

1 A bill to be entitled
2 An act relating to the Department of Financial
3 Services; amending s. 20.121, F.S.; specifying powers
4 and duties of the Division of Public Assistance Fraud;
5 amending s. 497.101, F.S.; revising provisions
6 relating to membership of the Board of Funeral,
7 Cemetery, and Consumer Services; creating s. 497.1411,
8 F.S.; providing definitions; providing for permanent
9 disqualification of applicants for licensure under
10 chapter 497, F.S., upon conviction of certain
11 offenses; providing for disqualifying periods for such
12 applicants who have been convicted of certain
13 offenses; requiring rulemaking; providing for
14 calculation of disqualifying periods; providing for
15 applicants to show rehabilitation after completion of
16 a disqualifying period; providing for the effect of a
17 pardon or clemency; providing for exemptions from
18 disqualification in certain circumstances; providing
19 procedures for consideration of applications for such
20 exemptions; amending s. 497.157, F.S.; prohibiting
21 persons from acting as or advertising themselves as
22 being certain persons unless they are so licensed;
23 prohibiting persons from engaging in certain
24 activities requiring licensure without holding
25 required licenses; providing criminal penalties;

26 | amending s. 552.081, F.S.; revising the definition of
27 | two-component explosives for the purpose of regulation
28 | by the Division of State Fire Marshal; amending s.
29 | 553.7921, F.S.; revising requirements for repair of an
30 | existing alarm system that was previously permitted by
31 | a local enforcement agency; creating s. 633.217, F.S.;
32 | prohibiting certain actions to influence a firesafety
33 | inspector into violating certain provisions;
34 | prohibiting a firesafety inspector from knowingly and
35 | willfully accepting an attempt to influence the
36 | firesafety inspector into violating certain
37 | provisions; amending s. 633.416, F.S.; providing that
38 | certain persons serving as volunteer firefighters may
39 | serve as a regular or permanent firefighter for a
40 | limited period subject to certain restrictions;
41 | amending s. 843.08, F.S.; prohibiting false
42 | personation of personnel or representatives of the
43 | Division of Investigative and Forensic Services;
44 | providing criminal penalties; amending s. 943.045,
45 | F.S.; providing the investigations component of the
46 | Department of Financial Services is a criminal justice
47 | agency for specified purposes; providing an effective
48 | date.

49 |
50 | Be It Enacted by the Legislature of the State of Florida:

51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75

Section 1. Paragraph (f) of subsection (2) of section 20.121, Florida Statutes, is amended to read:

20.121 Department of Financial Services.—There is created a Department of Financial Services.

(2) DIVISIONS.—The Department of Financial Services shall consist of the following divisions and office:

(f) The Division of Public Assistance Fraud, which shall function as a criminal justice agency for purposes of ss. 943.045-943.08. The division shall conduct investigations pursuant to s. 414.411 within or outside of this state as it deems necessary. If, during an investigation, the division has reason to believe that any criminal law of this state has or may have been violated, it shall refer any records tending to show such violation to state or federal law enforcement or prosecutorial agencies and shall provide investigative assistance to those agencies as required.

Section 2. Subsections (1), (2), (3), (6), and (8) of section 497.101, Florida Statutes, are amended to read:

497.101 Board of Funeral, Cemetery, and Consumer Services; membership; appointment; terms.—

(1) The Board of Funeral, Cemetery, and Consumer Services is created within the Department of Financial Services and shall consist of 10 members, 9 of whom shall be appointed by the Governor from nominations made by the Chief Financial Officer

76 and confirmed by the Senate. The Chief Financial Officer shall
77 nominate one to three persons for each of the nine vacancies on
78 the board, and the Governor shall fill each vacancy on the board
79 by appointing one of the ~~three~~ persons nominated by the Chief
80 Financial Officer to fill that vacancy. If the Governor objects
81 to each of the ~~three~~ nominations for a vacancy, she or he shall
82 inform the Chief Financial Officer in writing. Upon notification
83 of an objection by the Governor, the Chief Financial Officer
84 shall submit one to three additional nominations for that
85 vacancy until the vacancy is filled. One member must be the
86 State Health Officer or her or his designee.

