


Approved:



Alan F. Abramowitz, Executive Director

GUARDIAN AD LITEM LEVEL 2 BACKGROUND SCREENING REQUIREMENTS

PURPOSE: To set forth the legal requirements and agency policy for background screening of volunteers, staff and interns, and provide the procedures for meeting those legal requirements.

AUTHORITY:

Section 110.1127, F.S. (**Attachment 1**)

Sections 39.820 – 39.8298, F.S. (**Attachment 2**)

Section 409.175, F.S. (**Attachment 3**)

Chapter 435, F.S. (**Attachment 4**)

SCOPE: This policy is applicable to all Guardian ad Litem staff, interns, and volunteers seeking certification who will be assigned cases or who have direct contact with children in the dependency system or with confidential information. This includes all staff, interns and volunteers, except those exempted by law in accordance with paragraphs 3, A. and B., pages 4 and 5 of this policy.

POLICY/PROCEDURE:

1. Who Must Be Screened:

A. Employees

Section 110.1127, Florida Statutes, requires each employing agency to designate those employee positions that, because of the special trust or responsibility or sensitive location of those positions, require that persons occupying those positions be subject to a Level 2 background screening, including fingerprinting, as a condition of employment.

The Program designates all positions in the agency, whether employed in a full-time or part-time equivalency (FTE), or full or

part-time Other Personal Services position (OPS), as positions of special trust. Therefore, all employees must be screened, with the exception of those persons noted in paragraphs 3, A. and B., on pages 4 and 5 of this policy.

Individuals seeking employment with the Program shall complete and sign a State of Florida Employment Application. Prior to any offer for hire, the following must occur:

- Copy of applicant's driver's license or state issued identification card must be obtained;
- Interview of applicant must be conducted using standard interview questions.
- Reference check of former and current employers must be conducted, to include public records requests of personnel file documents where applicable (i.e. performance evaluations, discipline, commendations, dates of service, etc.);
- Character reference(s) check must be completed using Employee Reference Check Form, and
- The applicant must be advised that s/he must undergo a Level 2 background screening. **(Attachment 5)**

B. Volunteers

Section 39.822, Florida Statutes, states that the Guardian ad Litem Program shall be responsible for ensuring that any volunteer certified by the Program has successfully completed a background screening **prior to certification**. Exceptions are noted in paragraphs 3, A. and B. on pages 4 and 5, below.

Background screening shall include:

- Reference/Background checks
- Interview
- Level 2 background screening

Volunteer applicants shall complete and sign the **GAL Volunteer Application Form** located on the GAL website, www.guardianadlitem.org. Prior to being certified, the following must occur:

- Copy of applicant's driver's license or state issued identification card must be obtained;
- Interview of applicant must be conducted;

- Character reference(s) check must be completed using Volunteer Reference Check Form, and
- Volunteer applicant must be advised that they will undergo a Level 2 background screening to ensure good moral character. **(Attachment 6)** Volunteers who will have no direct contact with children and no access to confidential information may undergo local background check.

Once the applicant has successfully provided for and/or completed the above and successfully completed the 30-hour training, s/he may be certified as a GAL volunteer. The mandatory background screening can be conducted at any time during the training process for an applicant.

C. Interns

Students enrolled in college or university must complete the following:

- **GAL Volunteer Application Form**
- Copy of applicant's driver's license or state issued identification card must be obtained;
- Interview of applicant must be conducted, and
- Character reference(s) check using Volunteer Reference Check Form.

2. **Fingerprinting Process**

The Circuit Director or designee should forward to the applicant the **Guardian Ad Litem Program Volunteer/Applicant Background Screen Permission Acknowledgement and Criminal History Acknowledgement** forms **(Attachment 7)** for purposes of conducting a Level 2 background screening. Once the applicant has completed these forms, s/he should be provided directions to the nearest LIVESCAN location and a **Request for Screening** form **(Attachment 8)** to present to the LIVESCAN machine technician. [NOTE: Some local programs require a local (e.g., CBC) form for LIVESCAN screening. These may be substituted as necessary.]

Applicants screened on a LIVESCAN machine owned by the Department of Children and Families or Sheriff's Office must provide the Circuit Office with the tracking number (TCN) provided by the vendor. Circuit Budget Liaisons will use this number on the Florida Department of Law Enforcement (FDLE) website to pay for

the scan with an agency PCard (**Attachment 9, Payment System Instructions**). A receipt must be immediately scanned and forwarded to the Budget and Financial Services Office. If a private vendor is utilized for the LIVESCAN, an invoice must be obtained from the vendor. This invoice must be scanned and emailed or sent by facsimile transmission to Budget and Financial Services so that payment can be made. Failure to submit the necessary information for payment will impede the screening process.

Applicant fingerprints will be processed through the Federal Bureau of Investigation's National Crime Information Center (NCIC) system and a criminal history report will be sent to the Human Resources Office within 24-48 hours.

When the background screening has been completed and the applicant has been cleared, the Human Resources Business Analyst will notify the Circuit Director. For employees, the Circuit Director or designee will prepare and give the applicant the New Hire letter, which offers employment. If the Circuit Director chooses to offer employment before the screening results are received, the letter offering employment **must** contain a statement that the offer is contingent on successful completion of a Level 2 background screening to ensure good moral character. (**Attachment 10, Offer Letter**)

Volunteers may not be certified before screening results are received and cleared or an exemption granted. The Circuit Director will receive notification by email from Human Resources that an applicant has been cleared.

For non-case volunteers who will have no contact with children or confidential information, results of a local law check must be received and cleared locally.

3. Exceptions to Level 2 Background Screening

- A. Members of the Florida Bar, Guardians certified before October 1, 1995, and Licensed Professionals are exempt from Level 2 background screening

Subsection 39.821 (2), Florida Statutes, states that Level 2 background screening requirements do not apply to a certified guardian ad litem who was certified before October 1, 1995, an attorney who is a member in good standing of The Florida Bar, or a

licensed professional who has undergone a comparable security background investigation as a condition of licensure within 5 years of applying for certification as a guardian ad litem.

B. Human Resource Professionals, Teachers and Law Enforcement Officers Who Have been Previously Screened are exempt from Level 2 background screening

Human resource personnel who have been fingerprinted or screened pursuant to Florida Statutes, Chapters 393, 394, 397, 402, and 409, teachers who have been fingerprinted pursuant to chapter 1012, and law enforcement officers who meet the requirements of s. 943.13, who have not been unemployed for more than 90 days thereafter, and who under the penalty of perjury attest to the completion of such fingerprinting or screening and to compliance with this section and the standards for good moral character as contained in such provisions as ss. 110.1127(2)(c), 393.0655(1), 394.457(6), 397.451, 402.305(2), 409.175(6), and 943.13(7), are not required to be refingerprinted or rescreened in order to comply with any caretaker screening or fingerprinting requirements.

In order to be eligible for this exemption, the hiring authority must verify that the applicant has a badge, a current teaching certificate or a current professional license that meets the criteria outlined above. A copy of the clearance letter issued by another Florida agency under authority of the statutes cited above may be accepted as the required evidence for a human resource professional.

4. Review of Criminal History:

Except as noted in paragraphs 3. A. and B., above, an applicant for employment may not begin work, nor may a volunteer be certified prior to successful completion of a Level 2 background screening.

Volunteers who have submitted two LIVESCAN submissions where both have come back unreadable will be screened by using an FDLE/FBI name check.

