

**430.608 Confidentiality of information.**—Identifying information about elderly persons who receive services under ss. 430.601–430.606, which is received through files, reports, inspection, or otherwise by the department or by authorized departmental employees, by persons who volunteer services, or by persons who provide services to elderly persons under ss. 430.601–430.606 through contracts with the department, is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such information may not be disclosed publicly in such a manner as to identify an elderly person, unless that person or the person's legal guardian provides written consent.

**History.**—s. 1, ch. 95-273; s. 281, ch. 96-406.

## CHAPTER 435

### EMPLOYMENT SCREENING

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#### **1435.03 Level 1 screening standards.**—

(1) All employees required by law to be screened shall be required to undergo background screening as a condition of employment and continued employment. For the purposes of this subsection, level 1 screenings shall include, but not be limited to, employment history checks and statewide criminal correspondence checks through the Florida Department of Law Enforcement, and may include local criminal records checks through local law enforcement agencies.

(2) Any person for whom employment screening is required by statute must not have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:

- (a) Section 415.111, relating to adult abuse, neglect, or exploitation of aged persons or disabled adults.  
 (b) Section 782.04, relating to murder.  
 (c) Section 782.07, relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child.  
 (d) Section 782.071, relating to vehicular homicide.  
 (e) Section 782.09, relating to killing of an unborn child by injury to the mother.  
 (f) Section 784.011, relating to assault, if the victim of the offense was a minor.  
 (g) Section 784.021, relating to aggravated assault.  
 (h) Section 784.03, relating to battery, if the victim of the offense was a minor.  
 (i) Section 784.045, relating to aggravated battery.  
 (j) Section 787.01, relating to kidnapping.  
 (k) Section 787.02, relating to false imprisonment.  
 (l) Section 794.011, relating to sexual battery.  
 (m) Former s. 794.041, relating to prohibited acts of persons in familial or custodial authority.  
 (n) Chapter 796, relating to prostitution.

(o) Section 798.02, relating to lewd and lascivious behavior.

(p) Chapter 800, relating to lewdness and indecent exposure.

(q) Section 806.01, relating to arson.

(r) Chapter 812, relating to theft, robbery, and related crimes, if the offense was a felony.

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

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

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

<sup>2</sup>(v) Section 825.103, relating to exploitation of an elderly person or disabled adult, if the offense was a felony.

(w) Section 826.04, relating to incest.

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

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

(z) <sup>3</sup>Section 827.05, relating to negligent treatment of children.

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

(bb) Chapter 847, relating to obscene literature.

(cc) 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.

(3) Standards must also ensure that the person:

(a) For employees and employers licensed or registered pursuant to chapter 400, does not have a confirmed report of abuse, neglect, or exploitation as defined in s. 415.102(5), which has been uncontested or upheld under s. 415.103.

(b) Has not committed an act that constitutes domestic violence as defined in s. 741.30.

**History.**—s. 47, ch. 95-228; s. 15, ch. 96-268; s. 21, ch. 96-322.

**1Note.**—Section 64, ch. 95-228, provides that “[e]xcept as otherwise provided herein, this act shall take effect October 1, 1995, and shall apply to offenses committed on or after that date.”

**2Note.**—As enacted by s. 21, ch. 96-322. This version is published as the last expression of legislative will (see *Journal of the Senate 1996*, pp. 519 and 1513). Substantially similar language was enacted as paragraph (u) by s. 15, ch. 96-268, and that version, redesignated as paragraph (v), reads:

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

**3Note.**—Repealed by s. 11, ch. 96-322, and s. 31, ch. 96-388.

#### **1435.04 Level 2 screening standards.**—

(1) All employees in positions designated by law as positions of trust or responsibility shall be required to undergo security background investigations as a condition of employment and continued employment. For the purposes of this subsection, security background investigations shall include, but not be limited to, employment history checks, fingerprinting for all purposes and checks in this subsection, statewide criminal and juvenile records checks through the Florida Department of Law Enforcement, and federal criminal records checks through the Federal Bureau of Investigation, and may include local criminal records checks through local law enforcement agencies.

