the last screening was conducted between July 1, 2022 2021, and December 31, 2023 2022, must be rescreened by June 30, 2027 2026.

Section 5. Paragraph (a) of subsection (1), paragraphs (a) and (b) of subsection (2), and subsection (4) of section 943.0438, Florida Statutes, are amended to read:

943.0438 Athletic coaches for independent sanctioning authorities.—

(1) As used in this section, the term:

(a) “Athletic coach” means a person who:

1. Is authorized by an independent sanctioning authority to work as a coach, assistant coach, manager, or referee ~~for 20 or more hours within a calendar year~~, whether for compensation or as a volunteer, for a youth athletic team based in this state; and

2. Has direct contact with one or more minors on the youth athletic team.

(2) An independent sanctioning authority shall:

~~(a)1. Conduct a level 2 1 background screening under s. 435.04 pursuant to s. 435.03 of each current and prospective athletic coach. The authority may not delegate this responsibility to an individual team and may not authorize any person to act as an athletic coach unless a level 2 1 background screening is conducted and does not result in disqualification under paragraph (b). Level 1 background screenings shall be conducted annually for each athletic coach. For purposes of this section, a background screening shall include a search of the athletic coach’s name or other identifying information against state and federal registries of sexual predators and sexual offenders, which are available to the public on Internet sites provided by:~~

~~a. The Department of Law Enforcement under s. 943.043; and~~

~~b. The Attorney General of the United States under 42 U.S.C. s. 16920.~~

~~2. For purposes of this section, a background screening conducted by a commercial consumer reporting agency in compliance with the federal Fair Credit Reporting Act using the identifying information referenced in~~

subparagraph 1. that includes a level 1 background screening and a search of that information against the sexual predator and sexual offender Internet sites listed in sub-subparagraphs 1.a. and b. shall be deemed to satisfy the requirements of this paragraph.

(b)1. Before January 1, 2026, or a later date as determined by the Agency for Health Care Administration for the participation of qualified entities in the Care Provider Background Screening Clearinghouse under s. 435.12, disqualify any person from acting as an athletic coach as provided in s. 435.04 s. 435.03 or if he or she is identified on a registry described in paragraph (a). The authority may allow a person disqualified under this ~~subparagraph~~ paragraph to act as an athletic coach if it determines that the person meets the requirements for an exemption from disqualification under s. 435.07.

2. On or after January 1, 2026, or a later date as determined by the Agency for Health Care Administration, not allow any person to act as an athletic coach if he or she does not pass the background screening qualifications in s. 435.04. The authority may allow a person disqualified under this subparagraph to act as an athletic coach if the person has successfully completed the exemption from the disqualification process under s. 435.07.

(4) ~~The Legislature encourages~~ Independent sanctioning authorities for youth athletic teams must ~~to~~ participate in the Volunteer and Employee Criminal History System, as authorized by the National Child Protection Act of 1993 and s. 943.0542.

Section 6. Paragraph (h) of subsection (2) of section 943.05, Florida Statutes, is amended, and paragraph (i) is added to that subsection, to read:

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

(2) The program shall:

(h) For each specified agency, as defined in s. 435.02, each qualified entity participating in the Care Provider Background Screening Clearinghouse under s. 435.12, or any other agency or qualified entity that officially requests retention of fingerprints or for which retention is otherwise required by law, search all arrest fingerprint submissions received under s. 943.051 against the fingerprints retained in the statewide automated biometric identification system under paragraph (g).

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

2. To participate in this search process, agencies or qualified entities must notify each person fingerprinted that his or her fingerprints will be retained, pay an annual fee to the department unless otherwise provided by law, and inform the department of any change in the affiliation,

employment, or contractual status of each person whose fingerprints are retained under paragraph (g) if such change removes or eliminates the agency or qualified entity's basis or need for receiving reports of any arrest of that person, so that the agency or qualified entity is not obligated to pay the upcoming annual fee for the retention and searching of that person's fingerprints to the department. The department shall adopt a rule setting the amount of the annual fee to be imposed upon each participating agency or qualified entity for performing these searches and establishing the procedures for the retention of fingerprints and the dissemination of search results. The fee may be borne by the agency, qualified entity, or person subject to fingerprint retention or as otherwise provided by law. Consistent with the recognition of criminal justice agencies expressed in s. 943.053(3), these services must ~~shall~~ be provided to criminal justice agencies for criminal justice purposes free of charge. Qualified entities that elect to participate in the fingerprint retention and search process are required to timely remit the fee to the department by a payment mechanism approved by the department. If requested by the qualified entity, and with the approval of the department, such fees may be timely remitted to the department by a qualified entity upon receipt of an invoice for such fees from the department. Failure of a qualified entity to pay the amount due on a timely basis or as invoiced by the department may result in the refusal by the department to permit the qualified entity to continue to participate in the fingerprint retention and search process until all fees due and owing are paid.