The Human Resources Office shall review each applicant's criminal history report and shall provide notice to the Circuit Director of any disqualifying offense(s) pursuant to Sections 435.03 and 435.04, Florida Statutes, which appear on the criminal history report. The full report will be forwarded to the Circuit Director for his/her review.

Where disposition information is missing on a potentially disqualifying offense, the applicant will be asked to obtain disposition information from Clerk of the Court of the relevant jurisdiction so that a determination can be made as to the nature and disposition of the incident. **(Attachment 11, Request for Disposition Information.)**

When an offense or offenses (other than disqualifying) appears on the individual's criminal history report, the Program may consider the nature of the offense(s) when making hiring and certification decisions. In determining whether to deny employment or certification, the Program will take into account the nature and gravity of the offense or offenses; rehabilitation; the time that has passed since the conviction and/or completion of the sentence; the nature of the job to be filled and the relatedness of the offense(s) to the job.

Supervisors and managers are under no obligation to hire someone or certify an individual as a volunteer if they have concern about their criminal history, even when that history is not disqualifying under Chapter 435. In analyzing and evaluating the information obtained in the background screening, the Hiring Authority must give particular emphasis to past activities involving children, including, but not limited to, child-related criminal offenses or child abuse.

With respect to volunteers, Florida Statutes specify that, "The program has sole discretion in determining whether to certify a person based on his or her security background investigation."

5. Disqualification of Employee Applicants from a Position of Special Trust:

The Human Resources Business Analyst will send the applicant a Notice of Disqualifying Offense and Exemption Procedure letter **(Attachment 12, Notice of disqualification and exemption procedures letter)**. This notice sets forth the procedures for seeking an exemption from disqualification. The decision and burden to seek an exemption lies with the applicant. A copy will be sent to the Circuit Director.

6. Exemptions From Disqualification for Employee Applicants:

- A. The Executive Director of the Statewide Guardian ad Litem Office may grant an exemption to any applicant for a disqualifying offense within sections 435.03 or 435.04, Florida Statutes, revealed during

the applicant's Level 2 background screening. Exceptions are cited in paragraph E. 2., below.

The applicant has the burden of demonstrating by clear and convincing evidence s/he should not be disqualified. The evidence must demonstrate the applicant's rehabilitation and otherwise indicate the applicant is not a risk to the children s/he may contact or the confidential information that may be accessed.

- B. An exemption(s) obtained by an individual from another state or local governmental agency is not binding on the Program.
- C. The hiring authority need not wait for a determination on an applicant's exemption request before filling a position but should proceed with hiring for the vacant position.

D. Limitations on Exemption Requests

- i. The Executive Director may grant an exemption for:
 - 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 sanction for the disqualifying felony;
 - 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 sanction;
 - 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 sanction;
 - Findings of Delinquency, with the following exception. In situations where offenses 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 sanction for the disqualifying offense.

The term "felonies" in this section means both felonies prohibited under sections 435.03 and 435.04, Florida Statutes, or under similar statutes of other jurisdictions.

ii. Exemptions not Granted

An exemption may **not** be granted to:

- a sexual predator as designated pursuant to section 775.21, Florida Statutes;
- a career offender pursuant to section 775.261, Florida Statutes; or
- a sexual offender pursuant to section 943.0435, Florida Statutes.
- a person who has an arrest awaiting final disposition for any offense prohibited under the provisions listed in s. 435.04.

7. Evidence Supporting Exemption for a Prospective Employee

A. All requests for an exemption by a prospective employee must be made in writing by the applicant to the Executive Director.

Prior to making the request the applicant must provide the Circuit Director with all reasonable evidence that establishes by clear and convincing evidence the applicant should not be disqualified from employment, internship or certification as a guardian ad litem. Such evidence may include all available criminal history background information, including records, if available, from the Florida Department of Law Enforcement, the Federal Bureau of Investigation, local police or sheriff's offense incident reports and arrest affidavits, pertinent court documents including case disposition and the applicant's plea.

If the Circuit Director believes there is clear and convincing evidence the exemption should be granted, he or she shall submit the evidence to the Executive Director and state that based upon the evidence he/she believes the applicant should be exempted from disqualification.

B. For an exemption request to be considered the employee applicant must provide the following:

- i. The circumstances surrounding the incident including any information regarding how he/she became involved in the incident and assurances that such an incident could not reoccur. Information may include:
- ii. Documentation as to the status of any imposed conditions as a result of the applicant's offense or subsequent offenses.
- iii. The length of time between the disqualifying event and the request for exemption and any subsequent law violations, whether disqualifying or not.
- iv. The severity of the harm or risk of harm to the victim or victims, including the degree of harm caused, any permanent or temporary injuries suffered and restitution made as result of the applicant's actions.
- v. Any other evidence or circumstances indicating that the applicant will not present a danger to the children the applicant will be in contact with, or the use of confidential information, if employed.

C. Evidence which may support a decision to grant the exemption includes, but is not limited to:

- i. Personal reference(s). The person reviewing the request for exemption should consider whether the reference document includes a date, original signature, an indication of how the applicant is known to the writer, the time lapse from the date of the recommendation and the date of the application, and a telephone number for contact, if needed.
- ii. Letters from employers or other professionals. The person reviewing the request for exemption should consider whether employer or professional reference letters are provided on business letterhead, are relevant, and provide an original signature, signature date, and telephone number for contact, if needed.
- iii. Evidence of rehabilitation, including documentation of successful participation in a rehabilitation program.
- iv. Evidence of further education or training.

- v. Evidence of community involvement (examples include documentation of involvement in civic organizations, volunteer activities, church, etc.).
- vi. Evidence of special awards or recognition.
- vii. Evidence of military service, including whether such service is documented by Department of Defense Form 214.
- viii. Parenting or other caregiver experiences.

Each person reviewing the request for exemption should carefully consider whether each evidentiary item provided in support of the request for exemption is verifiable.

8. Disqualification of Volunteer Applicants:

The Human Resources Office will notify the Circuit Director when a volunteer applicant has a disqualifying offense in their criminal history. A Circuit Director will decide whether or not to request an exemption for a volunteer applicant.

9. Exemptions for Volunteer Applicants

- A. The Executive Director will grant exemptions from disqualification to volunteers only when there is a compelling reason to do so, and only if recommended by the Circuit Director.
- B. If the Circuit Director believes there is clear and convincing evidence the exemption should be granted, the Circuit Director shall submit the evidence in writing to the Executive Director and state that based upon the evidence he/she believes the volunteer applicant should not be disqualified from certification as a guardian ad litem volunteer.
- C. For an exemption request to be considered the Circuit Director must provide the following:

The circumstances surrounding the incident including any information regarding how he/she became involved in the incident and assurances that such an incident could not reoccur. Information may include:

- i. Documentation as to the status of any imposed conditions as a result of the applicant's offense or subsequent offenses.

