

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Education & Employment
 2 Committee

3 Representative Trabulsy offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsections (2) through (6) of section 435.02,
 8 Florida Statutes, are renumbered as subsections (3) through (7),
 9 respectively, and a new subsection (2) is added to that section,
 10 to read:

11 435.02 Definitions.—For the purposes of this chapter, the
 12 term:

13 (2) "Educational entities" includes the Department of
 14 Education, each district unit under s. 1001.30, special district
 15 units under s. 1011.24, the Florida School for the Deaf and the
 16 Blind under s. 1002.36, the Florida Virtual School under s.

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17 1002.37, virtual instruction programs under s. 1002.45, charter
18 schools under s. 1002.33, hope operators under s. 1002.333, and
19 alternative schools under s. 1008.341.

20 Section 2. Paragraph (e) of paragraph (1) of section
21 435.04, Florida Statutes, is redesignated as paragraph (d), and
22 paragraph (b) and present paragraph (d) of that subsection are
23 amended to read:

24 435.04 Level 2 screening standards.-

25 (1)

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

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

33 Section 3. Section 435.12, Florida Statutes, is amended to
34 read:

35 435.12 Care Provider Background Screening Clearinghouse.-

36 (1) The Agency for Health Care Administration in
37 consultation with the Department of Law Enforcement shall create
38 a secure web-based system, which shall be known as the "Care
39 Provider Background Screening Clearinghouse" or
40 "clearinghouse.7" ~~and which shall be implemented to the full~~
41 ~~extent practicable no later than September 30, 2013, subject to~~

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42 ~~the specified agencies being funded and equipped to participate~~
43 ~~in such program.~~ The clearinghouse shall allow the results of
44 criminal history checks provided to ~~the~~:

45 (a) Specified agencies for screening of persons qualified
46 as care providers under s. 943.0542 to be shared among the
47 specified agencies when a person has applied to volunteer, be
48 employed, be licensed, or enter into a contract that requires a
49 state and national fingerprint-based criminal history check.

50 (b) Educational entities for screening of instructional and
51 noninstructional personnel under ss. 1012.32, 1012.465, and
52 1012.56 to be shared among educational entities when a person
53 has applied to be employed, be licensed, or enter into a
54 contract that requires a state and national fingerprint-based
55 criminal history check.

56 (c) Educational entities for screening of persons under s.
57 1012.467 to be shared among educational entities when a person
58 has applied to be employed or enter into a contract that
59 requires a state and national fingerprint-based criminal history
60 check.

61 (d) Qualified entities for screening of persons qualified
62 as care providers under s. 943.0542 to be shared among the
63 qualified entities when a person has applied to volunteer, be
64 employed, or enter into a contract that requires a state and
65 national fingerprint-based criminal history check.

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66 (e) Early learning coalitions for screening of persons
67 under s. 1002.55 to be shared among early learning coalitions
68 when a person has applied to be employed or enter into a
69 contract that requires a state and national fingerprint-based
70 criminal history check.

71
72 The Agency for Health Care Administration and the Department of
73 Law Enforcement may adopt rules to create forms or implement
74 procedures needed to carry out this section.

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

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

85 2. Retained by the Federal Bureau of Investigation in the
86 national retained print arrest notification program as soon as
87 the Department of Law Enforcement begins participation in such
88 program. Arrest prints will be searched against retained prints
89 at the Federal Bureau of Investigation and notification of
90 arrests will be forwarded to the Florida Department of Law

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91 Enforcement and reported to the Agency for Health Care
92 Administration for inclusion in the clearinghouse.

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

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

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

102 (b) Until such time as the fingerprints are enrolled in
103 the national retained print arrest notification program at the
104 Federal Bureau of Investigation, a person included in the
105 clearinghouse ~~an employee~~ with a break in service of more than
106 90 days from a position that requires screening ~~by a specified~~
107 ~~agency~~ must submit to a national screening if the person returns
108 to a position that requires screening ~~by a specified agency~~.

109 (c) An employer of persons subject to screening ~~by a~~
110 ~~specified agency~~ must register with the clearinghouse and
111 maintain the employment status of all employees within the
112 clearinghouse. Initial employment status and any changes in
113 status must be reported within 10 business days.

114 (d) An employer must register with and initiate all
115 criminal history checks through the clearinghouse before

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116 referring an employee or potential employee for electronic
117 fingerprint submission to the Department of Law Enforcement. The
118 registration must include the employee's full first name, middle
119 initial, and last name; social security number; date of birth;
120 mailing address; sex; and race. Individuals, persons,
121 applicants, and controlling interests that cannot legally obtain
122 a social security number must provide an individual taxpayer
123 identification number.