87 (2) Two members of the board shall be funeral directors
88 licensed under part III of this chapter who are associated with
89 a funeral establishment. One member of the board shall be a
90 funeral director licensed under part III of this chapter who is
91 associated with a funeral establishment licensed under part III
92 of this chapter that has a valid preneed license issued pursuant
93 to this chapter and who owns or operates a cinerator facility
94 approved under chapter 403 and licensed under part VI of this
95 chapter. Two members of the board shall be persons whose primary
96 occupation is associated with a cemetery company licensed
97 pursuant to this chapter. Two ~~Three~~ members of the board shall
98 be consumers who are residents of the state, have never been
99 licensed as funeral directors or embalmers, are not connected
100 with a cemetery or cemetery company licensed pursuant to this

101 chapter, and are not connected with the death care industry or
102 the practice of embalming, funeral directing, or direct
103 disposition. One of the two consumer members shall be at least
104 60 years of age, ~~and one shall be licensed as a certified public~~
105 ~~accountant under chapter 473.~~ One member of the board shall be a
106 consumer who is a resident of this state; licensed as a
107 certified public accountant under chapter 473; has never been
108 licensed as a funeral director or embalmer; is not a principal
109 or employee of any licensee licensed under this chapter; and
110 does not otherwise have control, as defined in s. 497.005, over
111 any licensee licensed under this chapter. One member of the
112 board shall be a principal of a monument establishment licensed
113 under this chapter as a monument builder. One member shall be
114 the State Health Officer or her or his designee. There shall not
115 be two or more board members who are principals or employees of
116 the same company or partnership or group of companies or
117 partnerships under common control.

118 (3) Board members shall be appointed for terms of 4 years,
119 and the State Health Officer shall serve as long as that person
120 holds that office. The designee of the State Health Officer
121 shall serve at the pleasure of the Governor. ~~When the terms of~~
122 ~~the initial board members expire, the Chief Financial Officer~~
123 ~~shall stagger the terms of the successor members as follows: one~~
124 ~~funeral director, one cemetery representative, the monument~~
125 ~~builder, and one consumer member shall be appointed for terms of~~

126 | ~~2 years, and the remaining members shall be appointed for terms~~
 127 | ~~of 4 years. All subsequent terms shall be for 4 years.~~

128 | (6) The headquarters and records of the board shall be in
 129 | the Division of Funeral, Cemetery, and Consumer Services of the
 130 | Department of Financial Services in the City of Tallahassee. The
 131 | board may be contacted through the Division of Funeral,
 132 | Cemetery, and Consumer Services of the Department of Financial
 133 | Services in the City of Tallahassee. The Chief Financial Officer
 134 | shall annually appoint from among the board members a chair and
 135 | vice chair of the board. The board shall meet at least every 6
 136 | months, and more often as necessary. Special meetings of the
 137 | board shall be convened upon the direction of the Chief
 138 | Financial Officer. A quorum is necessary for the conduct of
 139 | business by the board. Unless otherwise provided by law, a
 140 | majority of the board members eligible to vote shall constitute
 141 | a quorum for the purpose of conducting its business ~~six board~~
 142 | ~~members shall constitute a quorum for the conduct of the board's~~
 143 | ~~business.~~

144 | ~~(8) The department shall adopt rules establishing forms by~~
 145 | ~~which persons may apply for membership on the board and~~
 146 | ~~procedures for applying for such membership. Such forms shall~~
 147 | ~~require disclosure of the existence and nature of all current~~
 148 | ~~and past employments by or contracts with, and direct or~~
 149 | ~~indirect affiliations or interests in, any entity or business~~
 150 | ~~that at any time was licensed by the board or by the former~~

151 ~~Board of Funeral and Cemetery Services or the former Board of~~
152 ~~Funeral Directors and Embalmers or that is or was otherwise~~
153 ~~involved in the death care industry, as specified by department~~
154 ~~rule.~~

155 Section 3. Section 497.1411, Florida Statutes, is created
156 to read:

157 497.1411 Disqualification of applicants and licensees;
158 penalties against licensees; rulemaking.-

159 (1) For purposes of this section, the term:

160 (a) "Applicant" means an individual applying for licensure
161 or relicensure under this chapter, and an officer, director,
162 majority owner, partner, manager, or other person who manages or
163 controls an entity applying for licensure or relicensure under
164 this chapter.