- ii. The length of time between the disqualifying event and the request for exemption and any subsequent law violations, whether disqualifying or not.
 - iii. The severity of the harm or risk of harm to the victim or victims, including the degree of harm caused, any permanent or temporary injuries suffered and restitution made as result of the applicant's actions.
 - iv. Any other evidence or circumstances indicating that the applicant will not present a danger to the children the applicant will be in contact with if the applicant is certified as a guardian ad litem volunteer.
- D. Evidence which may support a decision to grant the exemption includes, but is not limited to:
- i. Personal reference(s). The person reviewing the request for exemption should consider whether the reference document includes a date, original signature, an indication of how the applicant is known to the writer, the time lapse from the date of the recommendation and the date of the application, and a telephone number for contact, if needed.
 - ii. Letters from employers or other professionals. The person reviewing the request for exemption should consider whether employer or professional reference letters are provided on business letterhead, are relevant, and provide an original signature, signature date, and telephone number for contact, if needed.
 - iii. Evidence of rehabilitation, including documentation of successful participation in a rehabilitation program.
 - iv. Evidence of further education or training.
 - v. Evidence of community involvement (examples include documentation of involvement in civic organization, volunteer activities, church, etc.).
 - vi. Evidence of special awards or recognition.

- vii. Evidence of military service, including whether such service is documented by Department of Defense Form 214.
- viii. Parenting or other caregiver experiences.

Each person reviewing the request for exemption should carefully consider whether each evidentiary item provided in support of the request for exemption is verifiable.

10. Compliance with Level 2 Background Screening:

Florida Statutes require that individuals required to be screened by the Program must cooperate with screening requirements and timely submit the information necessary to complete the screening, including fingerprints. Failure to cooperate disqualifies the individual from employment or certification as a volunteer.

11. Promotions and Transfers:

A new background screening is **not** required when an employee is promoted or transferred within the Program if the employee was hired after July 1, 2010, there is no break in service **AND** the employee was previously screened at Level 2 by the Program prior to hire. Neither is a new background screening required when a volunteer transfers from one circuit to another circuit within the state so long as the volunteer was certified after July 1, 2010, and screened at Level 2 by the Program prior to certification. When a Guardian ad Litem OPS employee who was screened and cleared transfers to a state FTE position, no additional background screening is required.

12. Notification of Arrest:

Employees, interns and volunteers are required to notice their supervisor of an arrest within 24 hours or the next business day. They should be informed of this requirement at the time of hire. Such notice will be forwarded up the chain of command to the Circuit Director and the Human Resources Business Analyst. In the event the Human Resources Office is noticed by the FDLE of the arrest of an employee or certified volunteer, the Human Resources Business Analyst will immediately notice the appropriate Circuit Director.

In the event that the arrest is for a potentially disqualifying offense under Chapter 435, the Circuit Director must remove the employee or volunteer from contact with children and with confidential materials

and data systems until such time as the arrest is resolved. During the interim period, the Circuit Director must contact the Information Technology Office and request that the individual be removed from confidential data system access (e.g., Florida Safe Families network, GAL Tracker, etc.). If this is not possible, the Circuit Director must discuss his or her options with the Regional Director and the Human Resources Business Analyst. At such time, the Program will make a determination as to whether the employee is still eligible for employment or the volunteer is still eligible for certification and the Circuit Director will be so notified.

13. Confidentiality of Criminal History Reports:

Criminal History Reports received as a result of Level 2 background screenings are restricted and such information should not be discussed with others or released to anyone other than those personnel involved in the authorization to hire employees or certify volunteers. Consequently, such reports and the information contained therein shall be maintained in the strictest confidence and Circuit Directors shall ensure that only appropriate staff views or has access to such information.

Such information is only available for purposes of volunteer certification and employment screening and is exempt from disclosure under Chapter 119, Florida Statutes. Inappropriate release of non-Florida criminal history information is prohibited under pertinent federal regulations (28 C.F.R. Part 20) which are reflected in Section 943.053, Florida Statutes. Promptly advise Administrative Services of any violation of these restrictions. Violators will be subject to disciplinary action.

14. Records Retention Requirements

Background investigation information, correspondence records checks, and any information related to the review and investigation of criminal history checks shall be maintained in a file separate and apart from the official personnel file (which is maintained by the State Human Resources Office). Such records shall be maintained for a period of four (4) years and until any litigation is resolved. Official records for volunteers must be retained for three (3) fiscal years after the volunteer separates from the program.

Attachment 1

STATE EMPLOYMENT

Section 110.1127, Florida Statutes

Employee background screening and investigations.—

(1) Except as provided in subsection (2), each agency shall designate those positions that, based on the position duties, require background screening. All persons and employees in such positions must undergo employment screening in accordance with chapter 435, using level 1 screening standards, as a condition of employment and continued employment.

(2)(a) Each agency shall designate those positions that, because of the special trust or responsibility or sensitive location, require security background investigations. All persons and employees in such positions must undergo employment screening in accordance with chapter 435, using Level 2 screening standards, including fingerprinting, as a condition of employment and continued employment.

(b) All positions within the Division of Treasury of the Department of Financial Services are deemed to be positions of special trust or responsibility. Individuals seeking or holding such positions may be disqualified for employment by reason of:

1. The conviction or prior conviction of a crime that is reasonably related to the nature of the position sought or held by the individual; or
2. The entering of a plea of nolo contendere, or when a jury verdict of guilty is rendered but adjudication of guilt is withheld, with respect to a crime that is reasonably related to the nature of the position sought or held by the individual.

(c)1. All positions in programs providing care to children, the developmentally disabled, or vulnerable adults for 15 hours or more per week; all permanent and temporary employee positions of the central abuse hotline; and all persons working under contract who have access to abuse records are deemed to be persons and positions of special trust or responsibility.

2. The agency may grant exemptions from disqualification from working with children, the developmentally disabled, or vulnerable adults as provided in s. 435.07.

(d) 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:

1. 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;
2. Use information contained in records for purposes other than background screening or investigation for employment, or release such information to other persons for purposes other than preemployment screening or investigation.

(e) 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 those specified in this section or to release such information to other persons for purposes other than those specified in this section.

(3) Any person who is required to undergo such a security background screening or investigation and who refuses to cooperate in such screening or investigation or refuses to submit fingerprints shall be disqualified for employment in such position or, if employed, shall be dismissed.

(4) Background screening and investigations shall be conducted at the expense of the employing agency. If fingerprinting is required, the fingerprints shall be taken by the employing agency, a law enforcement agency, or a vendor as authorized pursuant to s. 435.04, submitted to the Department of Law Enforcement for state processing, and forwarded by the Department of Law Enforcement to the Federal Bureau of Investigation for national processing. The agency or vendor shall remit the processing fees required by s. 943.053 to the Department of Law Enforcement.

GUARDIANS AD LITEM AND GUARDIAN ADVOCATES

Sections 39.820 – 39.821, Florida Statutes

39.820 Definitions.

39.821 Qualifications of guardians ad litem.

39.822 Appointment of guardian ad litem for abused, abandoned, or neglected child.

39.823 Guardian advocates for drug dependent newborns.

39.824 Jurisdiction.

39.825 Petition for appointment of a guardian advocate.

39.826 Process and service.

39.827 Hearing for appointment of a guardian advocate.

39.828 Grounds for appointment of a guardian advocate.

39.829 Powers and duties of guardian advocate.

39.8295 Review and removal of guardian advocate.

39.8296 Statewide Guardian Ad Litem Office; legislative findings and intent; creation; appointment of executive director; duties of office.

