

By Senator McKay

rb99-10s

1                   A reviser's bill to be entitled  
2           An act relating to the Florida Statutes;  
3           amending ss. 11.50, 40.022, 61.13, 61.20,  
4           90.503, 90.6063, 98.093, 110.205, 112.061,  
5           120.80, 125.0109, 125.901, 154.205, 154.245,  
6           166.0445, 186.901, 189.415, 194.013, 196.1975,  
7           205.1965, 215.3208, 216.0172, 216.136, 218.65,  
8           222.21, 228.093, 228.121, 229.8075, 229.832,  
9           230.2305, 230.33, 231.02, 231.381, 232.0315,  
10          232.2481, 232.36, 236.145, 236.602, 238.01,  
11          239.301, 240.5121, 240.514, 240.705, 245.08,  
12          252.35, 252.355, 252.36, 255.565, 284.40,  
13          287.057, 287.155, 288.9620, 288.975, 290.009,  
14          314.05, 316.613, 316.6135, 318.14, 321.19,  
15          322.055, 322.20, 364.510, 370.0605, 370.16,  
16          372.57, 372.6672, 373.309, 376.30, 376.3071,  
17          377.712, 380.05, 380.0555, 381.731, 381.733,  
18          383.0113, 383.335, 383.336, 390.0112, 393.002,  
19          393.063, 393.064, 393.065, 393.066, 393.067,  
20          393.0673, 393.0675, 393.071, 393.075, 393.11,  
21          393.13, 393.15, 393.31, 393.32, 393.502,  
22          393.503, 394.453, 394.457, 394.4615, 394.4781,  
23          394.480, 394.66, 395.002, 395.1027, 395.1055,  
24          395.1065, 395.4025, 397.311, 397.753, 397.754,  
25          397.801, 400.0061, 400.0065, 400.0067,  
26          400.0069, 400.0075, 400.0089, 400.021, 400.022,  
27          400.179, 400.211, 400.23, 400.401, 400.431,  
28          400.434, 400.4415, 400.462, 400.471, 400.914,  
29          402.04, 402.06, 402.07, 402.12, 402.16,  
30          402.165, 402.166, 402.167, 402.17, 402.18,  
31          402.181, 402.19, 402.20, 402.24, 402.27,

1 402.28, 402.3015, 402.3026, 402.3115, 402.33,  
2 402.35, 402.40, 402.45, 402.49, 402.50, 402.55,  
3 403.061, 403.081, 403.085, 403.086, 403.088,  
4 403.703, 403.7841, 403.786, 403.813, 403.851,  
5 403.852, 403.855, 403.856, 403.858, 403.859,  
6 403.861, 403.862, 403.8635, 403.864, 406.02,  
7 408.033, 408.05, 408.061, 408.20, 408.301,  
8 408.302, 409.166, 409.352, 409.901, 409.910,  
9 409.911, 409.9112, 409.91151, 409.912, 409.914,  
10 409.915, 409.916, 409.919, 409.942, 410.0245,  
11 410.502, 411.224, 411.242, 411.243, 413.031,  
12 415.104, 415.1113, 420.621, 421.10, 427.012,  
13 430.015, 430.04, 435.02, 435.05, 435.08,  
14 440.151, 442.005, 443.036, 446.205, 446.23,  
15 446.25, 446.603, 446.604, 450.191, 450.211,  
16 455.674, 458.3165, 458.331, 459.015, 461.013,  
17 466.023, 467.009, 467.0125, 468.1685, 470.021,  
18 470.025, 470.0301, 487.0615, 489.503, 489.551,  
19 499.003, 499.004, 499.02, 499.022, 499.039,  
20 499.051, 499.601, 499.61, 500.12, 501.001,  
21 509.013, 509.032, 509.251, 509.291, 513.01,  
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23 576.045, 585.15, 585.21, 624.424, 627.429,  
24 627.6418, 627.6613, 627.736, 636.052, 641.22,  
25 641.23, 641.261, 641.3007, 641.405, 641.406,  
26 641.411, 641.412, 641.443, 641.454, 641.455,  
27 651.021, 651.117, 713.77, 741.01, 741.29,  
28 741.32, 742.08, 742.107, 744.474, 765.110,  
29 766.105, 766.1115, 766.305, 766.314, 768.28,  
30 768.76, 775.0877, 775.16, 784.081, 790.157,  
31 790.256, 796.08, 817.505, 873.01, 877.111,

1 893.02, 893.04, 893.11, 893.12, 893.15,  
2 893.165, 895.09, 938.23, 944.012, 944.024,  
3 944.17, 944.602, 944.706, 945.025, 945.10,  
4 945.12, 945.35, 945.41, 945.47, 945.49, 947.13,  
5 947.146, 947.185, 948.01, 949.02, 951.27,  
6 958.12, and 960.003, Florida Statutes, pursuant  
7 to the directive of the Legislature in s. 1,  
8 ch. 98-224, Laws of Florida, to make specific  
9 changes in terminology to conform the Florida  
10 Statutes to the name change of the Department  
11 of Health and Rehabilitative Services and the  
12 divestiture of programs of the former  
13 department to other departments or agencies and  
14 to make further changes as necessary to conform  
15 the Florida Statutes to the organizational  
16 changes effected by previous acts of the  
17 Legislature.

18  
19 Be It Enacted by the Legislature of the State of Florida:

20  
21 Section 1. Paragraph (b) of subsection (1) and  
22 subsections (3) and (4) of section 11.50, Florida Statutes,  
23 are amended to read:

24 11.50 Division of Public Assistance Fraud.--

25 (1)

26 (b) All public assistance recipients, as a condition  
27 precedent to qualification for assistance under the provisions  
28 of chapter 409 or chapter 414, shall first give in writing, to  
29 the Agency for Health Care Administration or the Department of  
30 Children and Family ~~Health and Rehabilitative~~ Services, as  
31 appropriate, and to the Division of Public Assistance Fraud,

1 consent to make inquiry of past or present employers and  
2 records, financial or otherwise.

3 (3) The results of such investigation shall be  
4 reported by the Auditor General to the Legislative Auditing  
5 Committee, the Agency for Health Care Administration, the  
6 Department of Children and Family ~~Health and Rehabilitative~~  
7 Services, and to such others as the Legislative Auditing  
8 Committee or the Auditor General may determine.

9 (4) The Department of Children and Family ~~Health and~~  
10 ~~Rehabilitative~~ Services shall report to the Auditor General  
11 the final disposition of all cases wherein action has been  
12 taken pursuant to s. 414.39, based upon information furnished  
13 by the Division of Public Assistance Fraud.

14 Section 2. Subsection (2) of section 40.022, Florida  
15 Statutes, is amended to read:

16 40.022 Clerk to purge jury selection lists;  
17 restoration.--

18 (2) The Department of Health ~~and Rehabilitative~~  
19 ~~Services~~ shall furnish monthly to each clerk of the circuit  
20 court a list containing the name, address, age, race, and sex  
21 of each person 18 years of age or older and a resident of such  
22 clerk's county who died during the preceding calendar month.

23 Section 3. Subsection (6) of section 61.13, Florida  
24 Statutes, 1998 Supplement, is amended to read:

25 61.13 Custody and support of children; visitation  
26 rights; power of court in making orders.--

27 (6) In any proceeding under this section, the court  
28 may not deny shared parental responsibility, custody, or  
29 visitation rights to a parent or grandparent solely because  
30 that parent or grandparent is or is believed to be infected  
31 with human immunodeficiency virus; but the court may condition

1 such rights upon the parent's or grandparent's agreement to  
2 observe measures approved by the Centers for Disease Control  
3 and Prevention of the United States Public Health Service or  
4 by the Department of Health ~~and Rehabilitative Services~~ for  
5 preventing the spread of human immunodeficiency virus to the  
6 child.

7 Section 4. Subsection (2) of section 61.20, Florida  
8 Statutes, is amended to read:

9 61.20 Social investigation and recommendations when  
10 child custody is in issue.--

11 (2) A social investigation and study, when ordered by  
12 the court, shall be conducted by qualified staff of the court;  
13 a child-placing agency licensed pursuant to s. 409.175; a  
14 psychologist licensed pursuant to chapter 490; or a clinical  
15 social worker, marriage and family therapist, or mental health  
16 counselor licensed pursuant to chapter 491. If a  
17 certification of indigence based on an affidavit filed with  
18 the court pursuant to s. 57.081 is provided by an adult party  
19 to the proceeding and the court does not have qualified staff  
20 to perform the investigation and study, the court may request  
21 that the Department of Children and Family Health and  
22 ~~Rehabilitative Services~~ conduct the investigation and study.

23 Section 5. Paragraph (a) of subsection (1) of section  
24 90.503, Florida Statutes, is amended to read:

25 90.503 Psychotherapist-patient privilege.--

26 (1) For purposes of this section:

27 (a) A "psychotherapist" is:

28 1. A person authorized to practice medicine in any  
29 state or nation, or reasonably believed by the patient so to  
30 be, who is engaged in the diagnosis or treatment of a mental  
31

1 or emotional condition, including alcoholism and other drug  
2 addiction;

3         2. A person licensed or certified as a psychologist  
4 under the laws of any state or nation, who is engaged  
5 primarily in the diagnosis or treatment of a mental or  
6 emotional condition, including alcoholism and other drug  
7 addiction;

8         3. A person licensed or certified as a clinical social  
9 worker, marriage and family therapist, or mental health  
10 counselor under the laws of this state, who is engaged  
11 primarily in the diagnosis or treatment of a mental or  
12 emotional condition, including alcoholism and other drug  
13 addiction; or

14         4. Treatment personnel of facilities licensed by the  
15 state pursuant to chapter 394, chapter 395, or chapter 397, of  
16 facilities designated by the Department of Children and Family  
17 ~~Health and Rehabilitative~~ Services pursuant to chapter 394 as  
18 treatment facilities, or of facilities defined as community  
19 mental health centers pursuant to s. 394.907(1), who are  
20 engaged primarily in the diagnosis or treatment of a mental or  
21 emotional condition, including alcoholism and other drug  
22 addiction.

23         Section 6. Paragraph (b) of subsection (5) of section  
24 90.6063, Florida Statutes, is amended to read:

25         90.6063 Interpreter services for deaf persons.--

26         (5) The appointing authority may channel requests for  
27 qualified interpreters through:

28         (b) The Vocational Rehabilitation Program Office of  
29 the Department of Labor and Employment Security ~~Health and~~  
30 ~~Rehabilitative Services~~; or

31

1           Section 7. Subsection (1) of section 98.093, Florida  
2 Statutes, is amended to read:

3           98.093 Duty of officials to furnish lists of deceased  
4 persons, persons adjudicated mentally incapacitated, and  
5 persons convicted of a felony.--

6           (1) The Department of Health ~~and Rehabilitative~~  
7 ~~Services~~ shall furnish monthly to each supervisor of elections  
8 a list containing the name, address, date of birth, race, and  
9 sex of each deceased person 17 years of age or older who was a  
10 resident of such supervisor's county.

11           Section 8. Paragraphs (i) and (l) of subsection (2) of  
12 section 110.205, Florida Statutes, are amended to read:

13           110.205 Career service; exemptions.--

14           (2) EXEMPT POSITIONS.--The exempt positions which are  
15 not covered by this part include the following, provided that  
16 no position, except for positions established for a limited  
17 period of time pursuant to paragraph (h), shall be exempted if  
18 the position reports to a position in the career service:

19           (i) The appointed secretaries, assistant secretaries,  
20 deputy secretaries, and deputy assistant secretaries of all  
21 departments; the executive directors, assistant executive  
22 directors, deputy executive directors, and deputy assistant  
23 executive directors of all departments; and the directors of  
24 all divisions and those positions determined by the department  
25 to have managerial responsibilities comparable to such  
26 positions, which positions include, but are not limited to,  
27 program directors, assistant program directors, district  
28 administrators, deputy district administrators, the Director  
29 of Central Operations Services of the Department of Children  
30 and Family ~~Health and Rehabilitative~~ Services, and the State  
31 Transportation Planner, State Highway Engineer, State Public

1 Transportation Administrator, district secretaries, district  
2 directors of planning and programming, production, and  
3 operations, and the managers of the offices specified in s.  
4 20.23(3)(d)2., of the Department of Transportation. Unless  
5 otherwise fixed by law, the department shall set the salary  
6 and benefits of these positions in accordance with the rules  
7 of the Senior Management Service.

8 (1) All assistant division director, deputy division  
9 director, and bureau chief positions in any department, and  
10 those positions determined by the department to have  
11 managerial responsibilities comparable to such positions,  
12 which positions include, but are not limited to, positions in  
13 the Department of Children and Family Health and  
14 ~~Rehabilitative~~ Services and the Department of Corrections that  
15 are assigned primary duties of serving as the superintendent  
16 of an institution: positions in the Department of  
17 Transportation that are assigned primary duties of serving as  
18 regional toll managers and managers of offices as defined in  
19 s. 20.23(3)(d)3. and (4)(d); positions in the Department of  
20 Environmental Protection that are assigned the duty of an  
21 Environmental Administrator or program administrator; and  
22 positions in the Department of Health ~~and Rehabilitative~~  
23 ~~Services~~ that are assigned the duty of an Environmental  
24 Administrator. Unless otherwise fixed by law, the department  
25 shall set the salary and benefits of these positions in  
26 accordance with the rules established for the Selected Exempt  
27 Service.

28 Section 9. Paragraph (g) of subsection (3) and  
29 paragraph (b) of subsection (11) of section 112.061, Florida  
30 Statutes, 1998 Supplement, are amended to read:

31



1           112.061 Per diem and travel expenses of public  
2 officers, employees, and authorized persons.--

3           (3) AUTHORITY TO INCUR TRAVEL EXPENSES.--

4           (g) The secretary of the Department of Health ~~and~~  
5 ~~Rehabilitative Services~~ or a designee may authorize travel  
6 expenses incidental to the rendering of medical services for  
7 and on behalf of clients of the Department of Health ~~and~~  
8 ~~Rehabilitative Services~~. The Department of Health ~~and~~  
9 ~~Rehabilitative Services~~ may establish rates lower than the  
10 maximum provided in this section for these travel expenses.

11          (11) TRAVEL AUTHORIZATION AND VOUCHER FORMS.--

12          (b) Voucher forms.--

13          1. The Department of Banking and Finance shall furnish  
14 a uniform travel voucher form which shall be used by all state  
15 officers and employees and authorized persons when submitting  
16 travel expense statements for approval and payment. No travel  
17 expense statement shall be approved for payment by the  
18 Comptroller unless made on the form prescribed and furnished  
19 by the department. The travel voucher form shall provide for,  
20 among other things, the purpose of the official travel and a  
21 certification or affirmation, to be signed by the traveler,  
22 indicating the truth and correctness of the claim in every  
23 material matter, that the travel expenses were actually  
24 incurred by the traveler as necessary in the performance of  
25 official duties, that per diem claimed has been appropriately  
26 reduced for any meals or lodging included in the convention or  
27 conference registration fees claimed by the traveler, and that  
28 the voucher conforms in every respect with the requirements of  
29 this section. The original copy of the executed uniform  
30 travel authorization request form shall be attached to the  
31 uniform travel voucher on file with the respective agency.

1           2. Statements for travel expenses incidental to the  
2 rendering of medical services for and on behalf of clients of  
3 the Department of Health ~~and Rehabilitative Services~~ shall be  
4 on forms approved by the Department of Banking and Finance.

5           Section 10. Subsection (7) of section 120.80, Florida  
6 Statutes, 1998 Supplement, is amended to read:

7           120.80 Exceptions and special requirements;  
8 agencies.--

9           (7) DEPARTMENT OF CHILDREN AND FAMILY ~~HEALTH AND~~  
10 ~~REHABILITATIVE~~ SERVICES.--Notwithstanding s. 120.57(1)(a),  
11 hearings conducted within the Department of Children and  
12 Family ~~Health and Rehabilitative~~ Services in the execution of  
13 those social and economic programs administered by the former  
14 Division of Family Services of that department prior to the  
15 reorganization effected by chapter 75-48, Laws of Florida,  
16 need not be conducted by an administrative law judge assigned  
17 by the division.

18           Section 11. Section 125.0109, Florida Statutes, is  
19 amended to read:

20           125.0109 Family day care homes; local zoning  
21 regulation.--The operation of a residence as a family day care  
22 home, as defined by law, registered or licensed with the  
23 Department of Children and Family ~~Health and Rehabilitative~~  
24 Services shall constitute a valid residential use for purposes  
25 of any local zoning regulations, and no such regulation shall  
26 require the owner or operator of such family day care home to  
27 obtain any special exemption or use permit or waiver, or to  
28 pay any special fee in excess of \$50, to operate in an area  
29 zoned for residential use.

30           Section 12. Paragraph (a) of subsection (1) of section  
31 125.901, Florida Statutes, is amended to read:

1           125.901 Children's services; independent special  
2 district; council; powers, duties, and functions.--

3           (1) Each county may by ordinance create an independent  
4 special district, as defined in ss. 189.403(3) and  
5 200.001(8)(e), to provide funding for children's services  
6 throughout the county in accordance with this section. The  
7 boundaries of such district shall be coterminous with the  
8 boundaries of the county. The county governing body shall  
9 obtain approval, by a majority vote of those electors voting  
10 on the question, to annually levy ad valorem taxes which shall  
11 not exceed the maximum millage rate authorized by this  
12 section. Any district created pursuant to the provisions of  
13 this subsection shall be required to levy and fix millage  
14 subject to the provisions of s. 200.065. Once such millage is  
15 approved by the electorate, the district shall not be required  
16 to seek approval of the electorate in future years to levy the  
17 previously approved millage.