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

(i) Develop, for federal approval, a method for identifying or verifying a person through automated biometrics.

Section 7. Subsections (2) through (6) of section 943.0542, Florida Statutes, are amended to read:

943.0542 Access to criminal history information provided by the department to qualified entities.—

(2)(a) A qualified entity conducting background criminal history checks under this section must:

1. Register with the department before submitting a request for screening under this section. Each such request must be voluntary and conform to the requirements established in the National Child Protection Act of 1993, as amended. As a part of the registration, the qualified entity must agree to

comply with state and federal law and must so indicate by signing an agreement approved by the department. The department shall ~~may~~ periodically audit qualified entities to ensure compliance with federal law and this section.

2. Before January 1, 2026, or a later date as determined by the Agency for Health Care Administration,

~~(b) A qualified entity shall submit to the department, and effective January 1, 2026, or a later date as determined by the Agency for Health Care Administration, submit to the agency~~ a request for screening an employee or volunteer or person applying to be an employee or volunteer by submitting fingerprints, or the request may be submitted electronically. The qualified entity must maintain a signed waiver allowing the release of the state and national criminal history record information to the qualified entity.

~~(b)(e)~~ Each ~~such~~ request for screening must be accompanied by payment of a fee for a statewide criminal history check ~~by the department~~ established by s. 943.053, plus the amount currently prescribed by the Federal Bureau of Investigation for the national criminal history check in compliance with the National Child Protection Act of 1993, as amended. Payments must be made in the manner prescribed by the department or agency by rule.

~~(c)(d)~~ Any current or prospective employee or volunteer who is subject to a request for screening must indicate to the qualified entity submitting the request the name and address of each qualified entity that has submitted a previous request for screening regarding that employee or volunteer.

(d) Effective January 1, 2026, or a later date as determined by the Agency for Health Care Administration, a qualified entity initiating a background criminal history check under this section must comply with s. 435.12, and all fingerprints received pursuant to this section must be entered into the clearinghouse as provided in s. 435.12.

(3) Through December 31, 2025, or a later date as determined by the Agency for Health Care Administration, the department shall provide directly to the qualified entity the state criminal history records that are not exempt from disclosure under chapter 119 or otherwise confidential under law. A person who is the subject of a state criminal history record may challenge the record only as provided in s. 943.056. Effective January 1, 2026, or a later date as determined by the Agency for Health Care Administration, the Care Provider Background Screening Clearinghouse may provide such records to the qualified entity only if the person challenges the record as provided in this subsection.

(4) The national criminal history data is available to qualified entities to use only for the purpose of screening employees and volunteers or persons applying to be an employee or volunteer with a qualified entity. Through December 31, 2026, or a later date as determined by the Agency for Health Care Administration, the department shall provide this national criminal

history record information directly to the qualified entity as authorized by the written waiver required for submission of a request to the department. Effective January 1, 2026, or a later date as determined by the Agency for Health Care Administration, the Care Provider Background Screening Clearinghouse may provide such record information to the qualified entity only if the person requests an exemption from the qualified entity under s. 435.07.

(5) The entity making the determination regarding screening shall apply the criteria under s. 435.04(2) to the state and national criminal history record information received from the department for those persons subject to screening. The determination whether the criminal history record shows that the employee or volunteer has not been arrested for and is awaiting final disposition of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or has been adjudicated delinquent and the record has not been sealed or expunged for, any offense listed under s. 435.02(2) convicted of or is under pending indictment for any crime that bears upon the fitness of the employee or volunteer to have responsibility for the safety and well-being of children, the elderly, or disabled persons shall solely be made by the qualified entity through December 31, 2025, or a later date as determined by the Agency for Health Care Administration. Beginning January 1, 2026, or a later date as determined by the Agency for Health Care Administration, the Agency for Health Care Administration shall determine the eligibility of the employee or volunteer of a qualified entity. This section does not require the department to make such a determination on behalf of any qualified entity.

(6) The qualified entity or, effective January 1, 2026, or a later date as determined by the Agency for Health Care Administration, the Care Provider Background Screening Clearinghouse must notify in writing the person of his or her right to obtain a copy of any background screening report, including the criminal history records, if any, contained in the report, and of the person's right to challenge the accuracy and completeness of any information contained in any such report and to obtain a determination as to the validity of such challenge before a final determination regarding the person is made by the qualified entity reviewing the criminal history information. A qualified entity that is required by law to apply screening criteria, including any right to contest or request an exemption from disqualification, shall apply such screening criteria to the state and national criminal history record information received from the department for those persons subject to the required screening.