39.8297 County funding for guardian ad litem employees.

39.8298 Guardian Ad Litem direct-support organization.

39.820 Definitions.—As used in this part, the term:

(1) "Guardian ad litem" as referred to in any civil or criminal proceeding includes the following: a certified guardian ad litem program, a duly certified volunteer, a staff attorney, contract attorney, or certified pro bono attorney working on behalf of a guardian ad litem or the program; staff members of a program office; a court-appointed attorney; or a responsible adult who is appointed by the court to represent the best interests of a child in a proceeding as provided for by law, including, but not limited to, this chapter, who is a party to any judicial proceeding as a representative of the child, and who serves until discharged by the court.

(2) "Guardian advocate" means a person appointed by the court to act on behalf of a drug dependent newborn pursuant to the provisions of this part.

History.—s. 101, ch. 98-403.

39.821 Qualifications of guardians ad litem.—

(1) Because of the special trust or responsibility placed in a guardian ad litem, the Guardian Ad Litem Program may use any private funds collected by the program, or any state funds so designated, to conduct a security background investigation before certifying a volunteer to serve. A security background investigation must include, but need not be limited to, employment history checks, checks of references, local criminal history records checks through local law enforcement agencies, and statewide criminal history records checks through the Department of Law Enforcement. Upon request, an employer shall furnish a copy of the personnel record for the employee or former employee who is the subject of a security background investigation conducted under this section. The information contained in the personnel record may include, but need not be limited to, disciplinary matters and the reason why the employee was terminated from employment. An employer who releases a personnel record for purposes of a security background investigation is presumed to have acted in good faith and is not liable for information contained in the record without a showing that the employer maliciously falsified the record. A security background investigation conducted under this section must ensure that a person is not certified as a guardian ad litem if the person has an arrest awaiting final disposition for, been convicted of, regardless of adjudication, entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any offense prohibited under the provisions listed in s. 435.04. All applicants certified on or after July 1, 2010, must undergo a Level 2 background screening pursuant to chapter 435 before being certified to serve as a guardian ad litem. In analyzing and evaluating the information obtained in the security background investigation, the program must give particular emphasis to past activities involving children, including, but not limited to, child-related criminal offenses or child abuse. The program has sole discretion in determining whether to certify a person based on his or her security background investigation. The information collected pursuant to the security background investigation is confidential and exempt from s. 119.07(1).

(2) This section does not apply to a certified guardian ad litem who was certified before October 1, 1995, an attorney who is a member in good standing of The Florida Bar, or a licensed professional who has undergone a comparable security background investigation as a condition of licensure within 5 years of applying for certification as a guardian ad litem.

(3) It is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, for any person to willfully, knowingly, or intentionally fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any application for a volunteer position or for paid employment with the Guardian Ad Litem Program, any material fact used in making a determination as to the applicant's qualifications for such position.

Attachment 3

Section 409.175, Florida Statutes

409.175 Persons not required to be refingerprinted or rescreened.—Any law to the contrary notwithstanding, human resource personnel who have been fingerprinted or screened pursuant to chapters 393, 394, 397, 402, and this chapter, teachers who have been fingerprinted pursuant to chapter 1012, and law enforcement officers who meet the requirements of s. 943.13, who have not been unemployed for more than 90 days thereafter, and who under the penalty of perjury attest to the completion of such fingerprinting or screening and to compliance with this section and the standards for good moral character as contained in such provisions as ss. 110.1127(2)(c), 393.0655(1), 394.457(6), 397.451, 402.305(2), 409.175(6), and 943.13(7), are not required to be refingerprinted or rescreened in order to comply with any caretaker screening or fingerprinting requirements.

Chapter 435, Florida Statutes

EMPLOYMENT SCREENING

435.01 Applicability of this chapter; statutory references; rulemaking.

435.02 Definitions.

435.03 Level 1 screening standards.

435.04 Level 2 screening standards.

435.05 Requirements for covered employees and employers.

435.06 Exclusion from employment.

435.07 Exemptions from disqualification.

435.08 Payment for processing of fingerprints and state criminal records checks.

435.09 Confidentiality of personnel background check information.

435.10 Sharing of personnel information among employers.

435.11 Penalties.

435.12 Care Provider Background Screening Clearinghouse.

435.01 Applicability of this chapter; statutory references; rulemaking.—

(1)(a) Unless otherwise provided by law, whenever a background screening for employment or a background security check is required by law to be conducted pursuant to this chapter, the provisions of this chapter apply.

(b) Unless expressly provided otherwise, a reference in any section of the Florida Statutes to chapter 435 or to any section or sections or portion of a section of chapter 435 includes all subsequent amendments to chapter 435 or to the referenced section or sections or portions of a section. The purpose of this chapter is to facilitate uniform background screening and, to this end, a reference to this chapter, or to any section or subdivision within this chapter, constitutes a general reference under the doctrine of incorporation by reference.

(2) Agencies may adopt rules to administer this chapter.

History.—s. 47, ch. 95-228; s. 35, ch. 2010-114.

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

(1) "Agency" means any state, county, or municipal agency that grants licenses or registration permitting the operation of an employer or is itself an employer or that otherwise facilitates the screening of employees pursuant to this chapter. If there is no state agency or the municipal or county agency chooses not to conduct employment screening, "agency" means the Department of Children and Family Services.

(2) "Employee" means any person required by law to be screened pursuant to this chapter, including, but not limited to, persons who are contractors, licensees, or volunteers.

(3) "Employer" means any person or entity required by law to conduct screening of employees pursuant to this chapter.

(4) "Employment" means any activity or service sought to be performed by an employee which requires the employee to be screened pursuant to this chapter.

(5) "Specified agency" means the Department of Health, the Department of Children and Family Services, the Division of Vocational Rehabilitation within the Department of Education, the Agency for Health Care Administration, the Department of Elderly Affairs, the Department of Juvenile Justice, and the Agency for Persons with Disabilities when these agencies are conducting state and national criminal history background screening on persons who work with children or persons who are elderly or disabled.

(6) "Vulnerable person" means a minor as defined in s. 1.01 or a vulnerable adult as defined in s. 415.102.

History.—s. 47, ch. 95-228; s. 207, ch. 99-8; s. 36, ch. 2010-114; s. 9, ch. 2012-73.

435.03 Level 1 screening standards.—

(1) All employees required by law to be screened pursuant to this section must undergo background screening as a condition of employment and continued employment which includes, but need not be limited to, employment history checks and statewide criminal correspondence checks through the Department of Law Enforcement, and a check of the Dru Sjodin National Sex Offender Public Website, and may include local criminal records checks through local law enforcement agencies.

(2) Any person required by law to be screened pursuant to this section must not have an arrest awaiting final disposition, must not have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, and must not have been adjudicated delinquent and the record has not been sealed or expunged for, any offense prohibited under s. 435.04(2) or similar law of another jurisdiction.

(3) The security background investigations under this section must ensure that no person subject to this section has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense that constitutes domestic violence as defined in s. 741.28, whether such act was committed in this state or in another jurisdiction.

History.—s. 47, ch. 95-228; s. 15, ch. 96-268; s. 21, ch. 96-322; s. 3, ch. 98-417; s. 87, ch. 2000-153; s. 45, ch. 2000-349; s. 62, ch. 2001-62; s. 50, ch. 2003-1; s. 4, ch. 2004-267; s. 3, ch. 2005-119; s. 89, ch. 2006-197; s. 61, ch. 2006-227; s. 109, ch. 2007-5; s. 16, ch. 2008-244; s. 37, ch. 2010-114; s. 34, ch. 2011-4.