18           (a) The governing board of the district shall be a  
19 council on children's services, which may also be known as a  
20 juvenile welfare board or similar name as established in the  
21 ordinance by the county governing body. Such council shall  
22 consist of 10 members, including: the superintendent of  
23 schools; a local school board member; the district  
24 administrator from the appropriate district of the Department  
25 of Children and Family ~~Health and Rehabilitative~~ Services, or  
26 his or her designee who is a member of the Senior Management  
27 Service or of the Selected Exempt Service; one member of the  
28 county governing body; and the judge assigned to juvenile  
29 cases who shall sit as a voting member of the board, except  
30 that said judge shall not vote or participate in the setting  
31 of ad valorem taxes under this section. In the event there is

1 more than one judge assigned to juvenile cases in a county,  
2 the chief judge shall designate one of said juvenile judges to  
3 serve on the board. The remaining five members shall be  
4 appointed by the Governor, and shall, to the extent possible,  
5 represent the demographic diversity of the population of the  
6 county. After soliciting recommendations from the public, the  
7 county governing body shall submit to the Governor the names  
8 of at least three persons for each vacancy occurring among the  
9 five members appointed by the Governor, and the Governor shall  
10 appoint members to the council from the candidates nominated  
11 by the county governing body. The Governor shall make a  
12 selection within a 45-day period or request a new list of  
13 candidates. All members appointed by the Governor shall have  
14 been residents of the county for the previous 24-month period.  
15 Such members shall be appointed for 4-year terms, except that  
16 the length of the terms of the initial appointees shall be  
17 adjusted to stagger the terms. The Governor may remove a  
18 member for cause or upon the written petition of the county  
19 governing body. If any of the members of the council required  
20 to be appointed by the Governor under the provisions of this  
21 subsection shall resign, die, or be removed from office, the  
22 vacancy thereby created shall, as soon as practicable, be  
23 filled by appointment by the Governor, using the same method  
24 as the original appointment, and such appointment to fill a  
25 vacancy shall be for the unexpired term of the person who  
26 resigns, dies, or is removed from office.

27 Section 13. Subsection (4) of section 154.205, Florida  
28 Statutes, is amended to read:

29 154.205 Definitions.--The following terms, whenever  
30 used in this part, shall have the following meanings unless a  
31 different meaning clearly appears from the context:

1           (4) "Certificate of need" means a written advisory  
2 statement issued by the Agency for Health Care Administration  
3 ~~Department of Health and Rehabilitative Services~~, having as  
4 its basis a written advisory statement issued by an areawide  
5 council and, where there is no council, by the Agency for  
6 Health Care Administration ~~Department of Health and~~  
7 ~~Rehabilitative Services~~, evidencing community need for a new,  
8 converted, expanded, or otherwise significantly modified  
9 health facility.

10           Section 14. Section 154.245, Florida Statutes, is  
11 amended to read:

12           154.245 Agency for Health Care Administration  
13 ~~Department of Health and Rehabilitative Services~~ certificate  
14 of need required as a condition to bond validation and project  
15 construction.--Notwithstanding any provision of this part to  
16 the contrary, before any project authorized by this part and  
17 subject to review under ss. 408.031-408.045 is approved by the  
18 authority, and before revenue bonds are validated for the  
19 project, the Agency for Health Care Administration ~~Department~~  
20 ~~of Health and Rehabilitative Services~~ shall issue a  
21 certificate of need for such project, which shall be a  
22 condition precedent to the validation and issuance of any  
23 bonds hereunder, other than bonds for refunding or refinancing  
24 purposes, and to the construction of the project. However, any  
25 portion of a life care facility not requiring licensure under  
26 chapter 395 or part II of chapter 400 shall be exempt from the  
27 certificate-of-need requirement.

28           Section 15. Section 166.0445, Florida Statutes, is  
29 amended to read:

30           166.0445 Family day care homes; local zoning  
31 regulation.--The operation of a residence as a family day care

1 home, as defined by law, registered or licensed with the  
2 Department of Children and Family ~~Health and Rehabilitative~~  
3 Services shall constitute a valid residential use for purposes  
4 of any local zoning regulations, and no such regulation shall  
5 require the owner or operator of such family day care home to  
6 obtain any special exemption or use permit or waiver, or to  
7 pay any special fee in excess of \$50, to operate in an area  
8 zoned for residential use.

9 Section 16. Paragraph (b) of subsection (2) of section  
10 186.901, Florida Statutes, is amended to read:

11 186.901 Population census determination.--

12 (2)

13 (b) For the purpose of revenue-sharing distribution  
14 formulas and distribution proportions for the local government  
15 half-cent sales tax, inmates and patients residing in  
16 institutions operated by the Federal Government, the  
17 Department of Corrections, the Department of Health, or the  
18 Department of Children and Family ~~Health and Rehabilitative~~  
19 Services shall not be considered to be residents of the  
20 governmental unit in which the institutions are located.

21 Section 17. Subsection (3) of section 189.415, Florida  
22 Statutes, is amended to read:

23 189.415 Special district public facilities report.--

24 (3) A special district proposing to build, improve, or  
25 expand a public facility which requires a certificate of need  
26 pursuant to chapter 408 shall elect to notify the appropriate  
27 local general-purpose government of its plans either in its  
28 5-year plan or at the time the letter of intent is filed with  
29 the Agency for Health Care Administration ~~Department of Health~~  
30 ~~and Rehabilitative Services~~ pursuant to s. 408.039.

31

1           Section 18. Subsection (2) of section 194.013, Florida  
2 Statutes, is amended to read:

3           194.013 Filing fees for petitions; disposition;  
4 waiver.--

5           (2) The value adjustment board shall waive the filing  
6 fee with respect to a petition filed by a taxpayer who  
7 demonstrates at the time of filing, by an appropriate  
8 certificate or other documentation issued by the Department of  
9 Children and Family Health and Rehabilitative Services and  
10 submitted with the petition, that the petitioner is then an  
11 eligible recipient of temporary assistance under chapter 414.

12           Section 19. Subsection (2) of section 196.1975,  
13 Florida Statutes, is amended to read:

14           196.1975 Exemption for property used by nonprofit  
15 homes for the aged.--Nonprofit homes for the aged are exempt  
16 to the extent that they meet the following criteria:

17           (2) A facility will not qualify as a "home for the  
18 aged" unless at least 75 percent of the occupants are over the  
19 age of 62 years or totally and permanently disabled. For  
20 homes for the aged which are exempt from paying income taxes  
21 to the United States as specified in subsection (1), licensing  
22 by the Agency for Health Care Administration ~~Department of~~  
23 ~~Health and Rehabilitative Services~~ is required for ad valorem  
24 tax exemption hereunder only if the home:

25           (a) Furnishes medical facilities or nursing services  
26 to its residents, or

27           (b) Qualifies as an assisted living facility under  
28 part III of chapter 400.

29           Section 20. Section 205.1965, Florida Statutes, is  
30 amended to read:

31

1           205.1965 Assisted living facilities.--A county or  
2 municipality may not issue an occupational license for the  
3 operation of an assisted living facility pursuant to part III  
4 of chapter 400 without first ascertaining that the applicant  
5 has been licensed by the Agency for Health Care Administration  
6 ~~Department of Health and Rehabilitative Services~~ to operate  
7 such facility at the specified location or locations. The  
8 Agency for Health Care Administration ~~Department of Health and~~  
9 ~~Rehabilitative Services~~ shall furnish to local agencies  
10 responsible for issuing occupational licenses sufficient  
11 instructions for making the above required determinations.

12           Section 21. Paragraph (c) of subsection (1) of section  
13 215.3208, Florida Statutes, is amended to read:

14           215.3208 Trust funds; schedule for termination;  
15 legislative review.--

16           (1) Except for those trust funds exempt from automatic  
17 termination pursuant to the provisions of s. 19(f)(3), Art.  
18 III of the State Constitution, trust funds administered by the  
19 following entities shall be reviewed and may be terminated or  
20 re-created by the Legislature, as appropriate, during the  
21 regular session of the Legislature in the year indicated:

22           (c) In 1996:

- 23           1. Agency for Health Care Administration.
- 24           2. Commission on Ethics.
- 25           3. Department of Business and Professional Regulation.
- 26           4. Department of Children and Family Services.
- 27           ~~5.4.~~ Department of Commerce.
- 28           ~~6.5.~~ Department of Community Affairs.
- 29           ~~7.6.~~ Department of Elderly Affairs.
- 30           ~~8.7.~~ Department of Health ~~and Rehabilitative Services.~~
- 31           ~~9.8.~~ Department of Insurance.



1           10. Department of Juvenile Justice.  
2           ~~11.9.~~ Department of Labor and Employment Security.  
3           ~~12.10.~~ Department of State.  
4           ~~13.11.~~ Department of Veterans' Affairs.  
5           ~~14.12.~~ Legislative branch.  
6           Section 22. Paragraph (b) of subsection (2) of section  
7 216.0172, Florida Statutes, 1998 Supplement, is amended to  
8 read:  
9           216.0172 Schedule for submission of performance-based  
10 program budgets.--In order to implement the provisions of  
11 chapter 94-249, Laws of Florida, state agencies shall submit  
12 performance-based program budget legislative budget requests  
13 for programs approved pursuant to s. 216.0166 to the Executive  
14 Office of the Governor and the Legislature based on the  
15 following schedule:  
16           (2) By September 1, 1995, for the 1996-1997 fiscal  
17 year:  
18           (b) Department of Children and Family Health and  
19 ~~Rehabilitative~~ Services (Alcohol, Drug Abuse, Mental Health).  
20           Section 23. Subsection (6), paragraph (b) of  
21 subsection (8), and paragraph (b) of subsection (9) of section  
22 216.136, Florida Statutes, 1998 Supplement, are amended to  
23 read:  
24           216.136 Consensus estimating conferences; duties and  
25 principals.--  
26           (6) SOCIAL SERVICES ESTIMATING CONFERENCE.--  
27           (a) Duties.--  
28           1. The Social Services Estimating Conference shall  
29 develop such official information relating to the social  
30 services system of the state, including forecasts of social  
31 services caseloads, as the conference determines is needed for

1 the state planning and budgeting system. Such official  
2 information shall include, but not be limited to, subsidized  
3 child care caseloads mandated by the Family Support Act of  
4 1988.

5         2. In addition, the Social Services Estimating  
6 Conference shall develop estimates and forecasts of the  
7 unduplicated count of children eligible for subsidized child  
8 care as defined in s. 402.3015(1). These estimates and  
9 forecasts shall not include children enrolled in the  
10 prekindergarten early intervention program established in s.  
11 230.2305.

12         3. The Department of Children and Family Health and  
13 ~~Rehabilitative~~ Services and the Department of Education shall  
14 provide information on caseloads and waiting lists for the  
15 subsidized child care and prekindergarten early intervention  
16 programs requested by the Social Services Estimating  
17 Conference or individual conference principals, in a timely  
18 manner.

19         (b) Principals.--The Executive Office of the Governor,  
20 the coordinator of the Office of Economic and Demographic  
21 Research, and professional staff, who have forecasting  
22 expertise, from the Department of Children and Family Health  
23 ~~and Rehabilitative~~ Services, the Senate, and the House of  
24 Representatives, or their designees, are the principals of the  
25 Social Services Estimating Conference. The principal  
26 representing the Executive Office of the Governor shall  
27 preside over sessions of the conference.

28         (8) CHILD WELFARE SYSTEM ESTIMATING CONFERENCE.--

29         (b) Principals.--The Executive Office of the Governor,  
30 the coordinator of the Office of Economic and Demographic  
31 Research, and professional staff who have forecasting

1 expertise from the Department of Children and Family Health  
2 ~~and Rehabilitative~~ Services, the Senate, and the House of  
3 Representatives, or their designees, are the principals of the  
4 Child Welfare System Estimating Conference. The principal  
5 representing the Executive Office of the Governor shall  
6 preside over sessions of the conference.

7 (9) JUVENILE JUSTICE ESTIMATING CONFERENCE.--

8 (b) Principals.--The Executive Office of the Governor,  
9 the Office of Economic and Demographic Research, and  
10 professional staff who have forecasting expertise from the  
11 Department of Juvenile Justice, the Department of Children and  
12 Family Health ~~and Rehabilitative~~ Services Alcohol, Drug Abuse,  
13 and Mental Health Program Office, the Department of Law  
14 Enforcement, the Senate Appropriations Committee staff, the  
15 House of Representatives Appropriations Committee staff, or  
16 their designees, are the principals of the Juvenile Justice  
17 Estimating Conference. The responsibility of presiding over  
18 sessions of the conference shall be rotated among the  
19 principals. To facilitate policy and legislative  
20 recommendations, the conference may call upon professional  
21 staff of the Juvenile Justice Advisory Board and appropriate  
22 legislative staff.

23 Section 24. Paragraph (b) of subsection (7) of section  
24 218.65, Florida Statutes, 1998 Supplement, is amended to read:

25 218.65 Emergency distribution.--

26 (7)

27 (b) For the purposes of this subsection, the term:

28 1. "Inmate population" means the latest official state  
29 estimate of the number of inmates and patients residing in  
30 institutions operated by the Federal Government, the

31

1 Department of Corrections, or the Department of Children and  
2 Family Health and Rehabilitative Services.

3 2. "Total population" includes inmate population and  
4 noninmate population.

5 Section 25. Paragraph (b) of subsection (2) of section  
6 222.21, Florida Statutes, 1998 Supplement, is amended to read:

7 222.21 Exemption of pension money and retirement or  
8 profit-sharing benefits from legal processes.--

9 (2)

10 (b) Any plan or arrangement described in paragraph (a)  
11 is not exempt from the claims of an alternate payee under a  
12 qualified domestic relations order. However, the interest of  
13 any alternate payee under a qualified domestic relations order  
14 is exempt from all claims of any creditor, other than the  
15 Department of Children and Family Health and Rehabilitative  
16 Services, of the alternate payee. As used in this paragraph,  
17 the terms "alternate payee" and "qualified domestic relations  
18 order" have the meanings ascribed to them in s. 414(p) of the  
19 Internal Revenue Code of 1986.

20 Section 26. Paragraph (d) of subsection (3) of section  
21 228.093, Florida Statutes, is amended to read:

22 228.093 Pupil and student records and reports; rights  
23 of parents, guardians, pupils, and students; notification;  
24 penalty.--

25 (3) RIGHTS OF PARENT, GUARDIAN, PUPIL, OR  
26 STUDENT.--The parent or guardian of any pupil or student who  
27 attends or has attended any public school, area  
28 vocational-technical training center, community college, or  
29 institution of higher education in the State University System  
30 shall have the following rights with respect to any records or  
31 reports created, maintained, and used by any public

1 educational institution in the state. However, whenever a  
2 pupil or student has attained 18 years of age, or is attending  
3 an institution of postsecondary education, the permission or  
4 consent required of, and the rights accorded to, the parents  
5 of the pupil or student shall thereafter be required of and  
6 accorded to the pupil or student only, unless the pupil or  
7 student is a dependent pupil or student of such parents as  
8 defined in 26 U.S.C. s. 152 (s. 152 of the Internal Revenue  
9 Code of 1954). The State Board of Education shall formulate,  
10 adopt, and promulgate rules whereby parents, guardians,  
11 pupils, or students may exercise these rights:

12 (d) Right of privacy.--Every pupil or student shall  
13 have a right of privacy with respect to the educational  
14 records kept on him or her. Personally identifiable records or  
15 reports of a pupil or student, and any personal information  
16 contained therein, are confidential and exempt from the  
17 provisions of s. 119.07(1). No state or local educational  
18 agency, board, public school, area technical center, community  
19 college, or institution of higher education in the State  
20 University System shall permit the release of such records,  
21 reports, or information without the written consent of the  
22 pupil's or student's parent or guardian, or of the pupil or  
23 student himself or herself if he or she is qualified as  
24 provided in this subsection, to any individual, agency, or  
25 organization. However, personally identifiable records or  
26 reports of a pupil or student may be released to the following  
27 persons or organizations without the consent of the pupil or  
28 the pupil's parent:

29 1. Officials of schools, school systems, area  
30 technical centers, community colleges, or institutions of  
31 higher learning in which the pupil or student seeks or intends

1 to enroll; and a copy of such records or reports shall be  
2 furnished to the parent, guardian, pupil, or student upon  
3 request.

4           2. Other school officials, including teachers within  
5 the educational institution or agency, who have legitimate  
6 educational interests in the information contained in the  
7 records.

8           3. The United States Secretary of Education, the  
9 Director of the National Institute of Education, the Assistant  
10 Secretary for Education, the Comptroller General of the United  
11 States, or state or local educational authorities who are  
12 authorized to receive such information subject to the  
13 conditions set forth in applicable federal statutes and  
14 regulations of the United States Department of Education, or  
15 in applicable state statutes and rules of the State Board of  
16 Education.

17           4. Other school officials, in connection with a  
18 pupil's or student's application for or receipt of financial  
19 aid.

20           5. Individuals or organizations conducting studies for  
21 or on behalf of an institution or a board of education for the  
22 purpose of developing, validating, or administering predictive  
23 tests, administering pupil or student aid programs, or  
24 improving instruction, if such studies are conducted in such a  
25 manner as will not permit the personal identification of  
26 pupils or students and their parents by persons other than  
27 representatives of such organizations and if such information  
28 will be destroyed when no longer needed for the purpose of  
29 conducting such studies.

30           6. Accrediting organizations, in order to carry out  
31 their accrediting functions.

1           7. For use as evidence in pupil or student expulsion  
2 hearings conducted by a district school board pursuant to the  
3 provisions of chapter 120.