124 ~~(3) An employee who has undergone a fingerprint-based~~
125 ~~criminal history check by a specified agency before the~~
126 ~~clearinghouse is operational is not required to be checked again~~
127 ~~solely for the purpose of entry in the clearinghouse. Every~~
128 ~~employee who is or will become subject to fingerprint-based~~
129 ~~criminal history checks to be eligible to be licensed, have~~
130 ~~their license renewed, or meet screening or rescreening~~
131 ~~requirements by a specified agency once the specified agency~~
132 ~~participates in the clearinghouse shall be subject to the~~
133 ~~requirements of this section with respect to entry of records in~~
134 ~~the clearinghouse and retention of fingerprints for reporting~~
135 ~~the results of searching against state incoming arrest~~
136 ~~fingerprint submissions.~~

137 Section 4. Paragraphs (a) and (b) of subsection (2) and
138 subsection (4) of section 943.0438, Florida Statutes, are
139 amended to read:

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140 943.0438 Athletic coaches for independent sanctioning
141 authorities.—

142 (2) An independent sanctioning authority shall:

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

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

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

159 ~~2. For purposes of this section, a background screening~~
160 ~~conducted by a commercial consumer reporting agency in~~
161 ~~compliance with the federal Fair Credit Reporting Act using the~~
162 ~~identifying information referenced in subparagraph 1. that~~
163 ~~includes a level 1 background screening and a search of that~~
164 ~~information against the sexual predator and sexual offender~~

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165 ~~Internet sites listed in sub-subparagraphs 1.a. and b. shall be~~
166 ~~deemed to satisfy the requirements of this paragraph.~~

167 (b) Disqualify any person from acting as an athletic coach
168 as provided in s. 435.04 ~~s. 435.03~~ or if he or she is identified
169 ~~on a registry described in paragraph (a)~~. The authority may
170 allow a person disqualified under this paragraph to act as an
171 athletic coach if it determines that the person meets the
172 requirements for an exemption from disqualification under s.
173 435.07, however an exemption may not be granted for an offense
174 listed under s. 435.07 (4) (c).

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

179 Section 5. Paragraphs (g) and (h) of subsection (2) of
180 section 943.05, Florida Statutes, are amended, and paragraph (i)
181 is added to that subsection, to read:

182 943.05 Criminal Justice Information Program; duties; crime
183 reports.—

184 (2) The program shall:

185 (g) ~~Upon official written request, and subject to the~~
186 ~~department having sufficient funds and equipment to participate~~
187 ~~in such a request, from the agency executive director or~~
188 ~~secretary or from his or her designee, or from qualified~~
189 ~~entities participating in the volunteer and employee criminal~~

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190 ~~history screening system under s. 943.0542, or as otherwise~~
191 ~~required by law,~~ Retain fingerprints submitted by criminal and
192 noncriminal justice agencies to the department for a criminal
193 history background screening as provided by rule and enter the
194 fingerprints in the statewide automated biometric identification
195 system authorized by paragraph (b). Such fingerprints shall
196 thereafter be available for all purposes and uses authorized for
197 arrest fingerprint submissions entered into the statewide
198 automated biometric identification system pursuant to s.
199 943.051.

200 (h) ~~For each agency or qualified entity that officially~~
201 ~~requests retention of fingerprints or for which retention is~~
202 ~~otherwise required by law,~~ Search all arrest fingerprint
203 submissions received under s. 943.051 against the fingerprints
204 retained in the statewide automated biometric identification
205 system under paragraph (g).

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

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

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215 contractual status of each person whose fingerprints are
216 retained under paragraph (g) if such change removes or
217 eliminates the agency or qualified entity's basis or need for
218 receiving reports of any arrest of that person, so that the
219 agency or qualified entity is not obligated to pay the upcoming
220 annual fee for the retention and searching of that person's
221 fingerprints to the department. The department shall adopt a
222 rule setting the amount of the annual fee to be imposed upon
223 each participating agency or qualified entity for performing
224 these searches and establishing the procedures for the retention
225 of fingerprints and the dissemination of search results. The fee
226 may be borne by the agency, qualified entity, or person subject
227 to fingerprint retention or as otherwise provided by law.
228 Consistent with the recognition of criminal justice agencies
229 expressed in s. 943.053(3), these services shall be provided to
230 criminal justice agencies for criminal justice purposes free of
231 charge. Qualified entities that elect to participate in the
232 fingerprint retention and search process are required to timely
233 remit the fee to the department by a payment mechanism approved
234 by the department. If requested by the qualified entity, and
235 with the approval of the department, such fees may be timely
236 remitted to the department by a qualified entity upon receipt of
237 an invoice for such fees from the department. Failure of a
238 qualified entity to pay the amount due on a timely basis or as
239 invoiced by the department may result in the refusal by the

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240 department to permit the qualified entity to continue to
241 participate in the fingerprint retention and search process
242 until all fees due and owing are paid.