435.04 Level 2 screening standards.—

(1)(a) All employees required by law to be screened pursuant to this section must undergo security background investigations as a condition of employment and continued employment which includes, but 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.

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

(c) An agency may contract with one or more vendors to perform all or part of the electronic fingerprinting pursuant to this section. Such contracts must ensure that the owners and personnel of the vendor performing the electronic fingerprinting are qualified and will ensure the integrity and security of all personal information.

(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.

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

1. Meet the requirements of s. 943.053; and
2. Have the ability to communicate electronically with the state agency accepting screening results from the Department of Law Enforcement and provide a photograph of the applicant taken at the time the fingerprints are submitted.

(2) The security background investigations under this section must ensure that no persons subject to the provisions of this section have been arrested for and are awaiting final disposition of, have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or have 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 782.04, relating to murder.

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

(f) Section 782.071, relating to vehicular homicide.

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

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

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

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

(k) Section 787.01, relating to kidnapping.

- (l) Section 787.02, relating to false imprisonment.
- (m) Section 787.025, relating to luring or enticing a child.
- (n) Section 787.04(2), relating to taking, enticing, or removing a child beyond the state limits with criminal intent pending custody proceedings.
- (o) 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.
- (p) Section 790.115(1), relating to exhibiting firearms or weapons within 1,000 feet of a school.
- (q) Section 790.115(2)(b), relating to possessing an electric weapon or device, destructive device, or other weapon on school property.
- (r) Section 794.011, relating to sexual battery.
- (s) Former s. 794.041, relating to prohibited acts of persons in familial or custodial authority.
- (t) Section 794.05, relating to unlawful sexual activity with certain minors.
- (u) Chapter 796, relating to prostitution.
- (v) Section 798.02, relating to lewd and lascivious behavior.
- (w) Chapter 800, relating to lewdness and indecent exposure.
- (x) Section 806.01, relating to arson.
- (y) Section 810.02, relating to burglary.
- (z) Section 810.14, relating to voyeurism, if the offense is a felony.
- (aa) Section 810.145, relating to video voyeurism, if the offense is a felony.
- (bb) Chapter 812, relating to theft, robbery, and related crimes, if the offense is a felony.
- (cc) Section 817.563, relating to fraudulent sale of controlled substances, only if the offense was a felony.
- (dd) Section 825.102, relating to abuse, aggravated abuse, or neglect of an elderly person or disabled adult.
- (ee) Section 825.1025, relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult.
- (ff) Section 825.103, relating to exploitation of an elderly person or disabled adult, if the offense was a felony.
- (gg) Section 826.04, relating to incest.
- (hh) Section 827.03, relating to child abuse, aggravated child abuse, or neglect of a child.
- (ii) Section 827.04, relating to contributing to the delinquency or dependency of a child.
- (jj) Former s. 827.05, relating to negligent treatment of children.
- (kk) Section 827.071, relating to sexual performance by a child.
- (ll) Section 843.01, relating to resisting arrest with violence.
- (mm) Section 843.025, relating to depriving a law enforcement, correctional, or correctional probation officer means of protection or communication.
- (nn) Section 843.12, relating to aiding in an escape.
- (oo) Section 843.13, relating to aiding in the escape of juvenile inmates in correctional institutions.
- (pp) Chapter 847, relating to obscene literature.
- (qq) Section 874.05(1), relating to encouraging or recruiting another to join a criminal gang.
- (rr) 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.
- (ss) Section 916.1075, relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.
- (tt) Section 944.35(3), relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.
- (uu) Section 944.40, relating to escape.
- (vv) Section 944.46, relating to harboring, concealing, or aiding an escaped prisoner.
- (ww) Section 944.47, relating to introduction of contraband into a correctional facility.
- (xx) Section 985.701, relating to sexual misconduct in juvenile justice programs.
- (yy) Section 985.711, relating to contraband introduced into detention facilities.
- (3) The security background investigations under this section must ensure that no person subject to this section has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense that constitutes domestic violence as defined in s. 741.28, whether such act was committed in this state or in another jurisdiction.

History.—s. 47, ch. 95-228; s. 16, ch. 96-268; s. 22, ch. 96-322; s. 4, ch. 98-417; s. 5, ch. 99-284; s. 88, ch. 2000-153; s. 7, ch. 2001-125; s. 5, ch. 2004-267; s. 4, ch. 2005-119; s. 111, ch. 2006-120; s. 90, ch. 2006-197; s. 110, ch. 2007-5; s. 3, ch. 2007-112; s. 66, ch. 2009-223; s. 6, ch. 2010-31; s. 38, ch. 2010-114; s. 10, ch. 2012-73.

435.05 Requirements for covered employees and employers.—Except as otherwise provided by law, the following requirements apply to covered employees and employers:

(1)(a) Every person required by law to be screened pursuant to this chapter must submit a complete set of information necessary to conduct a screening under this chapter.

(b) For level 1 screening, the employer must submit the information necessary for screening to the Department of Law Enforcement within 5 working days after receiving it. The Department of Law Enforcement shall conduct a search of its records and respond to the employer or agency. The employer must inform the employee whether screening has revealed any disqualifying information.

(c) For Level 2 screening, the employer or agency must submit the information necessary for screening to the Department of Law Enforcement within 5 working days after receiving it. The Department of Law Enforcement shall perform a criminal history record check of its records and request that the Federal Bureau of Investigation perform a national criminal history record check of its records for each employee for whom the request is made. The Department of Law Enforcement shall respond to the employer or agency, and the employer or agency must inform the employee whether screening has revealed disqualifying information.

(d) The person whose background is being checked must supply any missing criminal or other necessary information upon request to the requesting employer or agency within 30 days after receiving the request for the information.

(2) Every employee must attest, subject to penalty of perjury, to meeting the requirements for qualifying for employment pursuant to this chapter and agreeing to inform the employer immediately if arrested for any of the disqualifying offenses while employed by the employer.

(3) Each employer licensed or registered with an agency must conduct Level 2 background screening and must submit to the agency annually or at the time of license renewal, under penalty of perjury, a signed affidavit attesting to compliance with the provisions of this chapter.

History.—s. 47, ch. 95-228; s. 208, ch. 99-8; s. 46, ch. 2000-349; s. 63, ch. 2001-62; s. 21, ch. 2004-267; s. 67, ch. 2009-223; s. 39, ch. 2010-114.

435.06 Exclusion from employment.—

(1) If an employer or agency has reasonable cause to believe that grounds exist for the denial or termination of employment of any employee as a result of background screening, it shall notify the employee in writing, stating the specific record that indicates noncompliance with the standards in this chapter. It is the responsibility of the affected employee to contest his or her disqualification or to request exemption from disqualification. The only basis for contesting the disqualification is proof of mistaken identity.

(2)(a) An employer may not hire, select, or otherwise allow an employee to have contact with any vulnerable person that would place the employee in a role that requires background screening until the screening process is completed and demonstrates the absence of any grounds for the denial or termination of employment. If the screening process shows any grounds for the denial or termination of employment, the employer may not hire, select, or otherwise allow the employee to have contact with any vulnerable person that would place the employee in a role that requires background screening unless the employee is granted an exemption for the disqualification by the agency as provided under s. 435.07.

(b) If an employer becomes aware that an employee has been arrested for a disqualifying offense, the employer must remove the employee from contact with any vulnerable person that places the employee in a role that requires background screening until the arrest is resolved in a way that the employer determines that the employee is still eligible for employment under this chapter.

