

By Senator Campbell

33-1301-98

1 A bill to be entitled
 2 An act relating to governmental organization;
 3 transferring powers, duties, functions,
 4 personnel, and assets of the Department of
 5 Children and Family Services relating to home
 6 care for the elderly, community care for
 7 disabled adults, contracted geriatric mobile
 8 crisis response, home and community based
 9 waiver services for disabled adults, temporary
 10 emergency shelter for adult victims of abuse,
 11 neglect, or exploitation, adult protective
 12 services, adult payments, adult foster home
 13 care, personal care allowance, and adult
 14 congregate living supplement to the Department
 15 of Elderly Affairs; amending ss. 410.0245,
 16 410.032, 410.502, 410.602, 410.603, 410.604,
 17 415.605, 415.102, 415.1055, 415.107, 409.903,
 18 F.S., to conform; providing an effective date.

19
 20 Be It Enacted by the Legislature of the State of Florida:

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 22 Section 1. (1) All powers, duties, functions,
 23 records, personnel, property, and unexpended balances of
 24 appropriations, allocations, or other funds of the Department
 25 of Children and Family Services relating to the following
 26 subjects are transferred by a type two transfer, as defined in
 27 section 20.06, Florida Statutes, to the Department of Elderly
 28 Affairs.

29 (a) Home care for the elderly (Home care for disabled
 30 adults).

31 (b) Community care for disabled adults.

1 (c) Contracted geriatric mobile crisis response teams.

2 (d) Home and community based waiver services for
3 disabled adults.

4 (e) Temporary emergency shelter for adult victims of
5 abuse, neglect, or exploitation.

6 (f) Adult protective services.

7 (g) Adult payments.

8 (h) Adult foster home care supplement (optional state
9 supplementation).

10 (i) Personal care allowance/personal needs allowance.

11 (j) Adult congregate living supplement (optional state
12 supplementation).

13 (2) The Department of Elderly Affairs may organize,
14 classify, and manage the positions transferred in a manner
15 that will reduce duplication, achieve maximum efficiency, and
16 ensure accountability.

17 Section 2. Subsection (2) of section 410.0245, Florida
18 Statutes, is amended to read:

19 410.0245 Study of service needs; report; multiyear
20 plan.--

21 (2) Based on the findings of the study, the Aging and
22 Adult Services Program Office of the Department of Health and
23 Rehabilitative Services shall develop a multiyear plan which
24 shall provide for the needs of disabled adults in this state
25 and shall provide strategies for statewide coordination of all
26 services for disabled adults. The multiyear plan shall
27 include an inventory of existing services and an analysis of
28 costs associated with existing and projected services. The
29 multiyear plan shall be presented to the Governor, the
30 President of the Senate, and the Speaker of the House of
31 Representatives every 3 years on or before March 1, beginning

1 in 1992. On or before March 1 of each intervening year, the
2 Department of Elderly Affairs shall submit an analysis of the
3 status of the implementation of each element of the multiyear
4 plan, any continued unmet need, and the relationship between
5 that need and the department's budget request for that year.

6 Section 3. Subsection (1) of section 410.032, Florida
7 Statutes, is amended to read:

8 410.032 Definitions.--As used in ss. 410.031-410.036:

9 (1) "Department" means the Department of Elderly
10 Affairs ~~Children and Family Services~~.

11 Section 4. Section 410.502, Florida Statutes, is
12 amended to read:

13 410.502 Housing and living arrangements; special needs
14 of the elderly; services.--The Department of Elderly Affairs
15 ~~Health and Rehabilitative Services~~ shall provide services
16 related to housing and living arrangements which meet the
17 special needs of the elderly. Such services shall include,
18 but not be limited to:

19 (1) Providing counseling concerning housing problems
20 and alternate living arrangements when appropriate to the
21 individual's needs.

22 (2) Coordinating with the Department of Community
23 Affairs to gather and maintain data on living arrangements
24 which meet the special needs of the elderly and to disseminate
25 such information to the public. Such information shall
26 include types of facilities, cost of care, services provided,
27 and possible sources of help in meeting the cost of care for
28 indigent individuals.