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

253 (i) Develop a method for establishing identification
254 through automated biometrics which may include, but is not
255 limited to, the use of latent fingerprints, palm prints, facial
256 recognition, or retina scans.

257 Section 6. Subsections (8) and (9) of section 943.0542,
258 Florida Statutes, are renumbered as subsections (7) and (8),
259 respectively, and subsections (2), (3), (4), (5), and present
260 subsection (7) are amended, to read:

261 943.0542 Access to criminal history information provided
262 by the department to qualified entities.-

263 (2)(a) A qualified entity must register and initiate all
264 criminal history checks through the Care Provider Background

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265 Screening Clearinghouse created under s. 435.12 ~~with the~~
266 ~~department before submitting a request for screening under this~~
267 ~~section.~~ Each such request must be voluntary and conform to the
268 requirements established in the National Child Protection Act of
269 1993, as amended. As a part of the registration, the qualified
270 entity must agree to comply with state and federal law and must
271 so indicate by signing an agreement approved by the department.
272 The department shall ~~may~~ periodically audit qualified entities
273 to ensure compliance with federal law and this section.

274 (b) All fingerprints received under this section shall be
275 entered into the clearinghouse as provided in s. 435.12. A
276 ~~qualified entity shall submit to the department a request for~~
277 ~~screening an employee or volunteer or person applying to be an~~
278 ~~employee or volunteer by submitting fingerprints, or the request~~
279 ~~may be submitted electronically.~~ The qualified entity must
280 maintain a signed waiver allowing the release of the state and
281 national criminal history record information to the qualified
282 entity. The waiver must include a statement that the department
283 shall retain the fingerprints of the criminal history background
284 screening of each employee or volunteer as provided by rule and
285 enter the fingerprints in the statewide automated biometric
286 identification method under s. 943.05(2)(i).

287 (c) Each such request must be accompanied by payment of a
288 fee for a statewide criminal history check by the department
289 established by s. 943.053, plus the amount currently prescribed

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290 by the Federal Bureau of Investigation for the national criminal
291 history check in compliance with the National Child Protection
292 Act of 1993, as amended. Payments must be made in the manner
293 prescribed by the department by rule.

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

299 (3) The clearinghouse ~~department~~ shall provide directly to
300 the qualified entity the state criminal history records that are
301 not exempt from disclosure under chapter 119 or otherwise
302 confidential under law. A person who is the subject of a state
303 criminal history record may challenge the record only as
304 provided in s. 943.056.

305 (4) The national criminal history data is available to
306 qualified entities to use only for the purpose of screening
307 employees and volunteers or persons applying to be an employee
308 or volunteer with a qualified entity. The clearinghouse
309 ~~department~~ shall provide this national criminal history record
310 information directly to the qualified entity as authorized by
311 the written waiver required for submission of a request to the
312 department.

313 (5) The determination whether the criminal history record
314 shows that the employee or volunteer has been convicted of or is

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315 under pending indictment for any crime that bears upon the
316 fitness of the employee or volunteer to have responsibility for
317 the safety and well-being of ~~children,~~ the elderly~~,~~ or disabled
318 persons shall solely be made by the qualified entity. A
319 qualified entity that provides care to children may not employ
320 or allow a volunteer who is ineligible for an exemption under s.
321 435.07(4)(c). This section does not require the department to
322 make such a determination on behalf of any qualified entity.

323 ~~(7) The department may establish a database of registered~~
324 ~~qualified entities and make this data available free of charge~~
325 ~~to all registered qualified entities. The database must include,~~
326 ~~at a minimum, the name, address, and phone number of each~~
327 ~~qualified entity.~~

328 Section 7. Paragraph (g) of subsection (12) of section
329 1002.33, Florida Statutes, is amended to read:

330 1002.33 Charter schools.—

331 (12) EMPLOYEES OF CHARTER SCHOOLS.—

332 (g)1. A charter school shall employ or contract with
333 employees who have undergone background screening as provided in
334 s. 1012.32. Members of the governing board of the charter school
335 shall also undergo background screening in a manner similar to
336 that provided in s. 1012.32. An individual may not be employed
337 as an employee or contract personnel of a charter school or
338 serve as a member of a charter school governing board if the

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339 individual is on the disqualification list maintained by the
340 department pursuant to s. 1001.10(4)(b).

341 2. A charter school shall prohibit educational support
342 employees, instructional personnel, and school administrators,
343 as defined in s. 1012.01, from employment in any position that
344 requires direct contact with students if the employees,
345 personnel, or administrators are ineligible for such employment
346 under s. 435.04(2) or (3) or s. 1012.315 or have been terminated
347 or have resigned in lieu of termination for sexual misconduct
348 with a student. If the prohibited conduct occurs while employed,
349 a charter school must report the individual and the
350 disqualifying circumstances to the department for inclusion on
351 the disqualification list maintained pursuant to s.
352 1001.10(4)(b).