4           8. Appropriate parties in connection with an  
5 emergency, if knowledge of the information in the pupil's or  
6 student's educational records is necessary to protect the  
7 health or safety of the pupil, student, or other individuals.

8           9. The Auditor General in connection with his or her  
9 official functions; however, except when the collection of  
10 personally identifiable information is specifically authorized  
11 by law, any data collected by the Auditor General is  
12 confidential and exempt from the provisions of s. 119.07(1)  
13 and shall be protected in such a way as will not permit the  
14 personal identification of students and their parents by other  
15 than the Auditor General and his or her staff, and such  
16 personally identifiable data shall be destroyed when no longer  
17 needed for the Auditor General's official use.

18           10.a. A court of competent jurisdiction in compliance  
19 with an order of that court or the attorney of record pursuant  
20 to a lawfully issued subpoena, upon the condition that the  
21 pupil or student and the pupil's or student's parent are  
22 notified of the order or subpoena in advance of compliance  
23 therewith by the educational institution or agency.

24           b. A person or entity pursuant to a court of competent  
25 jurisdiction in compliance with an order of that court or the  
26 attorney of record pursuant to a lawfully issued subpoena,  
27 upon the condition that the pupil or student, or his or her  
28 parent if the pupil or student is either a minor and not  
29 attending an institution of postsecondary education or a  
30 dependent of such parent as defined in 26 U.S.C. s. 152 (s.  
31 152 of the Internal Revenue Code of 1954), is notified of the

1 order or subpoena in advance of compliance therewith by the  
2 educational institution or agency.

3 11. Credit bureaus, in connection with an agreement  
4 for financial aid which the student has executed, provided  
5 that such information may be disclosed only to the extent  
6 necessary to enforce the terms or conditions of the financial  
7 aid agreement. Credit bureaus shall not release any  
8 information obtained pursuant to this paragraph to any person.

9 12. Parties to an interagency agreement among the  
10 Department of Juvenile Justice ~~Health and Rehabilitative~~  
11 ~~Services~~, school and law enforcement authorities, and other  
12 signatory agencies for the purpose of reducing juvenile crime  
13 and especially motor vehicle theft by promoting cooperation  
14 and collaboration, and the sharing of appropriate information  
15 in a joint effort to improve school safety, to reduce truancy,  
16 in-school and out-of-school suspensions, to support  
17 alternatives to in-school and out-of-school suspensions and  
18 expulsions that provide structured and well-supervised  
19 educational programs supplemented by a coordinated overlay of  
20 other appropriate services designed to correct behaviors that  
21 lead to truancy, suspensions, and expulsions, and which  
22 support students in successfully completing their education.  
23 Information provided in furtherance of such interagency  
24 agreements is intended solely for use in determining the  
25 appropriate programs and services for each juvenile or the  
26 juvenile's family, or for coordinating the delivery of such  
27 programs and services, and as such is inadmissible in any  
28 court proceedings prior to a dispositional hearing unless  
29 written consent is provided by a parent, guardian, or other  
30 responsible adult on behalf of the juvenile.

31



1 This paragraph does not prohibit any educational institution  
2 from publishing and releasing to the general public directory  
3 information relating to a pupil or student if the institution  
4 elects to do so. However, no educational institution shall  
5 release, to any individual, agency, or organization which is  
6 not listed in subparagraphs 1.-11., directory information  
7 relating to the student body in general or a portion thereof  
8 unless it is normally published for the purpose of release to  
9 the public in general. Any educational institution making  
10 directory information public shall give public notice of the  
11 categories of information which it has designated as directory  
12 information with respect to all pupils or students attending  
13 the institution and shall allow a reasonable period of time  
14 after such notice has been given for a parent, guardian,  
15 pupil, or student to inform the institution in writing that  
16 any or all of the information designated should not be  
17 released.

18 Section 27. Subsection (3) of section 228.121, Florida  
19 Statutes, is amended to read:

20 228.121 Nonresident tuition fee; tuition fee  
21 exemptions.--

22 (3) No tuition shall be charged pupils who are  
23 homeless children as defined in s. 228.041(35); pupils whose  
24 parent, parents, or guardian are in the federal military  
25 service or are civilian employees, the cost of whose education  
26 is provided in part or in whole by federal subsidy to  
27 state-supported schools; or pupils whose parent, parents, or  
28 guardian are migratory agricultural workers. No tuition shall  
29 be charged pupils who reside in residential care facilities  
30 operated by the Department of Children and Family ~~Health and~~  
31

1 ~~Rehabilitative~~ Services and who receive their education under  
2 s. 230.23(4)(n).

3 Section 28. Subsection (3) of section 229.8075,  
4 Florida Statutes, 1998 Supplement, is amended to read:

5 229.8075 Florida Education and Training Placement  
6 Information Program.--

7 (3) The Florida Education and Training Placement  
8 Information Program must not make public any information that  
9 could identify an individual or the individual's employer. The  
10 Department of Education must assure that the purpose of  
11 obtaining placement information is to evaluate and improve  
12 public programs or to conduct research for the purpose of  
13 improving services to the individuals whose social security  
14 numbers are used to identify their placement. If an agreement  
15 assures that this purpose will be served and that privacy will  
16 be protected, the Department of Education shall have access to  
17 the unemployment insurance wage reports maintained by the  
18 Department of Labor and Employment Security, the files of the  
19 Department of Children and Family ~~Health and Rehabilitative~~  
20 Services that contain information about the distribution of  
21 public assistance, the files of the Department of Corrections  
22 that contain records of incarcerations, and the files of the  
23 Department of Business and Professional Regulation that  
24 contain the results of licensure examination.

25 Section 29. Subsection (1) of section 229.832, Florida  
26 Statutes, is amended to read:

27 229.832 Creation of a system of diagnostic and  
28 learning resource centers.--The Department of Education is  
29 directed to establish regional diagnostic and learning  
30 resource centers for exceptional students, to assist in the  
31 provision of medical, physiological, psychological, and

1 educational testing and other services designed to evaluate  
2 and diagnose exceptionalities, to make referrals for necessary  
3 instruction and service, and to facilitate the provision of  
4 instruction and services to exceptional students.

5 (1) ESTABLISHMENT AND OPERATION.--The Department of  
6 Education shall cooperate with the Department of Children and  
7 Family Health and Rehabilitative Services in establishing  
8 regional centers and identifying service areas. All centers  
9 shall be operated by the Department of Education, either  
10 directly or through grants.

11 Section 30. Subsection (1), paragraph (b) of  
12 subsection (2), paragraphs (b), (f), (h), and (k) of  
13 subsection (3), and paragraph (b) of subsection (7) of section  
14 230.2305, Florida Statutes, are amended to read:

15 230.2305 Prekindergarten early intervention program.--

16 (1) LEGISLATIVE INTENT; PURPOSE.--The Legislature  
17 recognizes that high-quality prekindergarten education  
18 programs increase children's chances of achieving future  
19 educational success and becoming productive members of  
20 society. It is the intent of the Legislature that such  
21 programs be developmental, serve as preventive measures for  
22 children at risk of future school failure, enhance the  
23 educational readiness of all children, and support family  
24 education and the involvement of parents in their child's  
25 educational progress. Each prekindergarten early intervention  
26 program shall provide the elements necessary to prepare  
27 children for school, including health screening and referral  
28 and a developmentally appropriate educational program and  
29 opportunities for parental involvement in the program. It is  
30 the legislative intent that the prekindergarten early  
31 intervention program not exist as an isolated program, but

1 build upon existing services and work in cooperation with  
2 other programs for young children. It is intended that  
3 procedures such as, but not limited to, contracting,  
4 collocation, mainstreaming, and cooperative funding be used to  
5 coordinate the program with Head Start, public and private  
6 providers of child care, preschool programs for children with  
7 disabilities, programs for migrant children, Chapter I,  
8 subsidized child care, adult literacy programs, and other  
9 services. It is further the intent of the Legislature that the  
10 Commissioner of Education seek the advice of the Secretary of  
11 Children and Family Health and Rehabilitative Services in the  
12 development and implementation of the prekindergarten early  
13 intervention program and the coordination of services to young  
14 children. The purpose of the prekindergarten early  
15 intervention program is to assist local communities in  
16 implementing programs that will enable all the families and  
17 children in the school district to be prepared for the  
18 children's success in school.

19 (2) ELIGIBILITY.--There is hereby created the  
20 prekindergarten early intervention program for children who  
21 are 3 and 4 years of age. A prekindergarten early  
22 intervention program shall be administered by a district  
23 school board and shall receive state funds pursuant to  
24 subsection (5). Each public school district shall make  
25 reasonable efforts to accommodate the needs of children for  
26 extended day and extended year services without compromising  
27 the quality of the 6-hour, 180-day program. The school  
28 district shall report on such efforts. School district  
29 participation in the prekindergarten early intervention  
30 program shall be at the discretion of each school district.

31

1           (b) An "economically disadvantaged" child shall be  
2 defined as a child eligible to participate in the free lunch  
3 program. Notwithstanding any change in a family's economic  
4 status or in the federal eligibility requirements for free  
5 lunch, a child who meets the eligibility requirements upon  
6 initial registration for the program shall be considered  
7 eligible until the child reaches kindergarten age. In order  
8 to assist the school district in establishing the priority in  
9 which children shall be served, and to increase the efficiency  
10 in the provision of child care services in each district, the  
11 district shall enter into a written collaborative agreement  
12 with other publicly funded early education and child care  
13 programs within the district. Such agreement shall be  
14 facilitated by the interagency coordinating council and shall  
15 set forth, among other provisions, the measures to be  
16 undertaken to ensure the programs' achievement and compliance  
17 with the performance standards established in subsection (3)  
18 and for maximizing the public resources available to each  
19 program. In addition, the central agency for state-subsidized  
20 child care or the local service district of the Department of  
21 Children and Family ~~Health and Rehabilitative~~ Services shall  
22 provide the school district with an updated list of 3-year-old  
23 and 4-year-old children residing in the school district who  
24 are on the waiting list for state-subsidized child care.

25           (3) STANDARDS.--

26           (b) The Department of Education and the Department of  
27 Children and Family ~~Health and Rehabilitative~~ Services, in  
28 consultation with the Legislature, shall develop a minimum set  
29 of performance standards for publicly funded early education  
30 and child care programs and a method for measuring the  
31 progress of local school districts and central agencies in

1 meeting a desired set of outcomes based on these performance  
2 measures. The defined outcomes must be consistent with the  
3 state's first education goal, readiness to start school, and  
4 must also consider efficiency measures such as the employment  
5 of a simplified point of entry to the child care services  
6 system, coordinated staff development programs, and other  
7 efforts within the state to increase the opportunity for  
8 welfare recipients to become self-sufficient. Performance  
9 standards shall be developed for all levels of administration  
10 of the programs, including individual programs and providers,  
11 and must incorporate appropriate expectations for the type of  
12 program and the setting in which care is provided.

13 (f) All staff must meet the following minimum  
14 requirements:

15 1. The minimum level of training is to be the  
16 completion of a 30-clock-hour training course planned jointly  
17 by the Department of Education and the Department of Children  
18 and Family ~~Health and Rehabilitative~~ Services to include the  
19 following areas: state and local rules that govern child care,  
20 health, safety, and nutrition; identification and report of  
21 child abuse and neglect; child growth and development; use of  
22 developmentally appropriate early childhood curricula; and  
23 avoidance of income-based, race-based, and gender-based  
24 stereotyping.

25 2. When individual classrooms are staffed by certified  
26 teachers, those teachers must be certified for the appropriate  
27 grade levels under s. 231.17 and State Board of Education  
28 rules. Teachers who are not certified for the appropriate  
29 grade levels must obtain proper certification within 2 years.  
30 However, the commissioner may make an exception on an  
31 individual basis when the requirements are not met because of

1 serious illness, injury, or other extraordinary, extenuating  
2 circumstance.

3           3. When individual classrooms are staffed by  
4 noncertified teachers, there must be a program director or  
5 lead teacher who is eligible for certification or certified  
6 for the appropriate grade levels pursuant to s. 231.17 and  
7 State Board of Education rules in regularly scheduled direct  
8 contact with each classroom. Notwithstanding s. 231.15, such  
9 classrooms must be staffed by at least one person who has, at  
10 a minimum, a child development associate credential (CDA) or  
11 an amount of training determined by the commissioner to be  
12 equivalent to or to exceed the minimum, such as an associate  
13 in science degree in the area of early childhood education.

14           4. Beginning October 1, 1994, principals and other  
15 school district administrative and supervisory personnel with  
16 direct responsibility for the program must demonstrate  
17 knowledge of prekindergarten education programs that increase  
18 children's chances of achieving future educational success and  
19 becoming productive members of society in a manner established  
20 by the State Board of Education by rule.

21           5. All personnel who are not certified under s. 231.17  
22 must comply with screening requirements under ss. 231.02 and  
23 231.1713.

24           (h) Services are to be provided during a school day  
25 and school year equal to or exceeding the requirements for  
26 kindergarten under ss. 228.041 and 236.013. Strategies to  
27 provide care before school, after school, and 12 months a  
28 year, when needed, must be developed by the school district in  
29 cooperation with the central agency for state-subsidized child  
30 care or the local service district of the Department of  
31 Children and Family ~~Health and Rehabilitative~~ Services and the

1 district interagency coordinating council. Programs may be  
2 provided on Saturdays and through other innovative scheduling  
3 arrangements.

4 (k) The school district must coordinate with the  
5 central agency for state-subsidized child care or the local  
6 service district of the Department of Children and Family  
7 ~~Health and Rehabilitative~~ Services to verify family  
8 participation in the WAGES Program, thus ensuring accurate  
9 reporting and full utilization of federal funds available  
10 through the Family Support Act, and for the agency's or  
11 service district's sharing of the waiting list for  
12 state-subsidized child care under paragraph (a).

13 (7) DISTRICT INTERAGENCY COORDINATING COUNCILS.--

14 (b) Each district coordinating council must consist of  
15 at least 12 members to be appointed by the district school  
16 board, the county commission for the county in which  
17 participating schools are located, and the Department of  
18 Children and Family ~~Health and Rehabilitative~~ Services'  
19 district administrator and must include at least the  
20 following:

21 1. One member who is a parent of a child enrolled in,  
22 or intending to enroll in, the public school prekindergarten  
23 program, appointed by the school board.

24 2. One member who is a director or designated director  
25 of a prekindergarten program in the district, appointed by the  
26 school board.

27 3. One member who is a member of a district school  
28 board, appointed by the school board.

29 4. One member who is a representative of an agency  
30 serving children with disabilities, appointed by the  
31



1 Department of Children and Family ~~Health and Rehabilitative~~  
2 Services' district administrator.

3           5. Four members who are representatives of  
4 organizations providing prekindergarten educational services,  
5 one of whom is a representative of a Head Start Program,  
6 appointed by the Department of Children and Family ~~Health and~~  
7 ~~Rehabilitative~~ Services' district administrator; one of whom  
8 is a representative of a Title XX subsidized child day care  
9 program, if such programs exist within the county, appointed  
10 by the Department of Children and Family ~~Health and~~  
11 ~~Rehabilitative~~ Services' district administrator; and two of  
12 whom are private providers of preschool care and education to  
13 3-year-old and 4-year-old children, one appointed by the  
14 county commission and one appointed by the Department of  
15 Children and Family ~~Health and Rehabilitative~~ Services'  
16 district administrator. If there is no Head Start Program or  
17 Title XX program operating within the county, these two  
18 members must represent community interests in prekindergarten  
19 education.

20           6. Two members who are representatives of agencies  
21 responsible for providing social, medical, dental, adult  
22 literacy, or transportation services, one of whom represents  
23 the county health department, both appointed by the county  
24 commission.

25           7. One member to represent a local child advocacy  
26 organization, appointed by the Department of Children and  
27 Family ~~Health and Rehabilitative~~ Services' district  
28 administrator.

29           8. One member to represent the district K-3 program,  
30 appointed by the school board.

31

1           Section 31. Paragraph (b) of subsection (14) of  
2 section 230.33, Florida Statutes, is amended to read:

3           230.33 Duties and responsibilities of  
4 superintendent.--The superintendent shall exercise all powers  
5 and perform all duties listed below and elsewhere in the law;  
6 provided, that in so doing he or she shall advise and counsel  
7 with the school board. The superintendent shall perform all  
8 tasks necessary to make sound recommendations, nominations,  
9 proposals, and reports required by law to be acted upon by the  
10 school board. All such recommendations, nominations,  
11 proposals, and reports by the superintendent shall be either  
12 recorded in the minutes or shall be made in writing, noted in  
13 the minutes, and filed in the public records of the board. It  
14 shall be presumed that, in the absence of the record required  
15 in this paragraph, the recommendations, nominations, and  
16 proposals required of the superintendent were not contrary to  
17 the action taken by the school board in such matters.

18           (14) COOPERATION WITH OTHER AGENCIES.--

19           (b) Cooperation with other local administrators to  
20 achieve the first state education goal.--Cooperate with the  
21 district administrator of the Department of Children and  
22 Family Health and Rehabilitative Services and with  
23 administrators of other local public and private agencies to  
24 achieve the first state education goal, readiness to start  
25 school.

26           Section 32. Subsection (1) of section 231.02, Florida  
27 Statutes, 1998 Supplement, is amended to read:

28           231.02 Qualifications of personnel.--

29           (1) To be eligible for appointment in any position in  
30 any district school system, a person shall be of good moral  
31 character; shall have attained the age of 18 years, if he or

1 she is to be employed in an instructional capacity; and shall,  
2 when required by law, hold a certificate or license issued  
3 under rules of the State Board of Education or the Department  
4 of Children and Family ~~Health and Rehabilitative~~ Services,  
5 except when employed pursuant to s. 231.15 or under the  
6 emergency provisions of s. 236.0711. Previous residence in  
7 this state shall not be required in any school of the state as  
8 a prerequisite for any person holding a valid Florida  
9 certificate or license to serve in an instructional capacity.