Section 8. Section 1012.315, Florida Statutes, is amended to read:

1012.315 Screening standards.—A person is ineligible for educator certification or employment in any position that requires direct contact with students in a district school system, a charter school, or a private school that participates in a state scholarship program under chapter 1002 if the person:

(1) Is on the disqualification list maintained by the department under pursuant to s. 1001.10(4)(b);

(2) Is registered as a sex offender as described in 42 U.S.C. s. 9858f(c)(1)(C);

(3) Is ineligible based on a security background investigation under s. 435.04(2). Beginning January 1, 2025, or a later date as determined by the Agency for Health Care Administration, the Agency for Health Care Administration shall determine the eligibility of employees in any position that requires direct contact with students in a district school system, a charter school, or a private school that participates in a state scholarship program under chapter 1002;

(4) ~~Would be ineligible for an exemption under s. 435.07(4)(c); or, or has been convicted or found guilty of, has had adjudication withheld for, or has pled guilty or nolo contendere to:~~

~~(1) Any felony offense prohibited under any of the following statutes:~~

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

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

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

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

~~(e) Section 782.07, relating to manslaughter; aggravated manslaughter of an elderly person or disabled adult; aggravated manslaughter of a child; or aggravated manslaughter of an officer, a firefighter, an emergency medical technician, or a paramedic.~~

~~(f) Section 784.021, relating to aggravated assault.~~

~~(g) Section 784.045, relating to aggravated battery.~~

~~(h) Section 784.075, relating to battery on a detention or commitment facility staff member or a juvenile probation officer.~~

~~(i) Section 787.01, relating to kidnapping.~~

~~(j) Section 787.02, relating to false imprisonment.~~

~~(k) Section 787.025, relating to luring or enticing a child.~~

~~(l) Section 787.04(2), relating to leading, taking, enticing, or removing a minor beyond the state limits, or concealing the location of a minor, with criminal intent pending custody proceedings.~~

~~(m) — Section 787.04(3), relating to leading, taking, enticing, or removing a minor beyond the state limits, or concealing the location of a minor, with criminal intent pending dependency proceedings or proceedings concerning alleged abuse or neglect of a minor.~~

~~(n) — Section 790.115(1), relating to exhibiting firearms or weapons at a school-sponsored event, on school property, or within 1,000 feet of a school.~~

~~(o) — Section 790.115(2)(b), relating to possessing an electric weapon or device, destructive device, or other weapon at a school-sponsored event or on school property.~~

~~(p) — Section 794.011, relating to sexual battery.~~

~~(q) — Former s. 794.041, relating to sexual activity with or solicitation of a child by a person in familial or custodial authority.~~

~~(r) — Section 794.05, relating to unlawful sexual activity with certain minors.~~

~~(s) — Section 794.08, relating to female genital mutilation.~~

~~(t) — Chapter 796, relating to prostitution.~~

~~(u) — Chapter 800, relating to lewdness and indecent exposure.~~

~~(v) — Section 800.101, relating to offenses against students by authority figures.~~

~~(w) — Section 806.01, relating to arson.~~

~~(x) — Section 810.14, relating to voyeurism.~~

~~(y) — Section 810.145, relating to video voyeurism.~~

~~(z) — Section 812.014(6), relating to coordinating the commission of theft in excess of \$3,000.~~

~~(aa) — Section 812.0145, relating to theft from persons 65 years of age or older.~~

~~(bb) — Section 812.019, relating to dealing in stolen property.~~

~~(cc) — Section 812.13, relating to robbery.~~

~~(dd) — Section 812.131, relating to robbery by sudden snatching.~~

~~(ee) — Section 812.133, relating to carjacking.~~

~~(ff) — Section 812.135, relating to home invasion robbery.~~

~~(gg) — Section 817.563, relating to fraudulent sale of controlled substances.~~

~~(hh) Section 825.102, relating to abuse, aggravated abuse, or neglect of an elderly person or disabled adult.~~

~~(ii) Section 825.103, relating to exploitation of an elderly person or disabled adult.~~

~~(jj) Section 825.1025, relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person.~~

~~(kk) Section 826.04, relating to incest.~~

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

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

~~(nn) Section 827.071, relating to sexual performance by a child.~~

~~(oo) Section 843.01, relating to resisting arrest with violence.~~

~~(pp) Chapter 847, relating to obscenity.~~

~~(qq) Section 874.05, relating to causing, encouraging, soliciting, or recruiting another to join a criminal street gang.~~