353 3. The governing board of a charter school shall adopt
354 policies establishing standards of ethical conduct for
355 educational support employees, instructional personnel, and
356 school administrators. The policies must require all educational
357 support employees, instructional personnel, and school
358 administrators, as defined in s. 1012.01, to complete training
359 on the standards; establish the duty of educational support
360 employees, instructional personnel, and school administrators to
361 report, and procedures for reporting, alleged misconduct that
362 affects the health, safety, or welfare of a student; and include
363 an explanation of the liability protections provided under ss.

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364 39.203 and 768.095. A charter school, or any of its employees,
365 may not enter into a confidentiality agreement regarding
366 terminated or dismissed educational support employees,
367 instructional personnel, or school administrators, or employees,
368 personnel, or administrators who resign in lieu of termination,
369 based in whole or in part on misconduct that affects the health,
370 safety, or welfare of a student, and may not provide employees,
371 personnel, or administrators with employment references or
372 discuss the employees', personnel's, or administrators'
373 performance with prospective employers in another educational
374 setting, without disclosing the employees', personnel's, or
375 administrators' misconduct. Any part of an agreement or contract
376 that has the purpose or effect of concealing misconduct by
377 educational support employees, instructional personnel, or
378 school administrators which affects the health, safety, or
379 welfare of a student is void, is contrary to public policy, and
380 may not be enforced.

381 4. Before employing an individual in any position that
382 requires direct contact with students, a charter school shall
383 conduct employment history checks of each individual through use
384 of the educator screening tools described in s. 1001.10(5), and
385 document the findings. If unable to contact a previous employer,
386 the charter school must document efforts to contact the
387 employer.

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388 5. The sponsor of a charter school that knowingly fails to
389 comply with this paragraph shall terminate the charter under
390 subsection (8).

391 Section 8. Subsections (2) and (3) of section 1012.32,
392 Florida Statutes, are amended to read:

393 1012.32 Qualifications of personnel.—

394 (2)(a) Instructional and noninstructional personnel who
395 are hired or contracted to fill positions that require direct
396 contact with students in any district school system or
397 university lab school must, upon employment or engagement to
398 provide services, undergo background screening as required under
399 s. 1012.465 or s. 1012.56, whichever is applicable.

400 (b)1. Instructional and noninstructional personnel who are
401 hired or contracted to fill positions in a charter school other
402 than a school of hope as defined in s. 1002.333, and members of
403 the governing board of such charter school, in compliance with
404 s. 1002.33(12)(g), upon employment, engagement of services, or
405 appointment, shall undergo background screening as required
406 under s. 1012.465 or s. 1012.56, whichever is applicable, ~~by~~
407 ~~filing with the district school board for the school district in~~
408 ~~which the charter school is located a complete set of~~
409 ~~fingerprints taken by an authorized law enforcement agency or an~~
410 ~~employee of the school or school district who is trained to take~~
411 ~~fingerprints.~~

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412 2. Instructional and noninstructional personnel who are
413 hired or contracted to fill positions in a school of hope as
414 defined in s. 1002.333, and members of the governing board of
415 such school of hope, upon employment, engagement of services, or
416 appointment, shall undergo background screening as required
417 under s. 1012.465 or s. 1012.56, whichever is applicable~~file~~
418 ~~with the school of hope a complete set of fingerprints taken by~~
419 ~~an authorized law enforcement agency, by an employee of the~~
420 ~~school of hope or school district who is trained to take~~
421 ~~fingerprints, or by any other entity recognized by the~~
422 ~~Department of Law Enforcement to take fingerprints.~~

423 (c) Instructional and noninstructional personnel who are
424 hired or contracted to fill positions that require direct
425 contact with students in an alternative school that operates
426 under contract with a district school system must, upon
427 employment or engagement to provide services, undergo background
428 screening as required under s. 1012.465 or s. 1012.56, whichever
429 is applicable, ~~by filing with the district school board for the~~
430 ~~school district to which the alternative school is under~~
431 ~~contract a complete set of fingerprints taken by an authorized~~
432 ~~law enforcement agency or an employee of the school or school~~
433 ~~district who is trained to take fingerprints.~~

434 (d) Student teachers and persons participating in a field
435 experience pursuant to s. 1004.04(5) or s. 1004.85 in any
436 district school system, lab school, or charter school must, upon

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437 engagement to provide services, undergo background screening as
438 required under s. 1012.56.