(2) The security background investigations under this section must ensure that no persons subject to the provisions of this section have been found guilty of,

regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:

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

(b) Section 782.04, relating to murder.

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

(d) Section 782.071, relating to vehicular homicide.

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

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

(g) Section 784.021, relating to aggravated assault.

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

(i) Section 784.045, relating to aggravated battery.

(j) Section 787.01, relating to kidnapping.

(k) Section 787.02, relating to false imprisonment.

(l) Section 794.011, relating to sexual battery.

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

(n) Chapter 796, relating to prostitution.

(o) Section 798.02, relating to lewd and lascivious behavior.

(p) Chapter 800, relating to lewdness and indecent exposure.

(q) Section 806.01, relating to arson.

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

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

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

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

<sup>2</sup>(v) Section 825.103, relating to exploitation of an elderly person or disabled adult, if the offense was a felony.

(w) Section 826.04, relating to incest.

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

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

(z) <sup>3</sup>Section 827.05, relating to negligent treatment of children.

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

(bb) Chapter 847, relating to obscene literature.

(cc) 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.

(3) Standards must also ensure that the person:

(a) For employees or employers licensed or registered pursuant to chapter 400, does not have a confirmed report of abuse, neglect, or exploitation as defined in s. 415.102(5), which has been uncontested or upheld under s. 415.103.

(b) Has not committed an act that constitutes domestic violence as defined in s. 741.30.

(4) Under penalty of perjury, all employees in such positions of trust or responsibility shall attest to meeting the requirements for qualifying for employment and agreeing to inform the employer immediately if convicted of any of the disqualifying offenses while employed by the employer. Each employer of employees in such positions of trust or responsibilities which is licensed or registered by a state agency shall submit to the licensing agency annually, under penalty of perjury, an affidavit of compliance with the provisions of this section.

**History.**—s. 47, ch. 95-228; s. 16, ch. 96-268; s. 22, ch. 96-322.

**1Note.**—Section 64, ch. 95-228, provides that "[e]xcept as otherwise provided herein, this act shall take effect October 1, 1995, and shall apply to offenses committed on or after that date."

**2Note.**—As enacted by s. 22, ch. 96-322. This version is published as the last expression of legislative will (see Journal of the Senate 1996, pp. 519 and 1513). Substantially similar language was enacted as paragraph (u) by s. 16, ch. 96-268, and that version, redesignated as paragraph (v), reads:

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

**3Note.**—Repealed by s. 11, ch. 96-322, and s. 31, ch. 96-388.

**1435.09 Confidentiality of personnel background check information.**—No criminal, juvenile, or abuse hotline information obtained under this section may be used for any purpose other than determining whether persons meet the minimum standards for employment or for an owner or director of a covered service provider. The criminal records and juvenile records obtained by the department or by an employer are exempt from s. 119.07(1).

**History.**—s. 47, ch. 95-228; s. 282, ch. 96-406.

**1Note.**—Section 64, ch. 95-228, provides that "[e]xcept as otherwise provided herein, this act shall take effect October 1, 1995, and shall apply to offenses committed on or after that date."

#### **1435.11 Penalties.**—

(1) It is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, for any person willfully, knowingly, or intentionally to:

(a) Fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any application for voluntary or paid employment a material fact used in making a determination as to such person's qualifications for a position of special trust.

(b) Use records information for purposes other than screening for employment or release records information to other persons for purposes other than screening for employment.

(2) It is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, for any person willfully, knowingly, or intentionally to use juvenile records information for any purposes other than specified in this section or to release such information to other persons for purposes other than specified in this section.

**History.**—s. 47, ch. 95-228; s. 283, ch. 96-406.

**1Note.**—Section 64, ch. 95-228, provides that "[e]xcept as otherwise provided herein, this act shall take effect October 1, 1995, and shall apply to offenses committed on or after that date."

## **CHAPTER 440**

### **WORKERS' COMPENSATION**

440.101 Legislative intent; drug-free workplaces.

440.102 Drug-free workplace program requirements.