10 Section 33. Section 231.381, Florida Statutes, is  
11 amended to read:

12 231.381 Transfer of sick leave and annual leave.--In  
13 implementing the provisions of ss. 230.23(4)(n) and  
14 402.22(1)(d), educational personnel in Department of Children  
15 and Family ~~Health and Rehabilitative~~ Services residential care  
16 facilities who are employed by a district school board may  
17 request, and the district school board shall accept, a  
18 lump-sum transfer of accumulated sick leave for such personnel  
19 to the maximum allowed by policies of the district school  
20 board, notwithstanding the provisions of s. 110.122.  
21 Educational personnel in Department of Children and Family  
22 ~~Health and Rehabilitative~~ Services residential care facilities  
23 who are employed by a district school board under the  
24 provisions of s. 402.22(1)(d) may request, and the district  
25 school board shall accept, a lump-sum transfer of accumulated  
26 annual leave for each person employed by the district school  
27 board in a position in the district eligible to accrue  
28 vacation leave under policies of the district school board.

29 Section 34. Subsection (2) of section 232.0315,  
30 Florida Statutes, is amended to read:

31 232.0315 School-entry health examinations.--

1           (2) The Department of Education, subject to the  
2 concurrence of the Department of Health ~~and Rehabilitative~~  
3 ~~Services~~, shall adopt rules to govern medical examinations  
4 performed under this section.

5           Section 35. Subsection (1) of section 232.2481,  
6 Florida Statutes, is amended to read:

7           232.2481 Graduation and promotion requirements for  
8 publicly operated schools.--

9           (1) Each state or local public agency, including the  
10 Department of Children and Family ~~Health and Rehabilitative~~  
11 ~~Services~~, the Department of Corrections, the Board of Regents,  
12 boards of trustees of community colleges, and the Board of  
13 Trustees of the Florida School for the Deaf and the Blind,  
14 which agency is authorized to operate educational programs for  
15 students at any level of grades kindergarten through 12 shall  
16 be subject to all applicable requirements of ss. 232.245,  
17 232.246, 232.247, and 232.248. Within the content of these  
18 cited statutes each such state or local public agency shall be  
19 considered a "district school board."

20           Section 36. Subsection (1) of section 232.36, Florida  
21 Statutes, is amended to read:

22           232.36 Sanitation of schools.--

23           (1) The State Board of Education and the Department of  
24 ~~Health and Rehabilitative Services~~ shall jointly adopt and  
25 promulgate all needful rules having to do with sanitation of  
26 school buildings, grounds, shops, cafeterias, toilets, school  
27 buses, laboratories, restrooms, first aid rooms, and all rooms  
28 or places in which pupils congregate in pursuit of the school  
29 duties or activities, and the school board shall see that such  
30 rules are enforced.

31

1           Section 37. Subsection (1) of section 236.145, Florida  
2 Statutes, is amended to read:

3           236.145 Residential nonpublic school contract  
4 reimbursement.--

5           (1) Annually, the Commissioner of Education shall  
6 obtain the cost of all residential nonpublic school contracts  
7 and calculate the cost to be reimbursed. The commissioner  
8 shall calculate by district and by student the total cost of  
9 the contracts and deduct the amount of the weighted full-time  
10 equivalent students generated plus the amount of federal  
11 entitlement funds for the disabled per student and any amount  
12 paid by the Department of Children and Family ~~Health and~~  
13 ~~Rehabilitative~~ Services or other federal, state, or local  
14 agency. Sixty percent of the difference between the actual  
15 cost of contract and the funds deducted shall be eligible for  
16 reimbursement.

17           Section 38. Subsection (1) of section 236.602, Florida  
18 Statutes, is amended to read:

19           236.602 Bonds payable from motor vehicle license tax  
20 funds; instruction units computed.--

21           (1) For the purpose of administering the provisions of  
22 s. 9(d), Art. XII of the State Constitution as amended in  
23 1972, the number of current instruction units in districts  
24 shall be computed annually by the department by multiplying  
25 the number of full-time equivalent students in programs under  
26 s. 236.081(1)(c) in each district by the cost factors  
27 established in the General Appropriations Act and dividing by  
28 23, except that all basic program cost factors shall be one,  
29 and the special program cost factors for hospital and  
30 homebound I and for community service shall be zero. Full-time  
31 equivalent membership for students residing in Department of

1 Children and Family ~~Health and Rehabilitative~~ Services  
2 residential care facilities shall not be included in this  
3 computation. Any portion of the fund not expended during any  
4 fiscal year may be carried forward in ensuing budgets and  
5 shall be temporarily invested as prescribed by law or  
6 regulations of the state board.

7 Section 39. Subsection (3) of section 238.01, Florida  
8 Statutes, is amended to read:

9 238.01 Definitions.--The following words and phrases  
10 as used in this chapter shall have the following meanings  
11 unless a different meaning is plainly required by the context:

12 (3) "Teacher" means any member of the teaching or  
13 professional staff and any certificated employee of any public  
14 free school, of any district school system and vocational  
15 school, any member of the teaching or professional staff of  
16 the Florida School for the Deaf and Blind, child training  
17 schools of the Department of Juvenile Justice ~~Health and~~  
18 ~~Rehabilitative Services~~, the Department of Corrections, and  
19 any tax-supported institution of higher learning of the state,  
20 and any member and any certified employee of the Department of  
21 Education, any certified employee of the retirement system,  
22 any full-time employee of any nonprofit professional  
23 association or corporation of teachers functioning in Florida  
24 on a statewide basis, which seeks to protect and improve  
25 public school opportunities for children and advance the  
26 professional and welfare status of its members, any person now  
27 serving as superintendent, or who was serving as county  
28 superintendent of public instruction on July 1, 1939, and any  
29 hereafter duly elected or appointed superintendent, who holds  
30 a valid Florida teachers' certificate. In all cases of doubt

31

1 the division shall determine whether any person is a teacher  
2 as defined herein.

3 Section 40. Paragraphs (a) and (c) of subsection (3)  
4 of section 239.301, Florida Statutes, 1998 Supplement, are  
5 amended to read:

6 239.301 Adult general education.--

7 (3)(a) Each school board or community college board of  
8 trustees shall negotiate with local personnel of the  
9 Department of Children and Family ~~Health and Rehabilitative~~  
10 Services for basic and functional literacy skills assessments  
11 for participants in employment and training programs under the  
12 WAGES Program. Such assessments shall be conducted at a site  
13 mutually acceptable to the school board or community college  
14 board of trustees and the Department of Children and Family  
15 ~~Health and Rehabilitative~~ Services.

16 (c) To the extent funds are available, the Department  
17 of Children and Family ~~Health and Rehabilitative~~ Services  
18 shall provide for day care and transportation services to  
19 clients who enroll in adult basic education programs.

20 Section 41. Paragraphs (c) and (f) of subsection (3)  
21 of section 240.5121, Florida Statutes, 1998 Supplement, are  
22 amended to read:

23 240.5121 Cancer control and research.--

24 (3) DEFINITIONS.--The following words and phrases when  
25 used in this section have, unless the context clearly  
26 indicates otherwise, the meanings given to them in this  
27 subsection:

28 (c) "Department" means the Department of Health ~~and~~  
29 ~~Rehabilitative Services~~.

30 (f) "Secretary" means the Secretary of Health ~~and~~  
31 ~~Rehabilitative Services~~.

1           Section 42. Subsection (2) of section 240.514, Florida  
2 Statutes, is amended to read:

3           240.514 Florida Mental Health Institute.--There is  
4 established the Florida Mental Health Institute within the  
5 University of South Florida.

6           (2) The Department of Children and Family Health and  
7 ~~Rehabilitative~~ Services is authorized to designate the Florida  
8 Mental Health Institute a treatment facility for the purpose  
9 of accepting voluntary and involuntary clients in accordance  
10 with institute programs. Clients to be admitted are exempted  
11 from prior screening by a community mental health center.

12           Section 43. Section 240.705, Florida Statutes, is  
13 amended to read:

14           240.705 Partnerships to develop child protection  
15 workers.--The Department of Children and Family Health and  
16 ~~Rehabilitative~~ Services is directed to form partnerships with  
17 the schools of social work of the universities of the state in  
18 order to encourage the development of graduates trained to  
19 work in child protection. The department shall give hiring  
20 preferences for child protection jobs to graduates who have  
21 earned bachelor's and master's degrees from these programs  
22 with a concentration in child protection. The partnership  
23 between the department and the schools of social work shall  
24 include, but not be limited to, modifying existing graduate  
25 and undergraduate social work curricula, providing field  
26 placements for students into child protection internships in  
27 the department, and collaborating in the design and delivery  
28 of advanced levels of social work practice.

29           Section 44. Subsection (2) of section 245.08, Florida  
30 Statutes, is amended to read:

31



1           245.08 Death of indigents; notice; delivery to the  
2 anatomical board when unclaimed; exceptions; assessment of  
3 fees.--

4           (2) When the Department of Health ~~and Rehabilitative~~  
5 ~~Services~~ claims the body of a client according to this  
6 section, the department shall assess fees for burial pursuant  
7 to s. 402.33.

8           Section 45. Paragraph (a) of subsection (2) of section  
9 252.35, Florida Statutes, is amended to read:

10           252.35 Emergency management powers; Division of  
11 Emergency Management.--

12           (2) The division is responsible for carrying out the  
13 provisions of ss. 252.31-252.91. In performing its duties  
14 under ss. 252.31-252.91, the division shall:

15           (a) Prepare a state comprehensive emergency management  
16 plan, which shall be integrated into and coordinated with the  
17 emergency management plans and programs of the Federal  
18 Government. The plan shall be implemented by a continuous,  
19 integrated comprehensive emergency management program. The  
20 plan must contain provisions to ensure that the state is  
21 prepared for emergencies and minor, major, and catastrophic  
22 disasters, and the division shall work closely with local  
23 governments and agencies and organizations with emergency  
24 management responsibilities in preparing and maintaining the  
25 plan. The state comprehensive emergency management plan shall  
26 be operations oriented and:

27           1. Include an evacuation component that includes  
28 specific regional and interregional planning provisions and  
29 promotes intergovernmental coordination of evacuation  
30 activities. This component must, at a minimum: contain  
31 guidelines for lifting tolls on state highways; ensure

1 coordination pertaining to evacuees crossing county lines; set  
2 forth procedures for directing people caught on evacuation  
3 routes to safe shelter; establish strategies for ensuring  
4 sufficient, reasonably priced fueling locations along  
5 evacuation routes; and establish policies and strategies for  
6 emergency medical evacuations.

7         2. Include a shelter component that includes specific  
8 regional and interregional planning provisions and promotes  
9 coordination of shelter activities between the public,  
10 private, and nonprofit sectors. This component must, at a  
11 minimum: contain strategies to ensure the availability of  
12 adequate public shelter space in each region of the state;  
13 establish strategies for refuge-of-last-resort programs;  
14 provide strategies to assist local emergency management  
15 efforts to ensure that adequate staffing plans exist for all  
16 shelters, including medical and security personnel; provide  
17 for a postdisaster communications system for public shelters;  
18 establish model shelter guidelines for operations,  
19 registration, inventory, power generation capability,  
20 information management, and staffing; and set forth policy  
21 guidance for sheltering people with special needs.

22         3. Include a postdisaster response and recovery  
23 component that includes specific regional and interregional  
24 planning provisions and promotes intergovernmental  
25 coordination of postdisaster response and recovery activities.  
26 This component must provide for postdisaster response and  
27 recovery strategies according to whether a disaster is minor,  
28 major, or catastrophic. The postdisaster response and recovery  
29 component must, at a minimum: establish the structure of the  
30 state's postdisaster response and recovery organization;  
31 establish procedures for activating the state's plan; set

1 | forth policies used to guide postdisaster response and  
2 | recovery activities; describe the chain of command during the  
3 | postdisaster response and recovery period; describe initial  
4 | and continuous postdisaster response and recovery actions;  
5 | identify the roles and responsibilities of each involved  
6 | agency and organization; provide for a comprehensive  
7 | communications plan; establish procedures for monitoring  
8 | mutual aid agreements; provide for rapid impact assessment  
9 | teams; ensure the availability of an effective statewide urban  
10 | search and rescue program coordinated with the fire services;  
11 | ensure the existence of a comprehensive statewide medical care  
12 | and relief plan administered by the Department of Health ~~and~~  
13 | ~~Rehabilitative Services~~; and establish systems for  
14 | coordinating volunteers and accepting and distributing donated  
15 | funds and goods.

16 |         4. Include additional provisions addressing aspects of  
17 | preparedness, response, recovery, and mitigation as determined  
18 | necessary by the division.

19 |         5. Address the need for coordinated and expeditious  
20 | deployment of state resources, including the Florida National  
21 | Guard. In the case of an imminent major disaster, procedures  
22 | should address predeployment of the Florida National Guard,  
23 | and, in the case of an imminent catastrophic disaster,  
24 | procedures should address predeployment of the Florida  
25 | National Guard and the United States Armed Forces.

26 |         6. Establish a system of communications and warning to  
27 | ensure that the state's population and emergency management  
28 | agencies are warned of developing emergency situations and can  
29 | communicate emergency response decisions.

30 |         7. Establish guidelines and schedules for annual  
31 | exercises that evaluate the ability of the state and its

1 political subdivisions to respond to minor, major, and  
2 catastrophic disasters and support local emergency management  
3 agencies. Such exercises shall be coordinated with local  
4 governments and, to the extent possible, the Federal  
5 Government.

6 8. Assign lead and support responsibilities to state  
7 agencies and personnel for emergency support functions and  
8 other support activities.

9  
10 The division shall prepare an interim postdisaster response  
11 and recovery component that substantially complies with the  
12 provisions of this paragraph by June 1, 1993. Each state  
13 agency assigned lead responsibility for an emergency support  
14 function by the state comprehensive emergency management plan  
15 shall also prepare a detailed operational plan needed to  
16 implement its responsibilities by June 1, 1993. The complete  
17 state comprehensive emergency management plan shall be  
18 submitted to the President of the Senate, the Speaker of the  
19 House of Representatives, and the Governor no later than  
20 February 1, 1994, and on February 1 of every even-numbered  
21 year thereafter.

22 Section 46. Subsection (1) of section 252.355, Florida  
23 Statutes, is amended to read:

24 252.355 Registry of disabled persons; notice.--

25 (1) In order to meet the special needs of persons who  
26 would need assistance during evacuations and sheltering  
27 because of physical or mental handicaps, each local emergency  
28 management agency in the state shall maintain a registry of  
29 disabled persons located within the jurisdiction of the local  
30 agency. The registration shall identify those persons in need  
31 of assistance and plan for resource allocation to meet those

1 identified needs. To assist the local emergency management  
2 agency in identifying such persons, the Department of Children  
3 and Family Health and Rehabilitative Services, Department of  
4 Health, Agency for Health Care Administration, and Department  
5 of Elderly Affairs shall provide registration information to  
6 all of their ~~its~~ special needs clients and to all incoming  
7 clients as a part of the intake process. The registry shall  
8 be updated annually. The registration program shall give  
9 disabled persons the option of preauthorizing emergency  
10 response personnel to enter their homes during search and  
11 rescue operations if necessary to assure their safety and  
12 welfare following disasters.

13 Section 47. Subsection (7) of section 252.36, Florida  
14 Statutes, is amended to read:

15 252.36 Emergency management powers of the Governor.--

16 (7) The Governor shall employ such measures and give  
17 such directions to the Department of Health ~~and Rehabilitative~~  
18 ~~Services~~ and the Agency for Health Care Administration as may  
19 be reasonably necessary for the purpose of securing compliance  
20 with the provisions of ss. 252.31-252.91 or with the findings  
21 or recommendations of such agency of health by reason of  
22 conditions arising from emergencies or threats of emergency.

23 Section 48. Section 255.565, Florida Statutes, is  
24 amended to read:

25 255.565 Asbestos Oversight Program Team.--There is  
26 created an Asbestos Oversight Program Team, which shall  
27 consist of the Asbestos Program Coordinator appointed by the  
28 Secretary of Labor and Employment Security, one member  
29 appointed by the Secretary of Health ~~and Rehabilitative~~  
30 ~~Services~~, one member appointed by the Secretary of  
31 Environmental Protection, one member appointed by the

1 Secretary of Business and Professional Regulation, one member  
2 appointed by the Secretary of Transportation, one member  
3 appointed by the Chancellor of the State University System,  
4 one member appointed by the Department of Education, and one  
5 member appointed by the secretary of the Department of  
6 Management Services. The Asbestos Oversight Program Team is  
7 responsible for asbestos policy development; regulatory  
8 review; asbestos training course approval, except as provided  
9 for under chapter 469; and coordination with regional asbestos  
10 project managers and building contact persons on policy and  
11 procedures.

12 Section 49. Subsection (3) of section 284.40, Florida  
13 Statutes, is amended to read:

14 284.40 Division of Risk Management.--

15 (3) Upon certification by the division director or his  
16 or her designee to the custodian of any records maintained by  
17 the Department of Children and Family Health and  
18 Rehabilitative Services, Department of Health, Agency for  
19 Health Care Administration, or Department of Elderly Affairs  
20 that such records are necessary to investigate a claim against  
21 the Department of Children and Family Health and  
22 Rehabilitative Services, Department of Health, Agency for  
23 Health Care Administration, or Department of Elderly Affairs  
24 being handled by the Division of Risk Management, the records  
25 shall be released to the division subject to the provisions of  
26 subsection (2), any conflicting provisions as to the  
27 confidentiality of such records notwithstanding.