439
440 ~~Required fingerprints must be submitted to the Department of Law~~
441 ~~Enforcement for statewide criminal and juvenile records checks~~
442 ~~and to the Federal Bureau of Investigation for federal criminal~~
443 ~~records checks.~~ A person subject to this subsection who is found
444 ineligible for employment under s. 435.04(2) or (3) or s.
445 1012.315, or otherwise found through background screening to
446 have been convicted of any crime involving moral turpitude as
447 defined by rule of the State Board of Education, shall not be
448 employed, engaged to provide services, or serve in any position
449 that requires direct contact with students. ~~Probationary persons~~
450 ~~subject to this subsection terminated because of their criminal~~
451 ~~record have the right to appeal such decisions. The cost of the~~
452 ~~background screening may be borne by the district school board,~~
453 ~~the charter school, the employee, the contractor, or a person~~
454 ~~subject to this subsection. A district school board shall~~
455 ~~reimburse a charter school the cost of background screening if~~
456 ~~it does not notify the charter school of the eligibility of a~~
457 ~~governing board member or instructional or noninstructional~~
458 ~~personnel within the earlier of 14 days after receipt of the~~
459 ~~background screening results from the Florida Department of Law~~
460 ~~Enforcement or 30 days of submission of fingerprints by the~~

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461 ~~governing board member or instructional or noninstructional~~
462 ~~personnel.~~

463 (3)-(a) A background screening required under this chapter
464 shall comply with the requirements of s. 435.12. Each
465 educational unit as defined in s. 435.02 shall register with,
466 and initiate criminal history checks through, the Care Provider
467 Background Screening Clearinghouse as provided in s. 435.12. All
468 fingerprints must be submitted through an educational unit or a
469 vendor approved by the Department of Law Enforcement. All
470 fingerprints must be submitted electronically to the Department
471 of Law Enforcement for state processing, and the Department of
472 Law Enforcement shall forward the fingerprints to the Federal
473 Bureau of Investigation for national processing. For any
474 subsequent background screening that requires a national
475 criminal history check, the Department of Law Enforcement shall
476 forward the retained fingerprints of the individual to the
477 Federal Bureau of Investigation unless the fingerprints are
478 enrolled in the national retained print arrest notification
479 program. All fingerprints submitted to the Department of Law
480 Enforcement shall be retained by the Department of Law
481 Enforcement as provided under s. 943.05(2) (g) and (h) and (3)
482 and enrolled in the national retained print arrest notification
483 program at the Federal Bureau of Investigation when the
484 Department of Law Enforcement begins participation in the
485 program. The cost of the background screening may be borne by

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486 ~~the educational entity, the employee, the contractor, or a~~
487 ~~person subject to background screening. All fingerprints~~
488 ~~submitted to the Department of Law Enforcement as required by~~
489 ~~subsection (2) shall be retained by the Department of Law~~
490 ~~Enforcement in a manner provided by rule and entered in the~~
491 ~~statewide automated biometric identification system authorized~~
492 ~~by s. 943.05(2) (b). Such fingerprints shall thereafter be~~
493 ~~available for all purposes and uses authorized for arrest~~
494 ~~fingerprints entered in the statewide automated biometric~~
495 ~~identification system pursuant to s. 943.051.~~

496 ~~(b) The Department of Law Enforcement shall search all~~
497 ~~arrest fingerprints received under s. 943.051 against the~~
498 ~~fingerprints retained in the statewide automated biometric~~
499 ~~identification system under paragraph (a). Any arrest record~~
500 ~~that is identified with the retained fingerprints of a person~~
501 ~~subject to the background screening under this section shall be~~
502 ~~reported to the employing or contracting school district or the~~
503 ~~school district with which the person is affiliated. Each school~~
504 ~~district is required to participate in this search process by~~
505 ~~payment of an annual fee to the Department of Law Enforcement~~
506 ~~and by informing the Department of Law Enforcement of any change~~
507 ~~in the affiliation, employment, or contractual status or place~~
508 ~~of affiliation, employment, or contracting of its instructional~~
509 ~~and noninstructional personnel whose fingerprints are retained~~
510 ~~under paragraph (a). The Department of Law Enforcement shall~~

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511 ~~adopt a rule setting the amount of the annual fee to be imposed~~
512 ~~upon each school district for performing these searches and~~
513 ~~establishing the procedures for the retention of instructional~~
514 ~~and noninstructional personnel fingerprints and the~~
515 ~~dissemination of search results. The fee may be borne by the~~
516 ~~district school board, the contractor, or the person~~
517 ~~fingerprinted.~~

518 ~~(c) Personnel whose fingerprints are not retained by the~~
519 ~~Department of Law Enforcement under paragraphs (a) and (b) must~~
520 ~~be reprinted and rescreened in accordance with subsection~~
521 ~~(2) upon reemployment or reengagement to provide services in~~
522 ~~order to comply with the requirements of this subsection.~~

523 Section 9. Subsections (1) and (2) of section 1012.465,
524 Florida Statutes, are amended to read:

525 1012.465 Background screening requirements for certain
526 noninstructional school district employees and contractors.—

527 (1) Except as provided in s. 1012.467 or s. 1012.468,
528 noninstructional school district employees or contractual
529 personnel who are permitted access on school grounds when
530 students are present, who have direct contact with students or
531 who have access to or control of school funds must meet level 2
532 screening requirements of chapter 435 using the process as
533 described in s. 1012.32(3) ~~s. 1012.32~~. Contractual personnel
534 shall include any vendor, individual, or entity under contract
535 with a school or the school board.