29 (3) Promoting, through the Department of Elderly
30 Affairs ~~Health and Rehabilitative Services~~ staff activities
31 and area agencies on aging, the development of a variety of

1 living arrangements through public and private auspices to
2 meet the various needs and desires of the elderly, including,
3 but not limited to:

4 (a) Foster homes.

5 (b) Assisted living facilities.

6 (c) Homes for special services.

7 (d) Shared housing or other such group living
8 arrangements for independent living.

9 (e) Continuing care facilities which offer all levels
10 of care, including independent living units, personal care,
11 home health care supports, and skilled nursing home care.

12 (f) Retirement communities for independent communal
13 living, to be developed in conjunction with the Department of
14 Community Affairs.

15 (g) Other innovative living arrangements.

16

17 Demonstration projects must be used advisedly to test the
18 extent to which these and other innovative housing and living
19 arrangements do meet the basic and special needs of the
20 elderly.

21 Section 5. Section 410.602, Florida Statutes, is
22 amended to read:

23 410.602 Legislative intent.--The purpose of ss.
24 410.601-410.606 is to assist disabled adults to live dignified
25 and reasonably independent lives in their own homes or in the
26 homes of relatives or friends. The Legislature intends
27 through ss. 410.601-410.606 to provide for the development,
28 expansion, and coordination of community-based services for
29 disabled adults, but not to supplant existing programs. The
30 Legislature further intends to establish a continuum of
31 services so that disabled adults may be assured the least

1 restrictive environment suitable to their needs. In addition,
2 the Legislature intends that the Department of Elder Affairs
3 ~~Children and Family Services~~ encourage innovative and
4 efficient approaches to program management, staff training,
5 and service delivery.

6 Section 6. Section 410.603, Florida Statutes, is
7 amended to read:

8 410.603 Definitions.--As used in ss. 410.601-410.606,
9 the term:

10 (1) "Area" means a planning and service area
11 designated by the department under s. 20.41.

12 (2)(1) "Department" means the Department of Elderly
13 Affairs ~~Children and Family Services~~.

14 (3)(2) "Disabled adult" means any person at least 18
15 years of age, but under 60 years of age, who has one or more
16 permanent physical or mental limitations which restrict his or
17 her ability to perform the normal activities of daily living
18 and impede his or her capacity to live independently or with
19 relatives or friends without the provision of community-based
20 services.

21 ~~(3) "District" means a specified geographic service~~
22 ~~area, as defined in s. 20.19, in which the programs of the~~
23 ~~department are administered and services are delivered.~~

24 (4) "Health maintenance service" means those routine
25 health services necessary to help maintain the health of a
26 disabled adult but shall be limited to medical therapeutic
27 services, nonmedical prevention services, personal care
28 services, home health aide services, home nursing services,
29 emergency response services, and physical or mental
30 examinations.

31

1 Section 7. Subsections (1), (2), and (5) of section
2 410.604, Florida Statutes, are amended to read:

3 410.604 Community care for disabled adults program;
4 powers and duties of the department.--

5 (1) In each area ~~district~~, the department shall
6 operate or contract for a community care for disabled adults
7 program which shall have as its primary purpose the prevention
8 of unnecessary institutionalization of disabled adults through
9 the provisions of community-based services.

10 (2) Any person who meets the definition of a disabled
11 adult pursuant to s. 410.603 ~~s. 410.603(2)~~ is eligible to
12 receive the services of the community care for disabled adults
13 program. However, the community care for disabled adults
14 program shall operate within the funds appropriated by the
15 Legislature. Priority shall be given to disabled adults who
16 are not eligible for comparable services in programs of or
17 funded by the department or the Division of Vocational
18 Rehabilitation of the Department of Labor and Employment
19 Security; who are determined to be at risk of
20 institutionalization; and whose income is at or below the
21 existing institutional care program eligibility standard.