28 Section 50. Paragraph (f) of subsection (3) of section  
29 287.057, Florida Statutes, 1998 Supplement, is amended to  
30 read:

31

1           287.057 Procurement of commodities or contractual  
2 services.--

3           (3) When the purchase price of commodities or  
4 contractual services exceeds the threshold amount provided in  
5 s. 287.017 for CATEGORY TWO, no purchase of commodities or  
6 contractual services may be made without receiving competitive  
7 sealed bids or competitive sealed proposals unless:

8           (f) The following contractual services and commodities  
9 are not subject to the competitive sealed bid requirements of  
10 this section:

- 11           1. Artistic services.
- 12           2. Academic program reviews.
- 13           3. Lectures by individuals.
- 14           4. Auditing services.
- 15           5. Legal services, including attorney, paralegal,  
16 expert witness, appraisal, or mediator services.
- 17           6. Health services involving examination, diagnosis,  
18 treatment, prevention, medical consultation, or  
19 administration.
- 20           7. Services provided to persons with mental or  
21 physical disabilities by not-for-profit corporations which  
22 have obtained exemptions under the provisions of s. 501(c)(3)  
23 of the United States Internal Revenue Code or when such  
24 services are governed by the provisions of Office of  
25 Management and Budget Circular A-122. However, in acquiring  
26 such services, the agency shall consider the ability of the  
27 contractor, past performance, willingness to meet time  
28 requirements, and price.
- 29           8. Medicaid services delivered to an eligible Medicaid  
30 recipient by a health care provider who has not previously  
31 applied for and received a Medicaid provider number from the

1 Agency for Health Care Administration ~~Department of Health and~~  
2 ~~Rehabilitative Services~~. However, this exception shall be  
3 valid for a period not to exceed 90 days after the date of  
4 delivery to the Medicaid recipient and shall not be renewed by  
5 the agency ~~department~~.

6 9. Family placement services.

7 10. Prevention services related to mental health,  
8 including drug abuse prevention programs, child abuse  
9 prevention programs, and shelters for runaways, operated by  
10 not-for-profit corporations. However, in acquiring such  
11 services, the agency shall consider the ability of the  
12 contractor, past performance, willingness to meet time  
13 requirements, and price.

14 11. Training and education services provided to  
15 injured employees pursuant to s. 440.49(1).

16 12. Contracts entered into pursuant to s. 337.11.

17 13. Services or commodities provided by governmental  
18 agencies.

19 Section 51. Subsection (1) of section 287.155, Florida  
20 Statutes, is amended to read:

21 287.155 Motor vehicles; purchase by Division of  
22 Universities, Department of Children and Family Health and  
23 ~~Rehabilitative Services~~, Department of Health, Department of  
24 Juvenile Justice, and Department of Corrections.--

25 (1) The Division of Universities of the Department of  
26 Education, the Department of Children and Family Health and  
27 ~~Rehabilitative Services~~, the Department of Health, the  
28 Department of Juvenile Justice, and the Department of  
29 Corrections are hereby authorized, subject to the approval of  
30 the Department of Management Services, to purchase  
31 automobiles, trucks, tractors, and other automotive equipment



1 for the use of institutions under the management of the  
2 Division of Universities, the Department of Children and  
3 Family Health and Rehabilitative Services, the Department of  
4 Health, and the Department of Corrections, and for the use of  
5 residential facilities managed or contracted by the Department  
6 of Juvenile Justice.

7 Section 52. Paragraph (c) of subsection (3) of section  
8 288.9620, Florida Statutes, is amended to read:

9 288.9620 Workforce development board.--

10 (3) The workforce development board shall be governed  
11 by a board of directors. The board of directors is to consist  
12 of the following members:

13 (c) The secretary of the Department of Children and  
14 Family Health and Rehabilitative Services.

15 Section 53. Subsection (8) and paragraph (a) of  
16 subsection (9) of section 288.975, Florida Statutes, 1998  
17 Supplement, are amended to read:

18 288.975 Military base reuse plans.--

19 (8) At the request of a host local government, the  
20 Office of Tourism, Trade, and Economic Development shall  
21 coordinate a presubmission workshop concerning a military base  
22 reuse plan within the boundaries of the host jurisdiction.  
23 Agencies that shall participate in the workshop shall include  
24 any affected local governments; the Department of  
25 Environmental Protection; the Office of Tourism, Trade, and  
26 Economic Development; the Department of Community Affairs; the  
27 Department of Transportation; the Department of Health; the  
28 Department of Children and Family Services; the Department of  
29 Juvenile Justice; the Department of Agriculture and Consumer  
30 Services; the Department of State; the Game and Fresh Water  
31 Fish Commission; and any applicable water management districts

1 and regional planning councils. The purposes of the workshop  
2 shall be to assist the host local government to understand  
3 issues of concern to the above listed entities pertaining to  
4 the military base site and to identify opportunities for  
5 better coordination of planning and review efforts with the  
6 information and analyses generated by the federal  
7 environmental impact statement process and the federal  
8 community base reuse planning process.

9 (9) If a host local government elects to use the  
10 optional provisions of this act, it shall, no later than 12  
11 months after notifying the agencies of its intent pursuant to  
12 subsection (3) either:

13 (a) Send a copy of the proposed military base reuse  
14 plan for review to any affected local governments; the  
15 Department of Environmental Protection; the Office of Tourism,  
16 Trade, and Economic Development; the Department of Community  
17 Affairs; the Department of Transportation; the Department of  
18 Health; the Department of Children and Family Services; the  
19 Department of Juvenile Justice; the Department of Agriculture  
20 and Consumer Services; the Department of State; the Florida  
21 Game and Fresh Water Fish Commission; and any applicable water  
22 management districts and regional planning councils, or

23 Section 54. Subsection (1) of section 290.009, Florida  
24 Statutes, is amended to read:

25 290.009 Enterprise Zone Interagency Coordinating  
26 Council.--

27 (1) There is created within the Office of Tourism,  
28 Trade, and Economic Development the Enterprise Zone  
29 Interagency Coordinating Council. The council shall be  
30 composed of the secretaries or executive directors, or their  
31 designees, of the Department of Community Affairs, the Office

1 of Tourism, Trade, and Economic Development, the Department of  
2 Children and Family ~~Health and Rehabilitative~~ Services, the  
3 Department of Health, the Department of Juvenile Justice, the  
4 Department of Labor and Employment Security, the Department of  
5 State, the Department of Transportation, the Department of  
6 Environmental Protection, the Department of Law Enforcement,  
7 and the Department of Revenue; the Attorney General or his or  
8 her designee; and the executive directors or their designees  
9 of the State Community College System, the Florida Black  
10 Business Investment Board, and the Florida State Rural  
11 Development Council.

12 Section 55. Section 314.05, Florida Statutes, is  
13 amended to read:

14 314.05 Duties as to boarding vessel.--The  
15 harbormaster, by himself or herself or deputy, shall board  
16 every vessel entering the port for which the harbormaster is  
17 appointed, after such vessel has been released by the health  
18 authorities of the port, demand of the master the certificate  
19 of the vessel's release by such health authorities and deliver  
20 the same within 24 hours to the Department of Health ~~and~~  
21 ~~Rehabilitative Services~~; but it is unlawful for any such  
22 officer, in boarding such vessels under this section, to  
23 solicit from such vessel any business either for the officer  
24 or anyone else, and any violation of this provision by any  
25 such officer shall subject him or her to removal from said  
26 office, by the Governor, if such violation be committed by the  
27 harbormaster, and, if committed by any deputy harbormaster,  
28 then, by the harbormaster, who in such cases shall remove  
29 promptly such deputy.

30 Section 56. Subsection (5) of section 316.613, Florida  
31 Statutes, is amended to read:

1           316.613 Child restraint requirements.--

2           (5) Any person who violates the provisions of this  
3 section commits a moving violation, punishable as provided in  
4 chapter 318 and shall have 3 points assessed against his or  
5 her driver's license as set forth in s. 322.27. In lieu of the  
6 penalty specified in s. 318.18 and the assessment of points, a  
7 person who violates the provisions of this section may elect,  
8 with the court's approval, to participate in a child restraint  
9 safety program approved by the chief judge of the circuit in  
10 which the violation occurs, and upon completing such program,  
11 the penalty specified in chapter 318 and associated costs may  
12 be waived at the court's discretion and the assessment of  
13 points shall be waived. The child restraint safety program  
14 must use a course approved by the Department of Health ~~and~~  
15 ~~Rehabilitative Services~~, and the fee for the course must bear  
16 a reasonable relationship to the cost of providing the course.

17           Section 57. Subsection (5) of section 316.6135,  
18 Florida Statutes, is amended to read:

19           316.6135 Leaving children unattended or unsupervised  
20 in motor vehicle; penalty; authority of law enforcement  
21 officer.--

22           (5) The child shall be remanded to the custody of the  
23 Department of Children and Family ~~Health and Rehabilitative~~  
24 Services pursuant to chapter 39, unless the law enforcement  
25 officer is able to locate the parents or legal guardian or  
26 other person responsible for the child.

27           Section 58. Paragraph (b) of subsection (10) of  
28 section 318.14, Florida Statutes, is amended to read:

29           318.14 Noncriminal traffic infractions; exception;  
30 procedures.--

31           (10)

1 (b) Any person cited for an offense listed in this  
2 subsection shall present proof of compliance prior to the  
3 scheduled court appearance date. For the purposes of this  
4 subsection, proof of compliance shall consist of a valid,  
5 renewed, or reinstated driver's license or registration  
6 certificate and proper proof of maintenance of security as  
7 required by s. 316.646. Notwithstanding waiver of fine, any  
8 person establishing proof of compliance shall be assessed  
9 court costs of \$22, except that a person charged with  
10 violation of s. 316.646(1)-(3) may be assessed court costs of  
11 \$7. One dollar of such costs shall be distributed to the  
12 Department of Children and Family ~~Health and Rehabilitative~~  
13 Services for deposit into the Child Welfare Training Trust  
14 Fund. One dollar of such costs shall be distributed to the  
15 Department of Juvenile Justice for deposit into the Juvenile  
16 Justice Training Trust Fund. Twelve dollars of such costs  
17 shall be distributed to the municipality and \$8 shall be  
18 retained by the county, if the offense was committed within  
19 the municipality. If the offense was committed in an  
20 unincorporated area of a county or if the citation was for a  
21 violation of s. 316.646(1)-(3), the county shall retain the  
22 entire amount, except for the moneys to be deposited into the  
23 Child Welfare Training Trust Fund and the Juvenile Justice  
24 Training Trust Fund. This subsection shall not be construed  
25 to authorize the operation of a vehicle without a valid  
26 driver's license, without a valid vehicle tag and  
27 registration, or without the maintenance of required security.

28 Section 59. Subsection (4) of section 321.19, Florida  
29 Statutes, is amended to read:

30 321.19 Computing length of service; definitions;  
31 examining committee.--

1           (4) The Secretary of Health ~~director of the Division~~  
2 ~~of Health of the Department of Health and Rehabilitative~~  
3 ~~Services~~ and two other reputable physicians, one to be  
4 appointed by the Department of Highway Safety and Motor  
5 Vehicles and one by the applicant, shall examine every  
6 applicant for a pension on the grounds of disability, and  
7 shall determine whether or not total or partial disability  
8 exists, and if partial, the extent thereof, and shall certify  
9 the results of their findings to the executive director of the  
10 department and to the Governor and Cabinet, as head of the  
11 department, which findings shall be binding upon the  
12 department.

13           Section 60. Subsections (1), (2), (3), and (4) of  
14 section 322.055, Florida Statutes, are amended to read:

15           322.055 Revocation or suspension of, or delay of  
16 eligibility for, driver's license for persons 18 years of age  
17 or older convicted of certain drug offenses.--

18           (1) Notwithstanding the provisions of s. 322.28, upon  
19 the conviction of a person 18 years of age or older for  
20 possession or sale of, trafficking in, or conspiracy to  
21 possess, sell, or traffic in a controlled substance, the court  
22 shall direct the department to revoke the driver's license or  
23 driving privilege of the person. The period of such revocation  
24 shall be 2 years or until the person is evaluated for and, if  
25 deemed necessary by the evaluating agency, completes a drug  
26 treatment and rehabilitation program approved or regulated by  
27 the Department of Children and Family Health and  
28 ~~Rehabilitative~~ Services. However, the court may, in its sound  
29 discretion, direct the department to issue a license for  
30 driving privileges restricted to business or employment  
31 purposes only, as defined by s. 322.271, if the person is

1 otherwise qualified for such a license. A driver whose license  
2 or driving privilege has been suspended or revoked under this  
3 section or s. 322.056 may, upon the expiration of 6 months,  
4 petition the department for restoration of the driving  
5 privilege on a restricted or unrestricted basis depending on  
6 length of suspension or revocation. In no case shall a  
7 restricted license be available until 6 months of the  
8 suspension or revocation period has expired.

9 (2) If a person 18 years of age or older is convicted  
10 for the possession or sale of, trafficking in, or conspiracy  
11 to possess, sell, or traffic in a controlled substance and  
12 such person is eligible by reason of age for a driver's  
13 license or privilege, the court shall direct the department to  
14 withhold issuance of such person's driver's license or driving  
15 privilege for a period of 2 years after the date the person  
16 was convicted or until the person is evaluated for and, if  
17 deemed necessary by the evaluating agency, completes a drug  
18 treatment and rehabilitation program approved or regulated by  
19 the Department of Children and Family Health and  
20 ~~Rehabilitative~~ Services. However, the court may, in its sound  
21 discretion, direct the department to issue a license for  
22 driving privileges restricted to business or employment  
23 purposes only, as defined by s. 322.271, if the person is  
24 otherwise qualified for such a license. A driver whose license  
25 or driving privilege has been suspended or revoked under this  
26 section or s. 322.056 may, upon the expiration of 6 months,  
27 petition the department for restoration of the driving  
28 privilege on a restricted or unrestricted basis depending on  
29 the length of suspension or revocation. In no case shall a  
30 restricted license be available until 6 months of the  
31 suspension or revocation period has expired.

1           (3) If a person 18 years of age or older is convicted  
2 for the possession or sale of, trafficking in, or conspiracy  
3 to possess, sell, or traffic in a controlled substance and  
4 such person's driver's license or driving privilege is already  
5 under suspension or revocation for any reason, the court shall  
6 direct the department to extend the period of such suspension  
7 or revocation by an additional period of 2 years or until the  
8 person is evaluated for and, if deemed necessary by the  
9 evaluating agency, completes a drug treatment and  
10 rehabilitation program approved or regulated by the Department  
11 of Children and Family Health and Rehabilitative Services.  
12 However, the court may, in its sound discretion, direct the  
13 department to issue a license for driving privileges  
14 restricted to business or employment purposes only, as defined  
15 by s. 322.271, if the person is otherwise qualified for such a  
16 license. A driver whose license or driving privilege has been  
17 suspended or revoked under this section or s. 322.056 may,  
18 upon the expiration of 6 months, petition the department for  
19 restoration of the driving privilege on a restricted or  
20 unrestricted basis depending on the length of suspension or  
21 revocation. In no case shall a restricted license be available  
22 until 6 months of the suspension or revocation period has  
23 expired.

24           (4) If a person 18 years of age or older is convicted  
25 for the possession or sale of, trafficking in, or conspiracy  
26 to possess, sell, or traffic in a controlled substance and  
27 such person is ineligible by reason of age for a driver's  
28 license or driving privilege, the court shall direct the  
29 department to withhold issuance of such person's driver's  
30 license or driving privilege for a period of 2 years after the  
31 date that he or she would otherwise have become eligible or



1 until he or she becomes eligible by reason of age for a  
2 driver's license and is evaluated for and, if deemed necessary  
3 by the evaluating agency, completes a drug treatment and  
4 rehabilitation program approved or regulated by the Department  
5 of Children and Family ~~Health and Rehabilitative~~ Services.  
6 However, the court may, in its sound discretion, direct the  
7 department to issue a license for driving privileges  
8 restricted to business or employment purposes only, as defined  
9 by s. 322.271, if the person is otherwise qualified for such a  
10 license. A driver whose license or driving privilege has been  
11 suspended or revoked under this section or s. 322.056 may,  
12 upon the expiration of 6 months, petition the department for  
13 restoration of the driving privilege on a restricted or  
14 unrestricted basis depending on the length of suspension or  
15 revocation. In no case shall a restricted license be available  
16 until 6 months of the suspension or revocation period has  
17 expired.

18 Section 61. Subsection (7) of section 322.20, Florida  
19 Statutes, is amended to read:

20 322.20 Records of the department; fees; destruction of  
21 records.--

22 (7) The requirement for the department to keep records  
23 shall terminate upon the death of an individual licensed by  
24 the department upon notification by the Department of Health  
25 ~~and Rehabilitative Services~~ of such death. The department  
26 shall make such notification as is proper of the deletions  
27 from their records to the court clerks of the state.

28 Section 62. Subsection (2) of section 364.510, Florida  
29 Statutes, is amended to read:

30 364.510 Duties of the Board of Directors of the  
31 Florida Distance Learning Network.--The duties of the Board of

1 Directors of the Florida Distance Learning Network include,  
2 but are not limited to:

3 (2) Coordinating the use of existing resources,  
4 including, but not limited to, the state's satellite  
5 transponder on Telestar 401 (the education satellite), the  
6 Sunstar Network, the SUNCOM Network, the Florida Information  
7 Resource Network (FIRN), Department of Management Services,  
8 Department of Corrections, Department of Health, and the  
9 Department of Children and Family ~~Health and Rehabilitative~~  
10 Services' satellite communication facilities to support a  
11 statewide advanced telecommunications services and distance  
12 learning network.