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536 (2) ~~Every 5 years following employment or entry into a~~
537 ~~contract in a capacity described in subsection (1), each person~~
538 ~~who is so employed or under contract with the school district~~
539 ~~must meet level 2 screening requirements as described in s.~~
540 ~~1012.32, at which time the school district shall request the~~
541 ~~Department of Law Enforcement to forward the fingerprints to the~~
542 ~~Federal Bureau of Investigation for the level 2 screening. If,~~
543 ~~for any reason following employment or entry into a contract in~~
544 ~~a capacity described in subsection (1), the fingerprints of a~~
545 ~~person who is so employed or under contract with the school~~
546 ~~district are not retained by the Department of Law Enforcement~~
547 ~~under s. 1012.32(3)(a) and (b), the person must file a complete~~
548 ~~set of fingerprints with the district school superintendent of~~
549 ~~the employing or contracting school district. Upon submission of~~
550 ~~fingerprints for this purpose, the school district shall request~~
551 ~~the Department of Law Enforcement to forward the fingerprints to~~
552 ~~the Federal Bureau of Investigation for the level 2 screening,~~
553 ~~and the fingerprints shall be retained by the Department of Law~~
554 ~~Enforcement under s. 1012.32(3)(a) and (b).~~ The cost of the
555 state and federal criminal history check required by level 2
556 screening may be borne by the district school board, the
557 contractor, or the person fingerprinted. Under penalty of
558 perjury, each person who is employed or under contract in a
559 capacity described in subsection (1) must agree to inform his or
560 her employer or the party with whom he or she is under contract

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561 within 48 hours if convicted of any disqualifying offense while
562 he or she is employed or under contract in that capacity.

563 Section 10. Subsections (2) through (6) and paragraph (a)
564 of subsection (7) of section 1012.467, Florida Statutes, are
565 amended, to read:

566 1012.467 Noninstructional contractors who are permitted
567 access to school grounds when students are present; background
568 screening requirements.—

569 (2)(a) A fingerprint-based criminal history check shall be
570 performed on each noninstructional contractor who is permitted
571 access to school grounds when students are present, whose
572 performance of the contract with the school or school board is
573 not anticipated to result in direct contact with students, and
574 for whom any unanticipated contact would be infrequent and
575 incidental using the process described in s. 1012.32(3).

576 ~~Criminal history checks shall be performed at least once every 5~~
577 ~~years. For the initial criminal history check, each~~
578 ~~noninstructional contractor who is subject to the criminal~~
579 ~~history check shall file with the Department of Law Enforcement~~
580 ~~a complete set of fingerprints taken by an authorized law~~
581 ~~enforcement agency or an employee of a school district, a public~~
582 ~~school, or a private company who is trained to take~~
583 ~~fingerprints. the fingerprints shall be electronically submitted~~
584 ~~for state processing to the Department of Law Enforcement, which~~
585 ~~shall in turn submit the fingerprints to the Federal Bureau of~~

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586 ~~Investigation for national processing.~~ The results of each
587 criminal history check shall be reported to the school district
588 in which the individual is seeking access and entered into the
589 shared system described in subsection (7). The school district
590 shall screen the results using the disqualifying offenses in
591 paragraph ~~(b)~~ ~~(g)~~. The cost of the criminal history check may be
592 borne by the district school board, the school, or the
593 contractor. ~~A fee that is charged by a district school board for~~
594 ~~such checks may not exceed 30 percent of the total amount~~
595 ~~charged by the Department of Law Enforcement and the Federal~~
596 ~~Bureau of Investigation.~~

597 ~~(b) As authorized by law, the Department of Law~~
598 ~~Enforcement shall retain the fingerprints submitted by the~~
599 ~~school districts pursuant to this subsection to the Department~~
600 ~~of Law Enforcement for a criminal history background screening~~
601 ~~in a manner provided by rule and enter the fingerprints in the~~
602 ~~statewide automated biometric identification system authorized~~
603 ~~by s. 943.05(2)(b). The fingerprints shall thereafter be~~
604 ~~available for all purposes and uses authorized for arrest~~
605 ~~fingerprints entered into the statewide automated biometric~~
606 ~~identification system under s. 943.051.~~

607 ~~(c) As authorized by law, the Department of Law~~
608 ~~Enforcement shall search all arrest fingerprints received under~~
609 ~~s. 943.051 against the fingerprints retained in the statewide~~
610 ~~automated biometric identification system under paragraph (b).~~