(c) The employer must terminate the employment of any of its personnel found to be in noncompliance with the minimum standards of this chapter or place the employee in a position for which background screening is not required unless the employee is granted an exemption from disqualification pursuant to s. 435.07.

(d) An employer may hire an employee to a position that requires background screening before the employee completes the screening process for training and orientation purposes. However, the employee may not have direct contact with vulnerable persons until the screening process is completed and the employee demonstrates that he or she exhibits no behaviors that warrant the denial or termination of employment.

(3) Any employee who refuses to cooperate in such screening or refuses to timely submit the information necessary to complete the screening, including fingerprints if required, must be disqualified for employment in such position or, if employed, must be dismissed.

(4) There is no reemployment assistance or other monetary liability on the part of, and no cause of action for damages against, an employer that, upon notice of a conviction or arrest for a disqualifying offense listed under this chapter, terminates the person against whom the report was issued or who was arrested, regardless of whether or not that person has filed for an exemption pursuant to this chapter.

History.—s. 47, ch. 95-228; s. 40, ch. 2010-114; s. 65, ch. 2012-30; s. 11, ch. 2012-73.

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) The head of the appropriate agency may grant to any employee otherwise disqualified from employment an exemption from disqualification for:

(a) 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 sanction for the disqualifying felony;

(b) 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 sanction;

(c) 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 sanction; or

(d) 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 sanction 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.

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

(3)(a) In order for the head of an agency to grant an exemption to any employee, the employee must demonstrate by clear and convincing evidence that the employee should not be disqualified from employment. Employees 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 since the incident, or any other evidence or circumstances indicating that the employee will not present a danger if employment or continued employment is allowed.

(b) The agency may consider as part of its deliberations of the employee's rehabilitation the fact that the employee 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.

(c) The decision of the head of an agency regarding an exemption may be contested through the hearing procedures set forth in chapter 120. The standard of review by the administrative law judge is whether the agency's intended action is an abuse of discretion.

(4)(a) Disqualification from employment 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 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.

(5) Exemptions granted by one agency shall be considered by subsequent agencies, but are not binding on the subsequent agency.

History.—s. 47, ch. 95-228; s. 47, ch. 2000-349; s. 64, ch. 2001-62; s. 29, ch. 2004-267; s. 9, ch. 2005-128; s. 41, ch. 2010-114.

435.08 Payment for processing of fingerprints and state criminal records checks.—The employer or the employee is responsible for paying the costs of screening. Payment shall be submitted to the Department of Law Enforcement with the request for screening. The appropriate agency is responsible for collecting and paying any fee related to fingerprints retained on its behalf to the Department of Law Enforcement for costs resulting from the fingerprint information retention services. The amount of the annual fee and procedures for the submission and retention of fingerprint information and for the dissemination of search results shall be established by rule of the Department of Law Enforcement.

History.—s. 47, ch. 95-228; s. 209, ch. 99-8; s. 48, ch. 2000-349; s. 42, ch. 2010-114.

435.09 Confidentiality of personnel background check information.—No criminal or juvenile 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; s. 49, ch. 2000-349.

435.10 Sharing of personnel information among employers.—Every employer of employees covered by this chapter shall furnish copies of personnel records for employees or former employees to any other employer requesting this information pursuant to this section. Information contained in the records may include, but is not limited to, disciplinary matters and any reason for termination. Any employer releasing such records pursuant to this chapter shall be considered to be acting in good faith and may not be held liable for information contained in such records, absent a showing that the employer maliciously falsified such records.

History.—s. 47, ch. 95-228.

435.11 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.

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 shall allow the results of criminal history checks provided to the specified agencies for screening of persons qualified as care providers under s. 943.0542 to be shared among the specified agencies when a person has applied to volunteer, be employed, be licensed, or enter into a contract that requires a state and national fingerprint-based criminal history check. 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 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. 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.

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

(b) Until such time as the fingerprints are retained at the Federal Bureau of Investigation, 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.

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

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

History.—s. 12, ch. 2012-73.

GUARDIAN AD LITEM APPLICANT FOR EMPLOYMENT BACKGROUND
SCREEN PERMISSION ACKNOWLEDGEMENT

(Last Name)

(First Name)

(M. Initial)

(Social Security Number)

I fully understand that in order to become an employee with the Guardian ad Litem Program a background screen must be conducted, which includes a criminal background screen through local, state, and federal criminal agencies.

I hereby authorize the Guardian ad Litem Program to conduct a check of any and all records pertaining to my work experience, criminal history, driver's license history, and juvenile criminal history pursuant to Section 39.821, Florida Statutes, and Chapter 435, Florida Statutes. I further authorize any law enforcement to release to the Guardian ad Litem Program information regarding convictions/dispositions under Florida Statutes or statutes of other jurisdictions. I agree to be fingerprinted for purposes of conducting a criminal history screening and understand that as a GAL employee my fingerprints will be retained by the Florida Department of Law Enforcement (FDLE) and the Program will be notified directly by FDLE in the event I am arrested. I understand that as an employee of the Program, it will be my responsibility to notice my supervisor of any arrests that occur during my employment.

Applicant's Signature

Date

Witness

Date

**GUARDIAN AD LITEM VOLUNTEER APPLICANT BACKGROUND SCREEN
PERMISSION ACKNOWLEDGEMENT**

(Last Name)

(First Name)

(M. Initial)

(Social Security Number)

I fully understand that in order to become a certified Guardian ad Litem Volunteer with the Guardian ad Litem Program a background screen must be conducted, which includes a criminal background screen through local, state, and federal criminal agencies.

I hereby authorize the Guardian ad Litem Program to conduct a check of any and all records pertaining to my work experience, criminal history, driver's license history, and juvenile criminal history pursuant to Section 39.821, Florida Statutes, and Chapter 435, Florida Statutes. I further authorize any law enforcement to release to the Guardian ad Litem Program information regarding convictions/dispositions under Florida Statutes or statutes of other jurisdictions. I agree to be fingerprinted for purposes of conducting a criminal history screening and understand that as a certified GAL volunteer my fingerprints will be retained by the Florida Department of Law Enforcement (FDLE) and the Program will be notified directly by FDLE in the event I am arrested. I further understand that it will be my responsibility to notice the Program of any arrests that occur while I am a volunteer with the Program.

Applicant's Signature

Date

Witness

Date

GUARDIAN AD LITEM
CRIMINAL HISTORY ACKNOWLEDGEMENT
(for Volunteer and Employee Applicants)

Name: _____

Date: _____

_____ I have never been arrested or charged with a crime, either as an adult or juvenile.

_____ I have been arrested and charged with a crime, but the charges were later dropped.

_____ I have been arrested and charged with a crime, but pled no contest or successfully completed a diversion program and adjudication was withheld by the court.

_____ I have been adjudicated delinquent and the arrest has not been sealed or expunged.

_____ I have been convicted of one or more criminal offenses (pled guilty or found guilty) or declared a delinquent to a criminal offense (misdemeanor or felony) either as a juvenile or adult.