22 (5) Existing community resources available to disabled
23 adults in each area ~~district~~ shall be coordinated to provide a
24 continuum of services. The department shall ensure that all
25 available funding sources have been explored prior to using
26 funds of the community care for disabled adults program.
27 Funds appropriated for community care for disabled adults
28 shall be used only for the provision of services to disabled
29 adults, case management, and directly related expenditures.
30 The department may provide advance funding for community care
31 for disabled adults programs.

1 Section 8. Paragraphs (c) and (h) of subsection (1) of
2 section 415.605, Florida Statutes, are amended to read:

3 415.605 Domestic violence centers.--

4 (1) Domestic violence centers certified under ss.
5 415.601-415.608 must:

6 (c) Provide minimum services which include, but are
7 not limited to, information and referral services, counseling
8 and case management services, ~~temporary emergency shelter for~~
9 ~~more than 24 hours,~~ a 24-hour hotline, training for law
10 enforcement personnel, assessment and appropriate referral of
11 resident children, and educational services for community
12 awareness relative to the incidence of domestic violence, the
13 prevention of such violence, and the care, treatment, and
14 rehabilitation for persons engaged in or subject to domestic
15 violence. If a 24-hour hotline, professional training, or
16 community education is already provided by a certified
17 domestic violence center within a district, the department may
18 exempt such certification requirements for a new center
19 serving the same district in order to avoid duplication of
20 services.

21 (h) Demonstrate local need and ability to sustain
22 operations through a history of 18 consecutive months'
23 operation as a domestic violence center, ~~including 12 months'~~
24 ~~operation of an emergency shelter as defined in paragraph~~
25 ~~(1)(a),~~ and a business plan that ~~which~~ addresses future
26 operations and funding of future operations.

27 Section 9. Subsection (9) of section 415.102, Florida
28 Statutes, is amended to read:

29 415.102 Definitions of terms used in ss.

30 415.101-415.113.--As used in ss. 415.101-415.113, the term:
31

1 (9) "Department" means the Department of Elderly
2 Affairs ~~Children and Family Services~~.

3 Section 10. Paragraph (b) of subsection (1) of section
4 415.1055, Florida Statutes, is amended to read:

5 415.1055 Notification to administrative entities,
6 subjects, and reporters; notification to law enforcement and
7 state attorneys.--

8 (1) NOTIFICATION TO ADMINISTRATIVE ENTITIES.--

9 (b) Upon receipt of a report that alleges that an
10 employee or agent of the department or the Department of
11 Children and Family Services ~~Elderly Affairs~~, acting in an
12 official capacity, has committed an act of abuse, neglect, or
13 exploitation, the department shall notify the state attorney
14 in whose circuit the abuse, neglect, or exploitation occurred.
15 This notification may be oral or written.

16 Section 11. Paragraphs (a) and (h) of subsection (2)
17 of section 415.107, Florida Statutes, are amended to read:

18 415.107 Confidentiality of reports and records.--

19 (2) Access to all records, excluding the name of the
20 reporter which shall be released only as provided in
21 subsection (6), shall be granted only to the following
22 persons, officials, and agencies:

23 (a) Employees or agents of the department, of the
24 Agency for Health Care Administration, or of the Department of
25 Children and Family Services ~~Elderly Affairs~~ who are
26 responsible for carrying out adult protective investigations,
27 ongoing adult protective services, or licensure or approval of
28 nursing homes, assisted living facilities, adult day care
29 centers, adult family-care homes, home care for the elderly,
30 hospices, or other facilities used for the placement of
31 disabled adults or elderly persons.

1 (h) Any appropriate official of the department, of the
2 Agency for Health Care Administration, or of the Department of
3 Children and Family Services ~~Elderly Affairs~~ who is
4 responsible for:

5 1. Administration or supervision of the programs for
6 the prevention, investigation, or treatment of adult abuse,
7 neglect, or exploitation when carrying out an official
8 function; or

9 2. Taking appropriate administrative action concerning
10 an employee alleged to have perpetrated institutional abuse,
11 neglect, or exploitation of a disabled adult or an elderly
12 person.