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611 ~~(d) School districts may participate in the search process~~
612 ~~described in this subsection by paying an annual fee to the~~
613 ~~Department of Law Enforcement.~~

614 ~~(e) A fingerprint retained pursuant to this subsection~~
615 ~~shall be purged from the automated biometric identification~~
616 ~~system 5 years following the date the fingerprint was initially~~
617 ~~submitted. The Department of Law Enforcement shall set the~~
618 ~~amount of the annual fee to be imposed upon each participating~~
619 ~~agency for performing these searches and establishing the~~
620 ~~procedures for retaining fingerprints and disseminating search~~
621 ~~results. The fee may be borne as provided by law. Fees may be~~
622 ~~waived or reduced by the executive director of the Department of~~
623 ~~Law Enforcement for good cause shown.~~

624 ~~(f) A noninstructional contractor who is subject to a~~
625 ~~criminal history check under this section shall inform a school~~
626 ~~district that he or she has completed a criminal history check~~
627 ~~in another school district within the last 5 years. The school~~
628 ~~district shall verify the results of the contractor's criminal~~
629 ~~history check using the shared system described in subsection~~
630 ~~(7). The school district may not charge the contractor a fee for~~
631 ~~verifying the results of his or her criminal history check.~~

632 (b)(g) A noninstructional contractor for whom a criminal
633 history check is required under this section may not have been
634 convicted of any of the following offenses designated in the
635 Florida Statutes, any similar offense in another jurisdiction,

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636 or any similar offense committed in this state which has been
637 redesignated from a former provision of the Florida Statutes to
638 one of the following offenses:

639 1. Any offense listed in s. 943.0435(1)(h)1., relating to
640 the registration of an individual as a sexual offender.

641 2. Section 393.135, relating to sexual misconduct with
642 certain developmentally disabled clients and the reporting of
643 such sexual misconduct.

644 3. Section 394.4593, relating to sexual misconduct with
645 certain mental health patients and the reporting of such sexual
646 misconduct.

647 4. Section 775.30, relating to terrorism.

648 5. Section 782.04, relating to murder.

649 6. Section 787.01, relating to kidnapping.

650 7. Any offense under chapter 800, relating to lewdness and
651 indecent exposure.

652 8. Section 826.04, relating to incest.

653 9. Section 827.03, relating to child abuse, aggravated
654 child abuse, or neglect of a child.

655 (3) If it is found that a noninstructional contractor has
656 been convicted of any of the offenses listed in paragraph
657 (2)(b)~~(2)(g)~~, the individual shall be immediately suspended from
658 having access to school grounds and shall remain suspended
659 unless and until the conviction is set aside in any
660 postconviction proceeding.

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661 (4) A noninstructional contractor who has been convicted
662 of any of the offenses listed in paragraph (2) (b) ~~(2) (g)~~ may not
663 be permitted on school grounds when students are present unless
664 the contractor has received a full pardon or has had his or her
665 civil rights restored. A noninstructional contractor who is
666 present on school grounds in violation of this subsection
667 commits a felony of the third degree, punishable as provided in
668 s. 775.082 or s. 775.083.

669 (5) If a school district has reasonable cause to believe
670 that grounds exist for the denial of a contractor's access to
671 school grounds when students are present, it shall notify the
672 contractor in writing, stating the specific record that
673 indicates noncompliance with the standards set forth in this
674 section. It is the responsibility of the affected contractor to
675 contest his or her denial. The only basis for contesting the
676 denial is proof of mistaken identity or that an offense from
677 another jurisdiction is not disqualifying under paragraph
678 (2) (b) ~~(2) (g)~~.

679 (6) Each contractor who is subject to the requirements of
680 this section shall agree to inform his or her employer or the
681 party to whom he or she is under contract and the school
682 district within 48 hours if he or she is arrested for any of the
683 disqualifying offenses in paragraph (2) (b) ~~(2) (g)~~. A contractor
684 who willfully fails to comply with this subsection commits a
685 felony of the third degree, punishable as provided in s. 775.082

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686 or s. 775.083. If the employer of a contractor or the party to
687 whom the contractor is under contract knows the contractor has
688 been arrested for any of the disqualifying offenses in paragraph
689 ~~(2)(b)-(2)(g)~~ and authorizes the contractor to be present on
690 school grounds when students are present, such employer or such
691 party commits a felony of the third degree, punishable as
692 provided in s. 775.082 or s. 775.083.

693 (7)(a) ~~The Department of Law Enforcement shall implement a~~
694 ~~system that allows for the results of a criminal history check~~
695 ~~provided to a school district to~~ shall be shared among
696 educational entities with other school districts pursuant to s.
697 435.12 through a secure Internet website or other secure
698 ~~electronic means.~~ School districts must accept reciprocity of
699 level 2 screenings for Florida High School Athletic Association
700 officials.