Please list the charge(s) as appropriate:

The Guardian ad Litem Program is required by statute to screen applicants for any of the offenses set forth in Section 435.04, Florida Statutes. The offenses listed below are those set forth in this provision. As a result of the special trust placed in Program volunteers and staff, any one of these offenses operates as an automatic disqualifier where the applicant has been arrested for and is awaiting final disposition of, has pled nolo contendere (no contest), guilty, or was found guilty regardless of adjudication or have been adjudicated delinquent and the record has not been sealed or expunged. In some circumstances, applicants are entitled to seek an exemption from disqualification through a review process. If after your criminal history screen is returned and any of the below offenses is reflected but it is determined that you are statutorily eligible to seek an exemption, you will be notified in writing of this right and of the exemption process.

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

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



FLORIDA STATEWIDE GUARDIAN AD LITEM OFFICE

Alan F. Abramowitz
Executive Director

ATTACHMENT 8

DATE:

TO: Department of Children and Family Services: General Services, (ASG) and Administrative Services Support Center, (ASSC)

FROM: *Statewide Guardian Ad Litem Program*

SUBJECT: Request for FDLE Live Scan

Transaction Information

Guardian Ad Litem (FL924280Z)

PLEASE PRINT

Personal Information

Name: _____
(Last Name, First Name, Middle Initial, Suffix (i.e. Jr, III, etc.))

Maiden Name/Nickname/Alias: _____

SSN: _____ DOB: _____ POB: _____
(i.e. 999876543) (YYYYMMDD) (State of Birth)

Country of Citizenship: _____

Residence Address:

Employer Name and Address

Physical Description (please check ONE in each category or complete as indicated)

Gender:	<input type="checkbox"/> Female <input type="checkbox"/> Male
Race:	<input type="checkbox"/> Asian <input type="checkbox"/> Black <input type="checkbox"/> Native American <input type="checkbox"/> White <input type="checkbox"/> Unknown
Color of Eyes:	<input type="checkbox"/> Black <input type="checkbox"/> Blue <input type="checkbox"/> Brown <input type="checkbox"/> Green <input type="checkbox"/> Gray <input type="checkbox"/> Hazel <input type="checkbox"/> Maroon <input type="checkbox"/> MultiColor <input type="checkbox"/> Pink <input type="checkbox"/> Unknown
Hair Color:	<input type="checkbox"/> Bald <input type="checkbox"/> Black <input type="checkbox"/> Blonde or Strawberry <input type="checkbox"/> Sandy <input type="checkbox"/> Brown <input type="checkbox"/> Gray or Partial Gray <input type="checkbox"/> Red or Auburn <input type="checkbox"/> White <input type="checkbox"/> Orange <input type="checkbox"/> Purple <input type="checkbox"/> Pink <input type="checkbox"/> Blue <input type="checkbox"/> Green <input type="checkbox"/> Unknown

Height: _____ Weight: _____
(i.e. 603) (i.e. 190)

Signature: _____ Date: _____

Please provide the Guardian Ad Litem Volunteer or Employee with the TCN number from the scan and inform the Volunteer or Employee to return this number to the GAL Office for the immediate payment of the scan by credit card.

Background Screening Procedures – Processing Payments

1. Utilizing DCF-owned Livescan equipment

2. Upon completion of all training requirements and applicant's completion of the GAL Volunteer Applicant Background Screen Permission Acknowledgement and Criminal History Acknowledgement forms (required for volunteers and new hires), the Circuit will make an appointment with the DCF office for the volunteer's level 2 livescan.
3. The volunteer will be provided notice of the appointment and provided a Request for Screening form to take to the DCF location. (If practical, attempt to schedule all volunteer graduates for a single session to be as non-disruptive as possible to the DCF).
4. After the livescan is completed, the volunteer will be instructed to immediately return the tracking number (TCN) provided by DCF to the Circuit Budget Liaison.
5. The Circuit Budget Liaison will log on the FDLE site, enter the TCN and pay for the livescan with his/her PCard.
6. The Budget Liaison will provide a pcard receipt to the Finance Office.

7. Utilizing CBC-owned Livescan equipment

1. Upon completion of all training requirements, the Circuit will make an appointment with the CBC office for the volunteer's level 2 livescan.
2. The volunteer will be provided notice of the appointment and provided a Request for Screening form to take to the CBC location. (If practical, attempt to schedule all volunteer graduates for a single session to be as non-disruptive as possible to the CBC)
3. After the livescan is completed, the CBC will provide an invoice for their services.
4. The Circuit Budget Liaison should 5-line stamp the invoice and scan to the Finance Office for immediate payment. The invoice should contain the names of the volunteers covered by the invoice.

Procedures for Processing Payments for New Hires is the same as above.

(Date)

(Employee's Name)
(Address)

Dear (employee's name):

We are pleased to offer you the position of (Class Title) for the Guardian Ad Litem Program. This offer of employment is contingent upon successful completion of a Level II background screen. The annual salary for this position will be (Annual Salary). The effective date of your appointment will be (Date). Your qualifications and experience should provide the platform necessary for successfully fulfilling this role.

We certainly hope you will accept the offer to join our team. Please sign below to indicate your acceptance of this offer of employment and return this letter to our office as soon as possible.

I am confident that you will find this a challenging and rewarding experience. On your first day of employment please bring your social security card and proper documentation for completion of your I-9 form.

Sincerely,

(Manager's Name)
(Title)

cc:

I _____ accept _____ do not accept this offer of employment from the Guardian ad Litem Program.

Signature

Date

The Holland Building, 600 South Calhoun Street, Suite 265
Tallahassee, Florida 32399-0979

Phone: (850) 922-7213
Fax: (850) 922-7211



FLORIDA STATEWIDE GUARDIAN AD LITEM OFFICE
Alan F. Abramowitz, Executive Director

MEMORANDUM

To:

From: Debra L Ervin, Administrative Services Director

Date:

Re: Level 2 Screening – Disposition Information re: _____

As part of the required screening as a Guardian ad Litem volunteer, the fingerprints of the person named above were submitted to the Florida Department of Law Enforcement and the Federal Bureau of Investigation. Our office is now in receipt of a criminal report which indicates that he or she had the following arrest(s), but we do not have disposition information. This is a potentially disqualifying offense under Chapter 435, Florida Statutes.

<u>Offense</u>	<u>Arresting Authority</u>	<u>Date</u>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____

According to Chapter 435, the person whose background is being checked must supply any missing information within 30 days after being requested. Failure to do so, or to show reasonable efforts, shall result in automatic disqualification.

I am requesting that you consider the results, attached, and if you wish to pursue this candidate as a volunteer, request that they provide the court order(s) and the arrest record(s), or documentation that the case was dismissed. If a felony is less than three years old, there can be no exemption considered.

When the disposition information is received, please send this information to the Guardian ad Litem Human Resources Office, attention: _____, so that we can make a final determination of this person's eligibility to serve as a volunteer.

If you have any questions, please contact me at 850-922-6554, or Debra.Ervin@gal.fl.gov.

Enclosure: Criminal History Report

600 South Calhoun Street,
 The Holland Building, Suite 274
 Tallahassee, Florida 32399-0979

Phone: (850) 922-7213
 Fax: (850) 922-7211
www.guardianadlitem.org

Date

**CERTIFIED MAIL #XXXX
RETURN RECEIPT REQUESTED**

Allison Applicant
654 SW 1st Street
Anytown, FL 30000-0000
Dear Ms. Applicant:

The Statewide Guardian ad Litem Program has determined that, pursuant to the standards established in Chapter 435, Florida Statutes (F.S.), you are ineligible for continued a position of special trust working with children, as outlined in Chapters 39, Florida Statutes. The Circuit Director in your area Guardian ad Litem Office is being notified via a copy of this letter.