13 Section 12. Section 409.903, Florida Statutes, is
14 amended to read:

15 409.903 Mandatory payments for eligible persons.--The
16 department or the Department of Elderly Affairs, as
17 applicable, shall make payments for medical assistance and
18 related services on behalf of the following persons who the
19 applicable department determines to be eligible, subject to
20 the income, assets, and categorical eligibility tests set
21 forth in federal and state law. Payment on behalf of these
22 Medicaid eligible persons is subject to the availability of
23 moneys and any limitations established by the General
24 Appropriations Act or chapter 216.

25 (1) Persons who receive payments from or are
26 determined eligible to participate in the WAGES Program, and
27 certain persons who would be eligible but do not meet certain
28 technical requirements. This group includes, but is not
29 limited to:

30 (a) Low-income, single-parent families and their
31 children.

1 (b) Low-income, two-parent families in which at least
2 one parent is disabled or otherwise incapacitated.

3 (c) Certain unemployed two-parent families and their
4 children.

5 (2) A person who receives payments from, who is
6 determined eligible for, or who was eligible for but lost cash
7 benefits from the federal program known as the Supplemental
8 Security Income program (SSI). This category includes a
9 low-income person age 65 or over and a low-income person under
10 age 65 considered to be permanently and totally disabled.

11 (3) A child under age 21 living in a low-income,
12 two-parent family, and a child under age 7 living with a
13 nonrelative, if the income and assets of the family or child,
14 as applicable, do not exceed the resource limits under the
15 WAGES Program.

16 (4) A child who is eligible under Title IV-E of the
17 Social Security Act for subsidized board payments, foster
18 care, or adoption subsidies, and a child for whom the state
19 has assumed temporary or permanent responsibility and who does
20 not qualify for Title IV-E assistance but is in foster care,
21 shelter or emergency shelter care, or subsidized adoption.

22 (5) A pregnant woman for the duration of her pregnancy
23 and for the post partum period as defined in federal law and
24 rule, or a child under age 1, if either is living in a family
25 that has an income which is at or below 150 percent of the
26 most current federal poverty level, or, effective January 1,
27 1992, that has an income which is at or below 185 percent of
28 the most current federal poverty level. Such a person is not
29 subject to an assets test. Further, a pregnant woman who
30 applies for eligibility for the Medicaid program through a
31 qualified Medicaid provider must be offered the opportunity,

1 subject to federal rules, to be made presumptively eligible
2 for the Medicaid program.

3 (6) A child born after September 30, 1983, living in a
4 family that has an income which is at or below 100 percent of
5 the current federal poverty level, who has attained the age of
6 6, but has not attained the age of 19. In determining the
7 eligibility of such a child, an assets test is not required.

8 (7) A child living in a family that has an income
9 which is at or below 133 percent of the current federal
10 poverty level, who has attained the age of 1, but has not
11 attained the age of 6. In determining the eligibility of such
12 a child, an assets test is not required.

13 (8) A person who is age 65 or over or is determined by
14 the department to be disabled, whose income is at or below 100
15 percent of the most current federal poverty level and whose
16 assets do not exceed limitations established by the
17 department. However, the department may only pay for
18 premiums, coinsurance, and deductibles, as required by federal
19 law, unless additional coverage is provided for any or all
20 members of this group by s. 409.904(1).

21 Section 13. This act shall take effect July 1, 1998.

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24 SENATE SUMMARY

25 Transfers from the Department of Children and Family
26 Services to the Department of Elderly Affairs the powers,
27 duties, functions, personnel, and asserts of the former
28 relating to home care for the elderly, community care for
29 disabled adults, contracted mobile geriatric crisis
30 response, home and community based waiver services for
31 disabled adults, temporary emergency shelter for adult
victims of abuse, neglect, or exploitation, adult
protective services, adult payments, adult foster home
care supplements, personal care allowances, and adult
congregate living supplements.