165 (b) "Felony of the first degree" and "capital felony"
166 include all felonies designated as such in this state, at the
167 time of the commission of the offense, as well as any offense in
168 another jurisdiction that is substantially similar to an offense
169 so designated in this state.

170 (c) "Financial services business" means any financial
171 activity regulated by the Department of Financial Services, the
172 Office of Insurance Regulation, or the Office of Financial
173 Regulation.

174 (2) An applicant who has been found guilty of or has
175 pleaded guilty or nolo contendere to any of the following

176 crimes, regardless of adjudication, is permanently barred from
177 licensure under this chapter:

178 (a) A felony of the first degree.

179 (b) A capital felony.

180 (c) A felony money laundering offense.

181 (d) A felony embezzlement.

182 (3) An applicant who has been found guilty of or has
183 pleaded guilty or nolo contendere to a crime not included in
184 subsection (2), regardless of adjudication, is subject to:

185 (a) A 10-year disqualifying period for all felonies
186 involving moral turpitude that are not specifically included in
187 the permanent bar contained in subsection (2).

188 (b) A 5-year disqualifying period for all felonies to
189 which neither the permanent bar in subsection (2) nor the 10-
190 year disqualifying period in paragraph (a) applies.

191 (c) A 5-year disqualifying period for all misdemeanors
192 directly related to the financial services business.

193 (4) The department shall adopt rules to administer this
194 section. The rules must provide for additional disqualifying
195 periods due to the commitment of multiple crimes and may include
196 other factors reasonably related to the applicant's criminal
197 history. The rules shall provide for mitigating and aggravating
198 factors. However, mitigation may not result in a period of
199 disqualification of less than 5 years and may not mitigate the
200 disqualifying periods in paragraphs (3)(b) and (c).

201 (5) For purposes of this section, a disqualifying period
202 begins upon the applicant's final release from supervision or
203 upon completion of the applicant's criminal sentence. The
204 department may not issue a license to an applicant unless all
205 related fines, court costs and fees, and court-ordered
206 restitution have been paid.

207 (6) After the disqualifying period has expired, the burden
208 is on the applicant to demonstrate that he or she has been
209 rehabilitated, does not pose a risk to the public, is fit and
210 trustworthy to engage in business regulated by this chapter, and
211 is otherwise qualified for licensure.

212 (7) Notwithstanding subsections (2) and (3), upon a grant
213 of a pardon or the restoration of civil rights pursuant to
214 chapter 940 and s. 8, Art. IV of the State Constitution with
215 respect to a finding of guilt or a plea under subsection (2) or
216 subsection (3), or such pardon or the restoration of civil
217 rights under the laws of another jurisdiction with respect to a
218 conviction in that jurisdiction, such finding or plea no longer
219 bars or disqualifies the applicant from licensure under this
220 chapter; however, such a pardon or restoration of civil rights
221 does not require the department to award such license.

222 (8) (a) The Board of Funeral, Cemetery, and Consumer
223 Services may grant an exemption from disqualification to any
224 person disqualified from licensure under this section because of
225 a criminal record if:

226 1. The applicant has paid in full any fee, fine, fund,
227 lien, civil judgment, restitution, or cost of prosecution
228 imposed by the court as part of the judgment and sentence for
229 any disqualifying offense; and

230 2. At least 5 years have elapsed since the applicant
231 completed or has been lawfully released from confinement,
232 supervision, or nonmonetary condition imposed by the court for a
233 disqualifying offense.

234 (b) For the board to grant an exemption under this
235 subsection, the applicant must clearly and convincingly
236 demonstrate that he or she would not pose a risk to persons or
237 property if licensed under this chapter, evidence of which must
238 include, but need not be limited to, facts and circumstances
239 surrounding the disqualifying offense, the time that has elapsed
240 since the offense, the nature of the offense and harm caused to
241 the victim, the applicant's history before and after the
242 offense, and any other evidence or circumstances indicating that
243 the applicant will not present a danger if licensed or
244 certified.

245 (c) The board has discretion whether to grant or deny an
246 exemption under this subsection. The board's decision is subject
247 to chapter 120, except that a formal proceeding under s.
248 120.57(1) is available only if there are disputed issues of
249 material fact that the department relied upon in reaching its
250 decision.