This ineligibility is based on:

OFFENSE TYPE:	Misdemeanor
ARREST DATE:	08/23/2000
DISPOSITION DATE:	09/15/2000
CNTY/STATE:	Podunk, GA
STATUTE/OFFENSE:	s. 798.02,F.S./Lewd and Lascivious Behavior

The following avenues of appeal from disqualification are available to you under Chapter 435, F.S.:

Exemptions from disqualification may be granted pursuant to s. 435.07(1), F.S. for, misdemeanors prohibited in Chapter 435, F.S. Exemptions will be granted only when the agency has been provided clear and convincing evidence to support a reasonable belief that a person is of good moral character and that the individual does not present a danger to the safety or wellbeing of children.

To request an exemption, you must submit the attached Request for Exemption, Employment History Record, and the Exemption Review Request Checklist **within 30 days** of receipt of this notification of ineligibility. These must be submitted to this office along with all the information listed on the Exemption Review Request Checklist. An exemption review meeting will be scheduled after you have submitted all necessary documentation, or documentation of your attempts to provide the information requested.

The agency retains the right to consider any and all information available that speaks to good moral character. If you decide to request an exemption, return the requested information to:

Human Resources
Guardian ad Litem Program
Background Screening
PO Box 10628
Tallahassee, FL 32302

Even if you challenge this disqualification by requesting an exemption, during the appeal period you shall not have direct contact with children or the developmentally disabled in positions covered by the screening statutes. You continue to be disqualified from holding a caretaker position anywhere in the State of Florida unless you are granted an exemption.

If you are dissatisfied with the agency's decision on your request for exemption, you will have the right to request an Administrative Hearing under Chapter 120, F.S. If your request for exemption is denied, a copy of procedural information relative to an Administrative Hearing, may be obtained from the Guardian ad Litem Program

Should you have any questions or require additional information/clarification, please contact me at (850) 555-1234.

Sincerely,

Debra Ervin
Administrative Services Director

Enclosures:
Request for Exemption Form
Employment History Record
Exemption Review Request Checklist

Request for Exemption Form

Applicant Information: Please print legibly or type. All questions must be answered:

1. Name: _____
Last First Middle Maiden

2. Mailing Address:

3. Social Security Number: _____ - _____ - _____

4. Date of Birth: _____ / _____ / _____ Sex: _____ Race: _____

5. Telephone Number: Home: (_____) _____ - _____ Work: (_____) _____ -

6. Professional License(s) or Certificate(s) if any, and license number:

7. Please explain, in detail, the reason(s) for your disqualification. List any disqualifying crimes and dates of offenses. Be advised that any and all information or documentation submitted by you may be considered public record.

(Please add additional sheets as needed to complete your explanation.)

FAILURE TO PROVIDE ALL RELEVANT DOCUMENTATION COULD RESULT IN THE DELAY OF THE REVIEW OF THE EXEMPTION REQUEST AND CONTINUED DISQUALIFICATION FROM A POSITION OF SPECIAL TRUST.

Request for Exemption Form

Request for Exemption Review: I am formally requesting that the Guardian ad Litem Program, in accordance with the provisions of Chapter 435, Florida Statutes, provide me with an Exemption Review. I understand that I must provide clear and convincing evidence to support a reasonable belief that I am of good moral character and that I pose no danger to the health or safety of children.

I understand that the decision of the Agency regarding this Exemption may be contested through a hearing under the provisions of Chapter 120, F.S.

_____/_____/_____
Signature Date

FAILURE TO PROVIDE ALL RELEVANT DOCUMENTATION COULD RESULT IN THE DELAY OF THE REVIEW OF THE EXEMPTION REQUEST AND CONTINUED DISQUALIFICATION FROM A POSITION OF SPECIAL TRUST.

Employment History

Please provide your employment history for the last three years:

Most recent employer:

Facility Name

Facility Address City State

(_____)_____-_____) Supervisor: _____

Area Code Telephone Number

Dates Employed: From _____ to _____

Your Title or Occupation:

Responsibilities: _____

Next Employer: _____

Facility Name

Facility Address City State

(_____)_____-_____) Supervisor: _____

Area Code Telephone Number

Dates Employed: From _____ to _____

Your Title or Occupation: _____

Responsibilities: _____

Next Employer: _____

Facility Name

Facility Address City State

(_____)_____-_____) Supervisor: _____

Area Code Telephone Number

Dates Employed: From _____ to _____

Your Title or Occupation: _____

Responsibilities: _____

Please attach additional pages as necessary.

FAILURE TO PROVIDE ALL RELEVANT DOCUMENTATION COULD RESULT IN THE DELAY OF THE REVIEW OF THE EXEMPTION REQUEST AND CONTINUED DISQUALIFICATION FROM A POSITION OF SPECIAL TRUST.

Exemption Review Request Checklist

IT IS IMPORTANT THAT YOU PROVIDE ALL OF THE INFORMATION BELOW AND CHECK OFF EACH ITEM AS YOU OBTAIN IT. **THIS FORM MUST BE RETURNED WITH YOUR PACKET.**

This packet is being sent to you in response to your request for an exemption review. Please print legibly and complete all information. Your packet should include the following items:

1. A certified copy of the court's State Attorney's Petition (filing of information), and Final Disposition for each **disqualifying** criminal offense is required. Certified Court documents may be obtained from the Clerk of the Court in the county in which the offense occurred. The disposition is the court document used in sentencing, or documentation of your attempts to obtain the information.
2. A copy of the arrest report for each **disqualifying** criminal offense is required. You may obtain a copy of this report from the arresting agency or the Court. The arrest report is the report the arresting officer wrote which states what events resulted in your arrest. If the report is not available, a statement from the court or Law Enforcement Agency that the record does not exist or has been destroyed is acceptable.
3. A copy of arrest reports and dispositions for the following offenses is also required: _____
4. If you were given probation or parole, you will need a letter or documentation from the probation department or Court documenting your release.
5. Provide two or more original, signed letters of recommendation or letters of reference that will attest to your good moral character. These may be from anyone that is familiar with your past and present character. Individuals providing a letter of recommendation should include their name, address, and telephone number for verification or possible interview. Use of official letterhead is recommended, as applicable. Individuals may also appear in person to present testimony.
6. Provide us with proof of your rehabilitation. Proof of rehabilitation may take the form of letters from employers, or community members, records of successful participation in a rehabilitation program, further education or training certifications, special awards of recognition, or information, which indicates that you are not a danger to the safety or wellbeing of others. If you did not receive court ordered rehabilitation or did not seek any voluntarily, please indicate so.
7. Please complete the employment history record. Identify the name and address of employer, supervisor's name and telephone number, and your job responsibilities for at least the last 3 years. Include letters of reference from those employers indicating dates of employment, or IRS W-2 forms, and/or first and last pay stubs. Attach additional sheets if necessary.
8. Explanation about your personal history, e.g., explain what happen with each arrest, tell us your current home life, level of education/training, family members, personal goals, and community involvement.

FAILURE TO PROVIDE ALL RELEVANT DOCUMENTATION COULD RESULT IN THE DELAY OF THE REVIEW OF THE EXEMPTION REQUEST AND CONTINUED DISQUALIFICATION FROM A POSITION OF SPECIAL TRUST.