701 Section 11. Paragraphs (a) and (b) of subsection (10) of
702 section 1012.56, Florida Statutes, is amended to read:

703 1012.56 Educator certification requirements.—

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

706 (a) Each person who seeks certification under this chapter
707 must be fingerprinted and screened in accordance with s. 1012.32
708 and must not be ineligible for such certification under s.
709 435.04(2) or (3) or s. 1012.315. A person who has been screened
710 in accordance with s. 1012.32 by a district school board or the

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711 Department of Education within 12 months before the date the
712 person initially obtains certification under this chapter, the
713 results of which are submitted to the district school board or
714 to the Department of Education, is not required to repeat the
715 screening under this paragraph.

716 (b) A person may not receive a certificate under this
717 chapter until the person's screening under s. 1012.32 is
718 completed and the results have been submitted to the Department
719 of Education or to the district school superintendent of the
720 school district that employs the person. Every 5 years after
721 obtaining initial certification, each person who is required to
722 be certified under this chapter must be rescreened in accordance
723 with s. 435.12 ~~s. 1012.32~~, at which time the school district
724 shall ~~request the Department of Law Enforcement to forward the~~
725 ~~fingerprints to the Federal Bureau of Investigation for federal~~
726 ~~criminal records checks. If, for any reason after obtaining~~
727 ~~initial certification, the fingerprints of a person who is~~
728 ~~required to be certified under this chapter are not retained by~~
729 ~~the Department of Law Enforcement under s. 1012.32(3)(a) and~~
730 ~~(b), the person must file a complete set of fingerprints with~~
731 ~~the district school superintendent of the employing school~~
732 ~~district. Upon submission of fingerprints for this purpose, the~~
733 ~~school district shall request the Department of Law Enforcement~~
734 ~~to forward the fingerprints to the Federal Bureau of~~
735 ~~Investigation for federal criminal records checks, and the~~

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736 ~~fingerprints shall be retained by the Department of Law~~
737 ~~Enforcement under s. 1012.32(3)(a) and (b).~~ The cost of the
738 state and federal criminal history checks required by paragraph
739 (a) and this paragraph may be borne by the district school board
740 or the employee. Under penalty of perjury, each person who is
741 certified under this chapter must agree to inform his or her
742 employer within 48 hours if convicted of any disqualifying
743 offense while he or she is employed in a position for which such
744 certification is required.

745 Section 12. This act shall take effect July 1, 2023.

746

747

748

T I T L E A M E N D M E N T

749

Remove everything before the enacting clause and insert:

750

An act relating to background screenings; amending s.

751

435.02, F.S.; providing definition; amending s.

752

435.04, F.S.; removing obsolete provisions; amending

753

s. 435.12, F.S.; authorizing the results of criminal

754

history checks to be shared in specified

755

circumstances; providing that a person's fingerprints

756

must undergo certain procedures; removing obsolete

757

language; amending s. 943.0438, F.S.; requiring

758

certain athletic coaches receive level 2 background

759

screenings; requiring independent sanctioning

760

authorities to participate in a specified system;

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761 amending s. 943.05, F.S.; deleting provisions
762 concerning conditions precedent to the retention of
763 certain fingerprints; requiring the Criminal Justice
764 Information Program to develop a method for direct
765 identification using biometric data; amending s.
766 943.0542, F.S.; requiring specified entities initiate
767 criminal history checks through the Care Provider
768 Background Screening Clearinghouse; requiring certain
769 fingerprints be entered in the clearinghouse;
770 requiring the Department of Law Enforcement to
771 periodically audit specified entities; deleting
772 authorization for nonelectronic submission of
773 fingerprints for certain background screenings;
774 requiring a waiver include a specified statement;
775 deleting a requirement that specified persons make a
776 certain disclosure; prohibiting qualified entities
777 from specified associations with certain persons;
778 deleting a requirement that the department must
779 establish a certain database; amending s. 1002.33,
780 F.S.; prohibiting a charter school from certain
781 association with specified persons; amending s.
782 1002.32, F.S.; revising the procedure for background
783 screenings; expanding the types of background
784 screenings used to determine certain eligibility;
785 removing a requirement for the reimbursement of

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786 certain costs; providing requirements for background
787 screenings; authorizing retention of fingerprints;
788 authorizing fingerprints to be submitted to a certain
789 program; providing responsibility for the cost of
790 screening; amending s. 1012.465, F.S.; revising the
791 current procedure for background screening to conform
792 to changes made by the act; amending s. 1012.467,
793 F.S.; revising the current procedure for background
794 screening to conform to changes made by the act;
795 removing provisions related to fingerprint retention
796 and removal; amending s. 1012.56, F.S.; revising the
797 current procedure for background screening to conform
798 to changes made by the act ; providing an effective
799 date.

800