251 Section 4. Subsections (2) through (5) of section 497.157,
252 Florida Statutes, are renumbered as subsections (4) through (7),
253 respectively, new subsections (2), (3) and (8) are added to that
254 section, and present subsection (3) is amended, to read:

255 497.157 Unlicensed practice; remedies concerning
256 violations by unlicensed persons.—

257 (2) A person may not be, act as, or advertise or hold
258 himself or herself out to be a funeral director, embalmer, or
259 direct disposer, unless he or she is currently licensed by the
260 department.

261 (3) A person may not be, act as, or advertise or hold
262 himself or herself out to be a preneed sales agent unless he or
263 she is currently licensed by the department and appointed by a
264 preneed main licensee for which they are executing preneed
265 contracts.

266 (5) ~~(3)~~ Where the department determines that an emergency
267 exists regarding any violation of this chapter by any unlicensed
268 person or entity, the department may issue and serve an
269 immediate final order upon such unlicensed person or entity, in
270 accordance with s. 120.569(2)(n). Such an immediate final order
271 may impose such prohibitions and requirements as are reasonably
272 necessary to protect the public health, safety, and welfare, and
273 shall be effective when served.

274 (a) For the purpose of enforcing such an immediate final
275 order, the department may file an emergency or other proceeding

276 in the circuit courts of the state seeking enforcement of the
277 immediate final order by injunctive or other order of the court.
278 The court shall issue its injunction or other order enforcing
279 the immediate final order pending administrative resolution of
280 the matter under subsection (4)~~(2)~~, unless the court determines
281 that such action would work a manifest injustice under the
282 circumstances. Venue for judicial actions under this paragraph
283 shall be, at the election of the department, in the courts of
284 Leon County, or in a county where the respondent resides or has
285 a place of business.

286 (b) After serving an immediate final order to cease and
287 desist upon any person or entity, the department shall within 10
288 days issue and serve upon the same person or entity an
289 administrative complaint as set forth in subsection (4)~~(2)~~,
290 except that, absent order of a court to the contrary, the
291 immediate final order shall be effective throughout the pendency
292 of proceedings under subsection (4)~~(2)~~.

293 (8) Any person who is not licensed under this chapter and
294 who engages in activity requiring licensure under this chapter
295 commits a felony of the third degree, punishable as provided in
296 s. 775.082, s. 775.083, or s. 775.084.

297 Section 5. Subsection (13) of section 552.081, Florida
298 Statutes, is amended to read:

299 552.081 Definitions.—As used in this chapter:

300 (13) "Two-component explosives" means any two inert

301 components which, when mixed, become capable of detonation by
302 any detonator ~~a No. 6 blasting cap~~, and shall be classified as a
303 Class "A" explosive when so mixed.

304 Section 6. Subsection (2) of section 553.7921, Florida
305 Statutes, is renumbered as subsection (3), subsection (1) of
306 that section is amended, and a new subsection (2) is added to
307 that section, to read:

308 553.7921 Fire alarm permit application to local
309 enforcement agency.—

310 (1) A contractor must file a Uniform Fire Alarm Permit
311 Application as provided in subsection (3) ~~(2)~~ with the local
312 enforcement agency and must receive the fire alarm permit
313 before:

314 ~~(a)~~ installing or replacing a fire alarm if the local
315 enforcement agency requires a plan review for the installation
316 or replacement; ~~or~~

317 ~~(b)~~ ~~Repairing an existing alarm system that was previously~~
318 ~~permitted by the local enforcement agency if the local~~
319 ~~enforcement agency requires a fire alarm permit for the repair.~~

320 (2) If the local enforcement agency requires a fire alarm
321 permit to repair an existing alarm system that was previously
322 permitted by the local enforcement agency, a contractor may
323 begin work after filing a Uniform Fire Alarm Permit Application
324 as provided in subsection (3). A fire alarm repaired pursuant to
325 this subsection shall not be considered compliant until the

326 required permit has been issued and the local enforcement agency
327 has approved the repair.

328 Section 7. Section 633.217, Florida Statutes, is created
329 to read:

330 633.217 Influencing a firesafety inspector; prohibited
331 acts.—

332 (1) A person may not influence a firesafety inspector by:

333 (a) Threatening, coercing, tricking, or attempting to
334 threaten, coerce, or trick, the firesafety inspector into
335 violating any provision of the Florida Fire Prevention Code, any
336 rule adopted by the State Fire Marshal, or any provision of this
337 chapter.