13 Section 63. Paragraph (g) of subsection (3) of section  
14 370.0605, Florida Statutes, 1998 Supplement, is amended to  
15 read:

16 370.0605 Saltwater fishing license required; fees.--

17 (3) A saltwater fishing license is not required for:

18 (g) Any person who has been accepted by the Department  
19 of Children and Family ~~Health and Rehabilitative~~ Services for  
20 developmental services or any licensed provider of services to  
21 the State of Florida through contract with the Department of  
22 Children and Family ~~Health and Rehabilitative~~ Services, where  
23 such service involves the need, normally, for possession of a  
24 saltwater fishing license and such service is provided as part  
25 of a court-decided rehabilitation program involving training  
26 in Florida's aquatic resources.

27 Section 64. Subsection (26) of section 370.16, Florida  
28 Statutes, 1998 Supplement, is amended to read:

29 370.16 Oysters and shellfish; regulation.--

30 (26) OYSTER CULTURE.--The Division of Marine Resources  
31 shall protect all oyster beds, oyster grounds, and oyster

1 reefs from damage or destruction resulting from improper  
2 cultivation, propagation, planting, or harvesting and control  
3 the pollution of the waters over or surrounding oyster  
4 grounds, beds, or reefs, and to this end the Department of  
5 Health ~~and Rehabilitative Services~~ is authorized and directed  
6 to lend its cooperation to the division, to make available to  
7 it its laboratory testing facilities and apparatus. The  
8 division may also do and perform all acts and things within  
9 its power and authority necessary to the performance of its  
10 duties.

11 Section 65. Paragraph (g) of subsection (1) of section  
12 372.57, Florida Statutes, 1998 Supplement, is amended to read:

13 372.57 Licenses and permits; exemptions; fees.--No  
14 person, except as provided herein, shall take game, freshwater  
15 fish, or fur-bearing animals within this state without having  
16 first obtained a license, permit, or authorization and paid  
17 the fees hereinafter set forth, unless such license is issued  
18 without fee as provided in s. 372.561. Such license, permit,  
19 or authorization shall authorize the person to whom it is  
20 issued to take game, freshwater fish, or fur-bearing animals  
21 in accordance with law and commission rules. Such license,  
22 permit, or authorization is not transferable. Each license or  
23 permit must bear on its face in indelible ink the name of the  
24 person to whom it is issued and other information requested by  
25 the commission. Such license, permit, or authorization issued  
26 by the commission or any agent must be in the personal  
27 possession of the person to whom issued while taking game,  
28 freshwater fish, or fur-bearing animals. The failure of such  
29 person to exhibit such license, permit, or authorization to  
30 the commission or its wildlife officers, when such person is  
31 found taking game, freshwater fish, or fur-bearing animals, is

1 a violation of law. A positive form of identification is  
2 required when using an authorization, a lifetime license, a  
3 5-year license, or when otherwise required by the license or  
4 permit. The lifetime licenses and 5-year licenses provided  
5 herein shall be embossed with the name, date of birth, the  
6 date of issuance, and other pertinent information as deemed  
7 necessary by the commission. A certified copy of the  
8 applicant's birth certificate shall accompany all applications  
9 for a lifetime license for residents 12 years of age and  
10 younger. Each applicant for a license, permit, or  
11 authorization shall provide the applicant's social security  
12 number on the application form. Disclosure of social security  
13 numbers obtained through this requirement shall be limited to  
14 the purpose of administration of the Title IV-D child support  
15 enforcement program and use by the commission, and as  
16 otherwise provided by law.

17 (1) A license or permit is not required for:

18 (g) Any person fishing who has been accepted as a  
19 client for developmental services by the Department of  
20 Children and Family Health and Rehabilitative Services, which  
21 department shall furnish such person proof thereof.

22 Section 66. Subsection (3) of section 372.6672,  
23 Florida Statutes, 1998 Supplement, is amended to read:

24 372.6672 Alligator management and trapping program  
25 implementation; commission authority.--

26 (3) The powers and duties of the commission hereunder  
27 shall not be construed so as to supersede the regulatory  
28 authority or lawful responsibility of the Department of Health  
29 ~~and Rehabilitative Services~~, the Department of Agriculture and  
30 Consumer Services, or any local governmental entity regarding

31

1 the processing or handling of food products, but shall be  
2 deemed supplemental thereto.

3 Section 67. Paragraph (b) of subsection (1) of section  
4 373.309, Florida Statutes, is amended to read:

5 373.309 Authority to adopt rules and procedures.--

6 (1) The department shall adopt, and may from time to  
7 time amend, rules governing the location, construction,  
8 repair, and abandonment of water wells and shall be  
9 responsible for the administration of this part. With respect  
10 thereto, the department shall:

11 (b) Delegate, by interagency agreement adopted  
12 pursuant to s. 373.046, to water management districts, the  
13 Department of Health ~~and Rehabilitative Services~~, or any other  
14 political subdivision any of its authority under this part in  
15 the administration of the rules adopted hereunder under such  
16 terms and conditions as may be agreed upon, and may rescind  
17 such delegation upon a determination that the program is not  
18 being adequately administered.

19 Section 68. Paragraph (c) of subsection (3) of section  
20 376.30, Florida Statutes, 1998 Supplement, is amended to read:

21 376.30 Legislative intent with respect to pollution of  
22 surface and ground waters.--

23 (3) The Legislature intends by the enactment of ss.  
24 376.30-376.319 to exercise the police power of the state by  
25 conferring upon the Department of Environmental Protection the  
26 power to:

27 (c) Establish a program which will enable the  
28 department to:

29 1. Provide for expeditious restoration or replacement  
30 of potable water systems or potable private wells of affected  
31 persons where health hazards exist due to contamination from

1 pollutants (which may include provision of bottled water on a  
2 temporary basis, after which a more stable and convenient  
3 source of potable water shall be provided) and hazardous  
4 substances, subject to the following conditions:

5         a. For the purposes of this subparagraph, the term  
6 "restoration" means restoration of a contaminated potable  
7 water supply to a level which meets applicable water quality  
8 standards or applicable water quality criteria, as adopted by  
9 rule, for the contaminant or contaminants present in the water  
10 supply, or, where no such standards or criteria have been  
11 adopted, to a level that is determined to be a safe, potable  
12 level by the State Health Officer in the Department of Health  
13 ~~and Rehabilitative Services~~, through the installation of a  
14 filtration system and provision of replacement filters as  
15 necessary or through employment of repairs or another  
16 treatment method or methods designed to remove or filter out  
17 contamination from the water supply; and the term  
18 "replacement" means replacement of a well or well field or  
19 connection to an alternative source of safe, potable water.

20         b. For the purposes of the Inland Protection Trust  
21 Fund and the drycleaning facility restoration funds in the  
22 Water Quality Assurance Trust Fund as provided in s. 376.3078,  
23 such restoration or replacement shall take precedence over  
24 other uses of the unobligated moneys within the fund after  
25 payment of amounts appropriated annually from the Inland  
26 Protection Trust Fund for payments under any service contract  
27 entered into by the department pursuant to s. 376.3075.

28         c. Funding for activities described in this  
29 subparagraph shall not exceed \$10 million for any one county  
30 for any one year, other than for the provision of bottled  
31 water.

1           d. Funding for activities described in this  
2 subparagraph shall not be available to fund any increase in  
3 the capacity of a potable water system or potable private well  
4 over the capacity which existed prior to such restoration or  
5 replacement, unless such increase is the result of the use of  
6 a more cost-effective alternative than other alternatives  
7 available.

8           2. Provide for the inspection and supervision of  
9 activities described in this subsection.

10           3. Guarantee the prompt payment of reasonable costs  
11 resulting therefrom, including those administrative costs  
12 incurred by the Department of Health ~~and Rehabilitative~~  
13 ~~Services~~ in providing field and laboratory services,  
14 toxicological risk assessment, and other services to the  
15 department in the investigation of drinking water  
16 contamination complaints.

17           Section 69. Paragraph (g) of subsection (4) of section  
18 376.3071, Florida Statutes, is amended to read:

19           376.3071 Inland Protection Trust Fund; creation;  
20 purposes; funding.--

21           (4) USES.--Whenever, in its determination, incidents  
22 of inland contamination related to the storage of petroleum or  
23 petroleum products may pose a threat to the environment or the  
24 public health, safety, or welfare, the department shall  
25 obligate moneys available in the fund to provide for:

26           (g) Payment of any other reasonable costs of  
27 administration, including those administrative costs incurred  
28 by the Department of Health ~~and Rehabilitative Services~~ in  
29 providing field and laboratory services, toxicological risk  
30 assessment, and other assistance to the department in the  
31 investigation of drinking water contamination complaints and

1 costs associated with public information and education  
2 activities.

3  
4 The Inland Protection Trust Fund may only be used to fund the  
5 activities in ss. 376.30-376.319 except ss. 376.3078 and  
6 376.3079. Amounts on deposit in the Inland Protection Trust  
7 Fund in each fiscal year shall first be applied or allocated  
8 for the payment of amounts payable by the department pursuant  
9 to paragraph (o) under a service contract entered into by the  
10 department pursuant to s. 376.3075 and appropriated in each  
11 year by the Legislature prior to making or providing for other  
12 disbursements from the fund. Nothing in this subsection shall  
13 authorize the use of the Inland Protection Trust Fund for  
14 cleanup of contamination caused primarily by a discharge of  
15 solvents as defined in s. 206.9925(6), or polychlorinated  
16 biphenyls when their presence causes them to be hazardous  
17 wastes, except solvent contamination which is the result of  
18 chemical or physical breakdown of petroleum products and is  
19 otherwise eligible. Facilities used primarily for the storage  
20 of motor or diesel fuels as defined in ss. 206.01 and 206.86  
21 shall be presumed not to be excluded from eligibility pursuant  
22 to this section.

23 Section 70. Subsection (3) of section 377.712, Florida  
24 Statutes, is amended to read:

25 377.712 Florida participation.--

26 (3) The department, agencies and officers of this  
27 state, and its subdivisions are authorized to cooperate with  
28 the board in the furtherance of any of its activities pursuant  
29 to the compact, provided such proposed activities have been  
30 made known to, and have the approval of, either the Governor  
31 or the Department of Health ~~and Rehabilitative Services.~~



1           Section 71. Paragraph (a) of subsection (22) of  
2 section 380.05, Florida Statutes, 1998 Supplement, is amended  
3 to read:

4           380.05 Areas of critical state concern.--

5           (22) All state agencies with rulemaking authority for  
6 programs that affect a designated area of critical state  
7 concern shall review those programs for consistency with the  
8 purpose of the designation and principles for guiding  
9 development, and shall adopt specific permitting standards and  
10 criteria applicable in the designated area, or otherwise amend  
11 the program, as necessary to further the purpose of the  
12 designation.

13           (a)1. Within 6 months after the effective date of the  
14 rule or statute that designates an area of critical state  
15 concern, and at any time thereafter as directed by the  
16 Administration Commission, the Department of Environmental  
17 Protection, the Department of Health ~~and Rehabilitative~~  
18 ~~Services~~, the water management districts with jurisdiction  
19 over any portion of the area of critical state concern, and  
20 any other state agency specified in the designation rule,  
21 shall each submit a report to the Administration Commission,  
22 and a copy of the report to the state land planning agency.  
23 The report shall evaluate the effect of the reporting agency's  
24 programs upon the purpose of the designation.

25           2. If different permitting standards or criteria, or  
26 other changes to the program, are necessary in order to  
27 further the purpose of the designation, the report shall  
28 recommend rules which further that purpose and which are  
29 consistent with the principles for guiding development. The  
30 report shall explain and justify the reasons for any different  
31 permitting standards or criteria that may be recommended. The

1 commission shall reject the agency's recommendation, or accept  
2 it with or without modification and direct the agency to adopt  
3 rules, including any changes. Any rule adopted pursuant to  
4 this paragraph shall be consistent with the principles for  
5 guiding development, and shall apply only within the boundary  
6 of the designated area. The agency shall file a copy of the  
7 adopted rule with the Administration Commission and the state  
8 land planning agency.

9           3. If statutory changes are required in order to  
10 implement the permitting standards or criteria that are  
11 necessary to further the purpose of the designation, the  
12 report shall recommend statutory amendments. The  
13 Administration Commission shall submit any report that  
14 recommends statutory amendments to the President of the Senate  
15 and the Speaker of the House of Representatives, together with  
16 the Administration Commission's recommendation on the proposed  
17 amendments.

18           Section 72. Paragraphs (c) and (d) of subsection (10)  
19 of section 380.0555, Florida Statutes, 1998 Supplement, are  
20 amended to read:

21           380.0555 Apalachicola Bay Area; protection and  
22 designation as area of critical state concern.--

23           (10) REQUIREMENTS; LOCAL GOVERNMENTS.--

24           (c)1. The Department of Health ~~and Rehabilitative~~  
25 ~~Services~~ shall survey all septic tank soil-absorption systems  
26 in the Apalachicola Bay Area to determine their suitability as  
27 onsite sewage treatment systems. Within 6 months from June  
28 18, 1985, Franklin County and the municipalities within it,  
29 after consultation with the Department of Health ~~and~~  
30 ~~Rehabilitative Services~~ and the Department of Environmental  
31 Regulation, shall develop a program designed to correct any

1 onsite sewage treatment systems that might endanger the water  
2 quality of the bay.

3           2. Franklin County and the municipalities within it  
4 shall, within 9 months from June 18, 1985, enact by ordinance  
5 procedures implementing this program. These procedures shall  
6 include notification to owners of unacceptable septic tanks  
7 and procedures for correcting unacceptable septic tanks.  
8 These ordinances shall not be effective until approved by the  
9 Department of Health ~~and Rehabilitative Services~~ and the  
10 Department of Environmental Regulation.

11           (d) Franklin County and the municipalities within it  
12 shall, within 12 months from June 18, 1985, establish by  
13 ordinance a map of "pollution-sensitive segments of the  
14 critical shoreline" within the Apalachicola Bay Area, which  
15 ordinance shall not be effective until approved by the  
16 Department of Health ~~and Rehabilitative Services~~ and the  
17 Department of Environmental Regulation. Franklin County and  
18 the municipalities within it, after the effective date of  
19 these ordinances, shall no longer grant permits for onsite  
20 wastewater disposal systems in pollution-sensitive segments of  
21 the critical shoreline, except for those onsite wastewater  
22 systems that will not degrade water quality in the river or  
23 bay. These ordinances shall not become effective until  
24 approved by the resource planning and management committee.  
25 Until such ordinances become effective, the Franklin County  
26 Health Department shall not give a favorable recommendation to  
27 the granting of a septic tank variance pursuant to section (1)  
28 of Ordinance 79-8, adopted on June 22, 1979, by the Franklin  
29 County Board of County Commissioners and filed with the  
30 Secretary of State on June 27, 1979, or issue a permit for a  
31 septic tank or alternative waste disposal system pursuant to

1 Ordinance 81-5, adopted on June 22, 1981, by the Franklin  
2 County Board of County Commissioners and filed with the  
3 Secretary of State on June 30, 1981, as amended as set forth  
4 in subparagraph (9)(a)2., unless the Franklin County Health  
5 Department certifies, in writing, that the use of such system  
6 will be consistent with paragraph (8)(f) and subsection (9).

7 Section 73. Subsection (1) of section 408.601, Florida  
8 Statutes (renumbered as section 381.731, 1998 Supplement), is  
9 amended to read:

10 381.731 Healthy Communities, Healthy People Plan.--

11 (1) The Department of Health ~~and Rehabilitative~~  
12 ~~Services~~ shall develop a biennial Healthy Communities, Healthy  
13 People Plan that shall be submitted to the Governor, the  
14 President of the Senate, and the Speaker of the House of  
15 Representatives by December 31 of each even-numbered year.

16 Section 74. Subsection (1) of section 408.603, Florida  
17 Statutes (renumbered as section 381.733, 1998 Supplement), is  
18 amended to read:

19 381.733 Definitions.--As used in ss. 408.601-408.604,  
20 the term:

21 (1) "Department" means the Department of Health ~~and~~  
22 ~~Rehabilitative Services~~.

23 Section 75. Section 383.0113, Florida Statutes, is  
24 amended to read:

25 383.0113 Commission on Responsible Fatherhood;  
26 creation; membership; powers and duties.--There is created the  
27 Commission on Responsible Fatherhood in the Department of  
28 Children and Family ~~Health and Rehabilitative~~ Services.

29 (1) The commission shall consist of not more than 25  
30 members, as follows:

31 (a) Seven members to be appointed by the Governor.

1           (b) The executive director of the Florida Center for  
2 Children and Youth or the director's designee.

3           (c) The executive director of the Florida Coalition  
4 Against Domestic Violence or the director's designee.

5           (d) A judge, to be appointed by the Chief Justice of  
6 the Supreme Court.

7           (e) A representative of Healthy Start, to be chosen by  
8 the Florida Association of Healthy Start Coalitions.

9           (f) Two members of the House of Representatives, to be  
10 appointed by the Speaker.

11           (g) Two members of the Senate, to be appointed by the  
12 President.

13           (h) A representative from the Florida Association of  
14 Deans and Directors of Schools and departments of social work  
15 from Florida colleges and universities.