~~(rr) Chapter 893, relating to drug abuse prevention and control, if the offense was a felony of the second degree or greater severity.~~

~~(ss) Section 916.1075, relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.~~

~~(tt) Section 944.47, relating to introduction, removal, or possession of contraband at a correctional facility.~~

~~(uu) Section 985.701, relating to sexual misconduct in juvenile justice programs.~~

~~(vv) Section 985.711, relating to introduction, removal, or possession of contraband at a juvenile detention facility or commitment program.~~

~~(2) Any misdemeanor offense prohibited under any of the following statutes:~~

~~(a) Section 784.03, relating to battery, if the victim of the offense was a minor.~~

~~(b) Section 787.025, relating to luring or enticing a child.~~

~~(5)(3) Has been convicted or found guilty of, has had adjudication withheld for, or has pled guilty or nolo contendere to:~~

(a) Any criminal act committed in another state or under federal law which, if committed in this state, constitutes a disqualifying ~~an~~ offense prohibited under ~~any statute listed in s. 435.04(2) subsection (1) or subsection (2).~~

(b)(4) Any delinquent act committed in this state or any delinquent or criminal act committed in another state or under federal law which, if committed in this state, qualifies an individual for inclusion on the Registered Juvenile Sex Offender List under s. 943.0435(1)(h)1.d.

Section 9. Paragraph (a) of subsection (2) and paragraph (a) of subsection (7) of section 1012.467, Florida Statutes, are amended to read:

1012.467 Noninstructional contractors who are permitted access to school grounds when students are present; background screening requirements.—

(2)(a) A fingerprint-based criminal history check must ~~shall~~ be performed on each noninstructional contractor who is permitted access to school grounds when students are present, whose performance of the contract with the school or school board is not anticipated to result in direct contact with students, and for whom any unanticipated contact would be infrequent and incidental using the process described in s. 1012.32(3). The results of each criminal history check must ~~shall~~ be reported to the school district in which the individual is seeking access and entered into the shared system described in subsection (7). The school district shall screen the results using the disqualifying offenses in paragraph (b). Beginning January 1, 2025, or a later date as determined by the Agency for Health Care Administration, the Agency for Health Care Administration shall determine the eligibility of a noninstructional contractor. The cost of the criminal history check may be borne by the district school board, the school, or the contractor.

(7)(a) The Department of Law Enforcement shall implement a system that allows for the results of a criminal history check provided to a school district to be shared with other school districts through a secure Internet website or other secure electronic means. School districts must accept reciprocity of level 2 screenings for Florida High School Athletic Association officials. Beginning January 1, 2025, or a later date as determined by the Agency for Health Care Administration, the background screening must be conducted through the Care Provider Background Screening Clearinghouse under s. 435.12.

Section 10. Paragraph (a) of subsection (10) of section 1012.56, Florida Statutes, is amended to read:

1012.56 Educator certification requirements.—

(10) BACKGROUND SCREENING REQUIRED, INITIALLY AND PERIODICALLY.—

(a) Each person who seeks certification under this chapter must be fingerprinted and screened in accordance with s. 1012.32 and must not be ineligible for such certification under s. 1012.315. A person who has been screened in accordance with s. 1012.32 by a district school board or the Department of Education within 12 months before the date the person initially obtains certification under this chapter, the results of which are submitted to the district school board or to the Department of Education, is not required to repeat the screening under this paragraph. Beginning January 1, 2025, or a later date as determined by the Agency for Health Care Administration, the background screening must be conducted through the Care Provider Background Screening Clearinghouse under s. 435.12.

Section 11. (1) Sections 1001.10, 1001.42, 1001.51, 1002.33, 1002.333, 1002.421, 1012.32, 1012.56, 1012.795, and 1012.796, Florida Statutes, are reenacted for the purpose of incorporating the amendments made by this act to s. 1012.315, Florida Statutes, in references thereto.

(2) Section 1012.468, Florida Statutes, is reenacted for the purpose of incorporating the amendments made by this act to s. 1012.467, Florida Statutes, in a reference thereto.

Section 12. The changes made to s. 435.12, Florida Statutes, by this act must be implemented by January 1, 2025, or a later date as determined by the Agency for Health Care Administration.

Section 13. (1) For the 2023-2024 fiscal year, the sums of \$400,000 in recurring funds from the Health Care Trust Fund and \$4 million in nonrecurring funds from the Health Care Trust Fund are appropriated to the Agency for Health Care Administration.

(2) This section shall take effect July 1, 2023.

Section 14. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2024.

Approved by the Governor June 12, 2023.

Filed in Office Secretary of State June 12, 2023.