338 (b) Offering any compensation to the firesafety inspector
339 to induce a violation of the Florida Fire Prevention Code, any
340 rule adopted by the State Fire Marshal, or any provision of this
341 chapter.

342 (2) A firesafety inspector may not knowingly and willfully
343 accept an attempt by a person to influence the firesafety
344 inspector into violating any provision of the Florida Fire
345 Prevention Code, any rule adopted by the State Fire Marshal, or
346 any provision of this chapter.

347 Section 8. Subsection (1) of section 633.416, Florida
348 Statutes, is amended to read:

349 633.416 Firefighter employment and volunteer firefighter
350 service; saving clause.—

351 (1) A fire service provider may not employ an individual
 352 to:

353 (a) Extinguish fires for the protection of life or
 354 property or to supervise individuals who perform such services
 355 unless the individual holds a current and valid Firefighter
 356 Certificate of Compliance. However, a person who is currently
 357 serving as a volunteer firefighter and holds a volunteer
 358 firefighter certificate of completion with a fire service
 359 provider, who is then employed as a regular or permanent
 360 firefighter, by such fire service provider, may function, for a
 361 period of 1 year under the direct supervision of an individual
 362 holding a valid firefighter certificate of compliance, in the
 363 same capacity in which he or she acted as a volunteer
 364 firefighter, provided that he or she has completed all training
 365 required by the volunteer organization. Under no circumstance
 366 can this period extend beyond 1 year either collectively or
 367 consecutively from the start of employment to obtain a
 368 Firefighter Certificate of Compliance; or

369 (b) Serve as the administrative and command head of a fire
 370 service provider for a period in excess of 1 year unless the
 371 individual holds a current and valid Firefighter Certificate of
 372 Compliance or Special Certificate of Compliance.

373 Section 9. Section 843.08, Florida Statutes, is amended to
 374 read:

375 843.08 False personation.—A person who falsely assumes or

376 | pretends to be a firefighter, a sheriff, an officer of the
377 | Florida Highway Patrol, an officer of the Fish and Wildlife
378 | Conservation Commission, an officer of the Department of
379 | Environmental Protection, ~~a fire or arson investigator of the~~
380 | ~~Department of Financial Services,~~ an officer of the Department
381 | of Financial Services, or any personnel or representative of the
382 | Division of Investigative and Forensic Services, an officer of
383 | the Department of Corrections, a correctional probation officer,
384 | a deputy sheriff, a state attorney or an assistant state
385 | attorney, a statewide prosecutor or an assistant statewide
386 | prosecutor, a state attorney investigator, a coroner, a police
387 | officer, a lottery special agent or lottery investigator, a
388 | beverage enforcement agent, a school guardian as described in s.
389 | 30.15(1)(k), a security officer licensed under chapter 493, any
390 | member of the Florida Commission on Offender Review or any
391 | administrative aide or supervisor employed by the commission,
392 | any personnel or representative of the Department of Law
393 | Enforcement, or a federal law enforcement officer as defined in
394 | s. 901.1505, and takes upon himself or herself to act as such,
395 | or to require any other person to aid or assist him or her in a
396 | matter pertaining to the duty of any such officer, commits a
397 | felony of the third degree, punishable as provided in s.
398 | 775.082, s. 775.083, or s. 775.084. However, a person who
399 | falsely personates any such officer during the course of the
400 | commission of a felony commits a felony of the second degree,

401 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
402 If the commission of the felony results in the death or personal
403 injury of another human being, the person commits a felony of
404 the first degree, punishable as provided in s. 775.082, s.
405 775.083, or s. 775.084.

406 Section 10. Paragraph (f) is added to subsection (11) of
407 section 943.045, Florida Statutes, to read:

408 943.045 Definitions; ss. 943.045-943.08.—The following
409 words and phrases as used in ss. 943.045-943.08 shall have the
410 following meanings:

411 (11) "Criminal justice agency" means:

412 (f) The investigations component of the Department of
413 Financial Services, which investigates the crimes of fraud and
414 official misconduct in all public assistance given to residents
415 of the state or provided to others by the state.

416 Section 11. This act shall take effect July 1, 2020.