16           (i) A representative of the Florida chapter of the  
17 National Congress for Fathers and Children.

18           (j) A representative of Men Against Destruction,  
19 Defending Against Drugs and Social Disorder (MAD DADS).

20           (k) A representative of the Family Law Section of The  
21 Florida Bar Association.

22           (l) A representative of the American Association of  
23 Retired Persons.

24           (m) A representative of the Florida Chamber of  
25 Commerce.

26           (n) A representative from the Florida Family Council.

27           (o) Three additional members to be appointed by the  
28 other members of the commission based on specific needs.

29           (2) Technical assistance will be provided to the  
30 commission by the following:

31

1           (a) The Secretary of Children and Family Health and  
2 ~~Rehabilitative~~ Services, or the secretary's designee.

3           (b) The Commissioner of Education, or the  
4 commissioner's designee.

5           (c) The Secretary of Labor and Employment Security, or  
6 the secretary's designee.

7           (d) The executive director of the Department of  
8 Revenue, or the director's designee. The designee shall have  
9 experience with child support enforcement programs.

10           (e) A representative of The Parent Network of Florida.

11           (f) A representative of the Florida Network of Youth  
12 and Family Services.

13

14 Per diem and travel expenses for the individuals providing  
15 technical assistance is to be provided from the budgets of  
16 those agencies.

17           (3) All members of the commission, other than the  
18 Governor's appointments and the commission's appointments,  
19 must be appointed within 30 days after this section, s.  
20 383.0112, and s. 383.0114 become law. The appointments of the  
21 Governor shall be made 30 days after the other appointments,  
22 to allow for the composition of the commission to be broadly  
23 reflective of the public. The chairperson and vice  
24 chairperson of the commission shall be appointed by the  
25 Governor. The commission is encouraged to appoint  
26 subcommittees, including regional subcommittees, that include  
27 citizens who are knowledgeable in a subject area but who are  
28 not members of the commission and who may not vote on the  
29 final report and recommendations of the commission, but may  
30 submit reports and recommendations for review by the

31

1 commission and may be invited to testify to the commission by  
2 a member of the commission.

3 (4) The commission shall hold its first meeting within  
4 30 days after the appointments, except the Governor's and the  
5 commission's appointments, are made. Members of the commission  
6 shall serve without compensation but shall be allowed per diem  
7 and travel expenses, as provided in s. 112.061. Per diem and  
8 travel expenses of members of the commission employed by the  
9 State of Florida are to be provided from the budgets of those  
10 employing agencies. Members of the commission who serve as  
11 members of the Legislature are to be reimbursed from the  
12 legislative budget.

13 (5) The commission shall meet as the resources of the  
14 commission allow.

15 (6) Subject to the availability of funds, the  
16 Department of Children and Family ~~Health and Rehabilitative~~  
17 Services is directed to contract with one or more  
18 corporations, agencies, individuals, or governmental entities  
19 to accomplish the goals of s. 383.0112 and this section. The  
20 Department of Children and Family ~~Health and Rehabilitative~~  
21 Services must ensure that the corporations, agencies,  
22 individuals, or governmental entities, either separately or  
23 together, are able to provide staff support services and must  
24 have the research ability to carry out the purposes and  
25 responsibilities of the commission.

26 (7) The commission shall have the authority to apply  
27 for grants and accept private contributions.

28 (8) The commission is assigned to the Department of  
29 Children and Family ~~Health and Rehabilitative~~ Services for  
30 administrative and fiscal accountability purposes, but it  
31

1 shall otherwise function independently of the control,  
2 supervision, and direction of the department.

3 (9) The Governor may remove any member of the  
4 commission for cause.

5 (10) The commission shall develop a budget pursuant to  
6 the provisions of chapter 216. The budget is not subject to  
7 change by the department staff after it has been approved by  
8 the commission, but it shall be transmitted to the Governor  
9 along with the budget of the department.

10 Section 76. Subsection (1) of section 383.335, Florida  
11 Statutes, is amended to read:

12 383.335 Partial exemptions.--

13 (1) Any facility which was providing obstetrical and  
14 gynecological surgical services and was owned and operated by  
15 a board-certified obstetrician on June 15, 1984, and which is  
16 otherwise subject to licensure under ss. 383.30-383.335 as a  
17 birth center, is exempt from the provisions of ss.

18 383.30-383.335 which restrict the provision of surgical  
19 services and outlet forceps delivery and the administration of  
20 anesthesia at birth centers. The agency ~~department~~ shall adopt  
21 rules specifically related to the performance of such services  
22 and the administration of anesthesia at such facilities.

23 Section 77. Subsections (2) and (3) of section  
24 383.336, Florida Statutes, are amended to read:

25 383.336 Provider hospitals; practice parameters; peer  
26 review board.--

27 (2) The Office of the Secretary of Health ~~Deputy~~  
28 ~~Secretary for Health of the Department of Health and~~  
29 ~~Rehabilitative Services~~, in consultation with the Board of  
30 Medicine and the Florida Obstetric and Gynecologic Society, is  
31 directed to establish practice parameters to be followed by



1 physicians in provider hospitals in performance of a caesarean  
2 section delivery when the delivery will be paid partly or  
3 fully by state funds or federal funds administered by the  
4 state. These parameters shall be directed to reduce the  
5 number of unnecessary caesarean section deliveries. These  
6 practice parameters shall address, at a minimum, the  
7 following: feasibility of attempting a vaginal delivery for  
8 each patient with a prior caesarean section; dystocia,  
9 including arrested dilation and prolonged deceleration phase;  
10 fetal distress; and fetal malposition. The Department of  
11 Health ~~and Rehabilitative Services~~ shall adopt rules to  
12 implement the provisions of this subsection.

13 (3) Each provider hospital shall establish a peer  
14 review board consisting of obstetric physicians and other  
15 persons having credentials within that hospital to perform  
16 deliveries by caesarean section. This board shall review, at  
17 least monthly, every caesarean section performed since the  
18 previous review and paid for by state funds or federal funds  
19 administered by the state. The board shall conduct its review  
20 pursuant to the parameters specified in the rule adopted by  
21 the Department of Health ~~and Rehabilitative Services~~ pursuant  
22 to this act and shall pay particular attention to electronic  
23 fetal monitoring records, umbilical cord gas results, and  
24 Apgar scores in determining if the caesarean section delivery  
25 was appropriate. The results of this periodic review must be  
26 shared with the attending physician. These reviews and the  
27 resultant reports must be considered a part of the hospital's  
28 quality assurance monitoring and peer review process  
29 established pursuant to s. 395.0193.

30 Section 78. Subsections (1) and (4) of section  
31 390.0112, Florida Statutes, are amended to read:

1           390.0112 Termination of pregnancies; reporting.--

2           (1) The director of any medical facility in which any  
3 pregnancy is terminated shall submit a monthly report which  
4 contains the number of procedures performed, the reason for  
5 same, and the period of gestation at the time such procedures  
6 were performed to the agency department. The ~~agency department~~  
7 shall be responsible for keeping such reports in a central  
8 place from which statistical data and analysis can be made.

9           (4) Any person required under this section to file a  
10 report or keep any records who willfully fails to file such  
11 report or keep such records may be subject to a \$200 fine for  
12 each violation. The agency department shall be required to  
13 impose such fines when reports or records required under this  
14 section have not been timely received. For purposes of this  
15 section, timely received is defined as 30 days following the  
16 preceding month.

17           Section 79. Subsection (5) of section 393.002, Florida  
18 Statutes, is amended to read:

19           393.002 Transfer of Florida Developmental Disabilities  
20 Council as formerly created in this chapter to private  
21 nonprofit corporation.--

22           (5) Pursuant to the applicable provisions of chapter  
23 284, the Division of Risk Management of the Department of  
24 Insurance is authorized to insure this nonprofit corporation  
25 under the same general terms and conditions as the Florida  
26 Developmental Disabilities Council was insured in the  
27 Department of Children and Family ~~Health and Rehabilitative~~  
28 Services by the division prior to the transfer of its  
29 functions authorized by this section.

30           Section 80. Subsection (11) of section 393.063,  
31 Florida Statutes, 1998 Supplement, is amended to read:

1           393.063 Definitions.--For the purposes of this  
2 chapter:

3           (11) "Department" means the Department of Children and  
4 Family Health and Rehabilitative Services.

5           Section 81. Subsections (1) and (2), paragraph (b) of  
6 subsection (4), and subsection (5) of section 393.064, Florida  
7 Statutes, are amended to read:

8           393.064 Prevention.--

9           (1) The Department of Children and Family Health and  
10 Rehabilitative Services, in carrying out its assigned purpose  
11 under s. 20.19(1) of preventing to the maximum extent possible  
12 the occurrence and incidence of physical and mental diseases  
13 and disabilities, shall give priority to the development,  
14 planning, and implementation of programs which have the  
15 potential to prevent, correct, cure, or reduce the severity of  
16 developmental disabilities. The department shall direct an  
17 interdepartmental and interprogram effort for the continued  
18 development of a prevention plan and program. The department  
19 shall identify, through demonstration projects, through  
20 departmental program evaluation, and through monitoring of  
21 programs and projects conducted outside of the department, any  
22 medical, social, economic, or educational methods, techniques,  
23 or procedures which have the potential to effectively  
24 ameliorate, correct, or cure developmental disabilities. The  
25 department shall determine the costs and benefits that would  
26 be associated with such prevention efforts and shall  
27 implement, or recommend the implementation of, those methods,  
28 techniques, or procedures which are found likely to be  
29 cost-beneficial. The department in its legislative budget  
30 request shall identify funding needs for such prevention  
31 programs.

1           (2) Prevention services provided by the developmental  
2 services program include services to high-risk and  
3 developmentally disabled children from birth to 5 years of  
4 age, and their families, to meet the intent of chapter 411.  
5 Such services shall include individual evaluations or  
6 assessments necessary to diagnose a developmental disability  
7 or high-risk condition and to determine appropriate individual  
8 family and support services, unless evaluations or assessments  
9 are the responsibility of the Division of Children's Medical  
10 Services ~~program~~ for children ages birth to 3 years eligible  
11 for services under this chapter or part H of the Individuals  
12 with Disabilities Education Act, and may include:

13           (a) Early intervention services, including  
14 developmental training and specialized therapies. Early  
15 intervention services, which are the responsibility of the  
16 Division of Children's Medical Services ~~program~~ for children  
17 ages birth to 3 years who are eligible for services under this  
18 chapter or under part H of the Individuals with Disabilities  
19 Education Act, shall not be provided through the developmental  
20 services program unless funding is specifically appropriated  
21 to the developmental services program for this purpose.

22           (b) Support services, such as respite care, parent  
23 education and training, parent-to-parent counseling, homemaker  
24 services, and other services which allow families to maintain  
25 and provide quality care to children in their homes. The  
26 Division of Children's Medical Services ~~program~~ is responsible  
27 for the provision of services to children from birth to 3  
28 years who are eligible for services under this chapter.

29           (4) There is created at the developmental services  
30 institution in Gainesville a research and education unit.

31

1 Such unit shall be named the Raymond C. Philips Research and  
2 Education Unit. The functions of such unit shall include:

3 (b) Ensuring that new knowledge is rapidly  
4 disseminated throughout the developmental services program of  
5 the Department of Children and Family Health and  
6 ~~Rehabilitative~~ Services.

7 (5) The Department of Children and Family Health and  
8 ~~Rehabilitative~~ Services shall have the authority, within  
9 available resources, to contract for the supervision and  
10 management of the Raymond C. Philips Research and Education  
11 Unit, and such contract shall include specific program  
12 objectives.

13 Section 82. Subsection (1) of section 393.065, Florida  
14 Statutes, is amended to read:

15 393.065 Application and eligibility determination.--

16 (1) Application for services shall be made in writing  
17 to the Department of Children and Family Health and  
18 ~~Rehabilitative~~ Services, in the district in which the  
19 applicant resides. Employees of the department's developmental  
20 services program shall review each applicant for eligibility  
21 within 45 days of the date the application is signed for  
22 children under 6 years of age and within 60 days of the date  
23 the application is signed for all other applicants. When  
24 necessary to definitively identify individual conditions or  
25 needs, the department shall provide a comprehensive  
26 assessment. Only individuals whose domicile is in Florida  
27 shall be eligible for services. Information accumulated by  
28 other agencies, including professional reports and collateral  
29 data, shall be considered in this process when available.

30 Section 83. Subsection (1) of section 393.066, Florida  
31 Statutes, 1998 Supplement, is amended to read:

1           393.066 Community services and treatment for persons  
2 who are developmentally disabled.--

3           (1) The Department of Children and Family Health and  
4 ~~Rehabilitative~~ Services shall plan, develop, organize, and  
5 implement its programs of services and treatment for persons  
6 who are developmentally disabled along district lines. The  
7 goal of such programs shall be to allow clients to live as  
8 independently as possible in their own homes or communities  
9 and to achieve productive lives as close to normal as  
10 possible.

11           Section 84. Subsections (3) and (9) of section  
12 393.067, Florida Statutes, 1998 Supplement, are amended to  
13 read:

14           393.067 Licensure of residential facilities and  
15 comprehensive transitional education programs.--

16           (3) An application for a license for a residential  
17 facility or a comprehensive transitional education program  
18 shall be made to the Department of Children and Family Health  
19 ~~and Rehabilitative~~ Services on a form furnished by it and  
20 shall be accompanied by the appropriate license fee.

21           (9) The department and the Agency for Health Care  
22 Administration, after consultation with the Department of  
23 Community Affairs, shall adopt rules for residential  
24 facilities under the respective regulatory jurisdiction of  
25 each establishing minimum standards for the preparation and  
26 annual update of a comprehensive emergency management plan.  
27 At a minimum, the rules must provide for plan components that  
28 address emergency evacuation transportation; adequate  
29 sheltering arrangements; postdisaster activities, including  
30 emergency power, food, and water; postdisaster transportation;  
31 supplies; staffing; emergency equipment; individual

1 identification of residents and transfer of records; and  
2 responding to family inquiries. The comprehensive emergency  
3 management plan for all intermediate care facilities for the  
4 developmentally disabled, facilities serving seven or more  
5 people, and homes serving individuals who have complex medical  
6 conditions is subject to review and approval by the local  
7 emergency management agency. During its review, the local  
8 emergency management agency shall ensure that the following  
9 agencies, at a minimum, are given the opportunity to review  
10 the plan: the Agency for Health Care Administration, the  
11 Department of Children and Family Health and Rehabilitative  
12 ~~Services~~, and the Department of Community Affairs. Also,  
13 appropriate volunteer organizations must be given the  
14 opportunity to review the plan. The local emergency  
15 management agency shall complete its review within 60 days and  
16 either approve the plan or advise the facility of necessary  
17 revisions.

18 Section 85. Subsection (1) of section 393.0673,  
19 Florida Statutes, is amended to read:

20 393.0673 Denial, suspension, revocation of license;  
21 moratorium on admissions; administrative fines; procedures.--

22 (1) The Department of Children and Family Health and  
23 ~~Rehabilitative~~ Services may deny, revoke, or suspend a license  
24 or impose an administrative fine, not to exceed \$500 per  
25 violation per day, for a violation of any provision of s.  
26 393.0655 or s. 393.067 or rules promulgated pursuant thereto.  
27 All hearings shall be held within the county in which the  
28 licensee or applicant operates or applies for a license to  
29 operate a facility as defined herein.

30 Section 86. Subsection (1) of section 393.0675,  
31 Florida Statutes, is amended to read:

1           393.0675 Injunctive proceedings authorized.--

2           (1) The Department of Children and Family Health and  
3 ~~Rehabilitative~~ Services may institute injunctive proceedings  
4 in a court of competent jurisdiction to:

5           (a) Enforce the provisions of this chapter or any  
6 minimum standard, rule, regulation, or order issued or entered  
7 pursuant thereto; or

8           (b) Terminate the operation of facilities licensed  
9 pursuant to this chapter when any of the following conditions  
10 exist:

11           1. Failure by the facility to take preventive or  
12 corrective measures in accordance with any order of the  
13 department.

14           2. Failure by the facility to abide by any final order  
15 of the department once it has become effective and binding.

16           3. Any violation by the facility constituting an  
17 emergency requiring immediate action as provided in s.  
18 393.0673.

19           Section 87. Section 393.071, Florida Statutes, is  
20 amended to read:

21           393.071 Client fees.--The Department of Children and  
22 Family Health and Rehabilitative Services shall charge fees  
23 for services provided to clients in accordance with s. 402.33.

24           Section 88. Subsection (2) of section 393.075, Florida  
25 Statutes, is amended to read:

26           393.075 General liability coverage.--

27           (2) The Division of Risk Management of the Department  
28 of Insurance shall provide coverage through the Department of  
29 Children and Family Health and Rehabilitative Services to any  
30 person who owns or operates a foster care facility or group  
31 home facility solely for the Department of Children and Family



1 ~~Health and Rehabilitative~~ Services, who cares for children  
2 placed by developmental services staff of the department, and  
3 who is licensed pursuant to s. 393.067 to provide such  
4 supervision and care in his or her place of residence. The  
5 coverage shall be provided from the general liability account  
6 of the Florida Casualty Insurance Risk Management Trust Fund.  
7 The coverage is limited to general liability claims arising  
8 from the provision of supervision and care of children in a  
9 foster care facility or group home facility pursuant to an  
10 agreement with the department and pursuant to guidelines  
11 established through policy, rule, or statute. Coverage shall  
12 be subject to the limits provided in ss. 284.38 and 284.385,  
13 and the exclusions set forth therein, together with other  
14 exclusions as may be set forth in the certificate of coverage  
15 issued by the trust fund. A person covered under the general  
16 liability account pursuant to this subsection shall  
17 immediately notify the Division of Risk Management of the  
18 Department of Insurance of any potential or actual claim.

19 Section 89. Subsection (1) of section 393.11, Florida  
20 Statutes, 1998 Supplement, is amended to read:

21 393.11 Involuntary admission to residential  
22 services.--

23 (1) JURISDICTION.--When a person is mentally retarded  
24 and requires involuntary admission to residential services  
25 provided by the developmental services program of the  
26 Department of Children and Family ~~Health and Rehabilitative~~  
27 Services, the circuit court of the county in which the person  
28 resides shall have jurisdiction to conduct a hearing and enter  
29 an order involuntarily admitting the person in order that the  
30 person may receive the care, treatment, habilitation, and  
31 rehabilitation which the person needs. For the purpose of

1 identifying mental retardation, diagnostic capability shall be  
2 established in every program function of the department in the  
3 districts, including, but not limited to, programs provided by  
4 children and families; delinquency services; alcohol, drug  
5 abuse, and mental health; and economic services, and by the  
6 Division of Vocational Rehabilitation of the Department of  
7 Labor and Employment Security. Except as otherwise specified,  
8 the proceedings under this section shall be governed by the  
9 Florida Rules of Civil Procedure.

10 Section 90. Subsection (6) of section 393.13, Florida  
11 Statutes, is amended to read:

12 393.13 Personal treatment of persons who are  
13 developmentally disabled.--

14 (6) NOTICE OF RIGHTS.--Each person with developmental  
15 disabilities, if competent, or parent or legal guardian of  
16 such person if the person is incompetent, shall promptly  
17 receive from the Department of Children and Family Health and  
18 ~~Rehabilitative~~ Services or the Department of Education a  
19 written copy of this act. Each person with developmental  
20 disabilities able to comprehend shall be promptly informed, in  
21 the language or other mode of communication which such person  
22 understands, of the above legal rights of persons with  
23 developmental disabilities.

24 Section 91. Subsection (3) of section 393.15, Florida  
25 Statutes, is amended to read:

26 393.15 Legislative intent; Community Resources  
27 Development Trust Fund.--

28 (3) There is created a Community Resources Development  
29 Trust Fund in the State Treasury to be used by the Department  
30 of Children and Family Health and Rehabilitative Services for  
31 the purpose of granting loans to eligible programs for the

1 initial costs of development of the programs. Loans shall be  
2 made only to those facilities which are in compliance with the  
3 zoning regulations of the local community. Costs of  
4 development may include structural modification, the purchase  
5 of equipment and fire and safety devices, preoperational staff  
6 training, and the purchase of insurance. Such costs shall not  
7 include the actual construction of a facility.

8 Section 92. Subsection (1) of section 393.31, Florida  
9 Statutes, is amended to read:

10 393.31 Department authorized to contract with  
11 rehabilitation workshop facility.--

12 (1) Whenever it appears to the satisfaction of the  
13 Department of Children and Family ~~Health and Rehabilitative~~  
14 Services that a developmentally disabled person over the age  
15 of 16 years can reasonably be expected to benefit from, or if  
16 his or her best interests reasonably require, extended  
17 employment in a rehabilitation workshop facility operated by  
18 an approved nonprofit organization, the department is  
19 authorized to contract with the organization for the  
20 furnishing of extended employment to the developmentally  
21 disabled person.

22 Section 93. Subsection (2) of section 393.32, Florida  
23 Statutes, is amended to read:

24 393.32 Eligibility and standards of service.--

25 (2) The determination of developmental disability  
26 shall be made by the Department of Children and Family ~~Health~~  
27 ~~and Rehabilitative~~ Services upon the basis of psychological or  
28 medical records on file in the rehabilitation workshop  
29 facility that provide suitable and adequate evidence of the  
30 developmental disability. The psychological or medical  
31 records which determine the condition of developmental

1 disability shall not be more than 2 years old at the time of  
2 application by the facility for the support of such person.  
3 The department may require reexamination of a person by the  
4 facility in order to revalidate developmental disability.

5 Section 94. Subsection (1) of section 393.502, Florida  
6 Statutes, is amended to read:

7 393.502 Family care councils.--

8 (1) CREATION; APPOINTMENT.--There shall be established  
9 and located within each service district of the Department of  
10 Children and Family ~~Health and Rehabilitative~~ Services a  
11 family care council. The council shall consist of nine  
12 persons recommended and appointed by the district health and  
13 human services board. One-half of the members of the council  
14 must be consumers who are family members or legal guardians of  
15 persons with developmental disabilities. At least one-half of  
16 the members of the council shall be current consumers of  
17 developmental services. A chairperson for the council must be  
18 chosen by the members to serve for 1 year. Members shall be  
19 appointed for a 2-year term and may be reappointed to not more  
20 than one additional term. A person who is currently serving on  
21 another board or council of the department may not be  
22 appointed to a family care council.

23 Section 95. Section 393.503, Florida Statutes, is  
24 amended to read:

25 393.503 Respite and family care subsidy expenditures;  
26 funding.--The Department of Children and Family ~~Health and~~  
27 ~~Rehabilitative~~ Services shall determine the amount of  
28 expenditures per fiscal year for the respite and family care  
29 subsidy to families and individuals with developmental  
30 disabilities living in their own homes. This information  
31 shall be made available to the family care councils and to

1 others requesting the information. The family care councils  
2 shall review the expenditures and make recommendations to the  
3 health and human services board with respect to any new funds  
4 that are made available for family care.

5 Section 96. Section 394.453, Florida Statutes, is  
6 amended to read:

7 394.453 Legislative intent.--It is the intent of the  
8 Legislature to authorize and direct the Department of Children  
9 and Family ~~Health and Rehabilitative~~ Services to evaluate,  
10 research, plan, and recommend to the Governor and the  
11 Legislature programs designed to reduce the occurrence,  
12 severity, duration, and disabling aspects of mental,  
13 emotional, and behavioral disorders. It is the intent of the  
14 Legislature that treatment programs for such disorders shall  
15 include, but not be limited to, comprehensive health, social,  
16 educational, and rehabilitative services to persons requiring  
17 intensive short-term and continued treatment in order to  
18 encourage them to assume responsibility for their treatment  
19 and recovery. It is intended that such persons be provided  
20 with emergency service and temporary detention for evaluation  
21 when required; that they be admitted to treatment facilities  
22 on a voluntary basis when extended or continuing care is  
23 needed and unavailable in the community; that involuntary  
24 placement be provided only when expert evaluation determines  
25 that it is necessary; that any involuntary treatment or  
26 examination be accomplished in a setting which is clinically  
27 appropriate and most likely to facilitate the person's return  
28 to the community as soon as possible; and that individual  
29 dignity and human rights be guaranteed to all persons who are  
30 admitted to mental health facilities or who are being held  
31 under s. 394.463. It is the further intent of the Legislature

1 that the least restrictive means of intervention be employed  
2 based on the individual needs of each person, within the scope  
3 of available services.

4 Section 97. Subsection (1) of section 394.457, Florida  
5 Statutes, is amended to read:

6 394.457 Operation and administration.--

7 (1) ADMINISTRATION.--The Department of Children and  
8 Family Health and Rehabilitative Services is designated the  
9 "Mental Health Authority" of Florida. The department and the  
10 Agency for Health Care Administration shall exercise executive  
11 and administrative supervision over all mental health  
12 facilities, programs, and services.

13 Section 98. Paragraph (d) of subsection (2) of section  
14 394.4615, Florida Statutes, is amended to read:

15 394.4615 Clinical records; confidentiality.--

16 (2) The clinical record shall be released when:

17 (d) The patient is committed to, or is to be returned  
18 to, the Department of Corrections from the Department of  
19 Children and Family Health and Rehabilitative Services, and  
20 the Department of Corrections requests such records. These  
21 records shall be furnished without charge to the Department of  
22 Corrections.

23 Section 99. Paragraph (b) of subsection (1) of section  
24 394.4781, Florida Statutes, 1998 Supplement, is amended to  
25 read:

26 394.4781 Residential care for psychotic and  
27 emotionally disturbed children.--

28 (1) DEFINITIONS.--As used in this section:

29 (b) "Department" means the Department of Children and  
30 Family Health and Rehabilitative Services.

31

1           Section 100. Section 394.480, Florida Statutes, is  
2 amended to read:

3           394.480 Compact administrator.--Pursuant to said  
4 compact, the Secretary of Children and Family ~~Health and~~  
5 ~~Rehabilitative~~ Services shall be the compact administrator  
6 who, acting jointly with like officers of other party states,  
7 shall have power to promulgate rules and regulations to carry  
8 out more effectively the terms of the compact. The compact  
9 administrator is hereby authorized, empowered, and directed to  
10 cooperate with all departments, agencies, and officers of and  
11 in the government of this state and its subdivisions in  
12 facilitating the proper administration of the compact of any  
13 supplementary agreement or agreements entered into by this  
14 state thereunder.

15           Section 101. Subsections (3) and (7) of section  
16 394.66, Florida Statutes, are amended to read:

17           394.66 Legislative intent with respect to alcohol,  
18 drug abuse, and mental health services.--It is the intent of  
19 the Legislature to:

20           (3) Ensure that all activities of the Department of  
21 Children and Family ~~Health and Rehabilitative~~ Services and its  
22 contractors are directed toward the coordination of planning  
23 efforts in alcohol, drug abuse, and mental health treatment  
24 services.

25           (7) Include alcohol, drug abuse, and mental health  
26 services as a component of the integrated service delivery  
27 system of the Department of Children and Family ~~Health and~~  
28 ~~Rehabilitative~~ Services.

29           Section 102. Subsection (14) of section 395.002,  
30 Florida Statutes, 1998 Supplement, is amended to read:

31           395.002 Definitions.--As used in this chapter:

1           (14) "Hospital bed" means a hospital accommodation  
2 which is ready for immediate occupancy, or is capable of being  
3 made ready for occupancy within 48 hours, excluding provision  
4 of staffing, and which conforms to minimum space, equipment,  
5 and furnishings standards as specified by rule of the agency  
6 ~~department~~ for the provision of services specified in this  
7 section to a single patient.

8           Section 103. Subsections (1) and (3) of section  
9 395.1027, Florida Statutes, 1998 Supplement, are amended to  
10 read:

11           395.1027 Regional poison control centers.--

12           (1) There shall be created three accredited regional  
13 poison control centers, one each in the north, central, and  
14 southern regions of the state. Each regional poison control  
15 center shall be affiliated with and physically located in a  
16 certified Level I trauma center. Each regional poison control  
17 center shall be affiliated with an accredited medical school  
18 or college of pharmacy. The regional poison control centers  
19 shall be coordinated under the aegis of the Division of  
20 ~~Children's Medical Services Program Office~~ in the department.

21           (3) The Legislature hereby finds and declares that it  
22 is in the public interest to shorten the time required for a  
23 citizen to request and receive directly from designated  
24 regional poison control centers telephonic management advice  
25 for acute poisoning emergencies. To facilitate rapid and  
26 direct access, telephone numbers for designated regional  
27 poison control centers shall be given special prominence. The  
28 local exchange telecommunications companies shall print  
29 immediately below "911" or other emergency calling  
30 instructions on the inside front cover of the telephone  
31 directory the words "Poison Information Center," the logo of



1 the American Association of Poison Control Centers, and the  
2 telephone number of the local, if applicable, or, if not  
3 local, other toll-free telephone number of the Florida Poison  
4 Information Center Network. This information shall be outlined  
5 and be no less than 1 inch in height by 2 inches in width.  
6 Only those facilities satisfying criteria established in the  
7 current "Criteria for Certification of a Regional Poison  
8 Center" set by the American Association of Poison Control  
9 Centers, and the "Standards of the Poison Information Center  
10 Program" initiated by the Division of Children's Medical  
11 ~~Services Program Office~~ of the Department of Health and  
12 ~~Rehabilitative Services~~ shall be permitted to list such  
13 facility as a poison information center, poison control  
14 center, or poison center. Those centers under a developmental  
15 phase-in plan shall be given 2 years from the date of initial  
16 24-hour service implementation to comply with the  
17 aforementioned criteria and, as such, will be permitted to be  
18 listed as a poison information center, poison control center,  
19 or poison center during that allotted time period.

20 Section 104. Paragraph (c) of subsection (1) of  
21 section 395.1055, Florida Statutes, 1998 Supplement, is  
22 amended to read:

23 395.1055 Rules and enforcement.--

24 (1) The agency shall adopt rules pursuant to ss.  
25 120.536(1) and 120.54 to implement the provisions of this  
26 part, which shall include reasonable and fair minimum  
27 standards for ensuring that:

28 (c) A comprehensive emergency management plan is  
29 prepared and updated annually. Such standards must be  
30 included in the rules adopted by the agency after consulting  
31 with the Department of Community Affairs. At a minimum, the

1 rules must provide for plan components that address emergency  
2 evacuation transportation; adequate sheltering arrangements;  
3 postdisaster activities, including emergency power, food, and  
4 water; postdisaster transportation; supplies; staffing;  
5 emergency equipment; individual identification of residents  
6 and transfer of records, and responding to family inquiries.  
7 The comprehensive emergency management plan is subject to  
8 review and approval by the local emergency management agency.  
9 During its review, the local emergency management agency shall  
10 ensure that the following agencies, at a minimum, are given  
11 the opportunity to review the plan: the Department of Elderly  
12 Affairs, the Department of Health ~~and Rehabilitative Services~~,  
13 the Agency for Health Care Administration, and the Department  
14 of Community Affairs. Also, appropriate volunteer  
15 organizations must be given the opportunity to review the  
16 plan. The local emergency management agency shall complete  
17 its review within 60 days and either approve the plan or  
18 advise the facility of necessary revisions.

19 Section 105. Subsection (6) of section 395.1065,  
20 Florida Statutes, is amended to read:

21 395.1065 Criminal and administrative penalties;  
22 injunctions; emergency orders; moratorium.--

23 (6) In seeking to impose penalties against a facility  
24 as defined in s. 394.455 for a violation of part I of chapter  
25 394, the agency is authorized to rely on the investigation and  
26 findings by the Department of Health ~~and Rehabilitative~~  
27 ~~Services~~ in lieu of conducting its own investigation.

28 Section 106. Subsection (8) of section 395.4025,  
29 Florida Statutes, is amended to read:

30 395.4025 Selection of state-approved trauma centers.--

31

1           (8) Notwithstanding any provision of chapter 381, a  
2 hospital licensed under ss. 395.001-395.3025 that operates a  
3 state-approved trauma center may not terminate or  
4 substantially reduce the availability of trauma service  
5 without providing at least 6 months' notice of its intent to  
6 terminate such service. Such notice shall be given to the  
7 Department of Health ~~and Rehabilitative Services~~, to all  
8 affected local or regional trauma agencies, and to all  
9 state-approved trauma centers, hospitals, and emergency  
10 medical service providers in the trauma service area.

11           Section 107. Subsection (9) of section 397.311,  
12 Florida Statutes, 1998 Supplement, is amended to read:

13           397.311 Definitions.--As used in this chapter, except  
14 part VIII:

15           (9) "Department" means the Department of Children and  
16 Family Health and Rehabilitative Services.

17           Section 108. Subsection (3) of section 397.753,  
18 Florida Statutes, is amended to read:

19           397.753 Definitions.--As used in this part:

20           (3) "Inmate substance abuse services" means any  
21 service component as defined in s. 397.311 provided directly  
22 by the Department of Corrections and licensed and regulated by  
23 the Department of Children and Family Health and  
24 Rehabilitative Services pursuant to s. 397.406, or provided  
25 through contractual arrangements with a service provider  
26 licensed pursuant to part II; or any self-help program or  
27 volunteer support group operating for inmates.

28           Section 109. Subsection (6) of section 397.754,  
29 Florida Statutes, is amended to read:

30           397.754 Duties and responsibilities of the Department  
31 of Corrections.--The Department of Corrections shall:

1           (6) In cooperation with other agencies, actively seek  
2 to enhance resources for the provision of treatment services  
3 for inmates and to develop partnerships with other state  
4 agencies, including but not limited to the Departments of  
5 Children and Family ~~Health and Rehabilitative~~ Services,  
6 Education, Community Affairs, and Law Enforcement.

7           Section 110. Subsection (2) of section 397.801,  
8 Florida Statutes, is amended to read:

9           397.801 Substance abuse impairment coordination.--

10           (2) The Department of Children and Family ~~Health and~~  
11 ~~Rehabilitative~~ Services, the Department of Education, the  
12 Department of Corrections, the Department of Community  
13 Affairs, and the Department of Law Enforcement each shall  
14 appoint a policy level staff person to serve as the agency  
15 substance abuse impairment coordinator. The responsibilities  
16 of the agency coordinator include interagency and intraagency  
17 coordination, collection and dissemination of agency-specific  
18 data relating to substance abuse impairment, and participation  
19 in the development of the state comprehensive plan for  
20 substance abuse impairment.

21           Section 111. Subsection (1) of section 400.0061,  
22 Florida Statutes, is amended to read:

23           400.0061 Legislative findings and intent; long-term  
24 care facilities.--

25           (1) The Legislature finds that conditions in long-term  
26 care facilities in this state are such that the rights,  
27 health, safety, and welfare of residents are not ensured by  
28 rules of the Department of Elderly Affairs ~~Health and~~  
29 ~~Rehabilitative Services~~ or the Agency for Health Care  
30 Administration, or by the good faith of owners or operators of  
31 long-term care facilities. Furthermore, there is a need for a

1 formal mechanism whereby a long-term care facility resident or  
2 his or her representative may make a complaint against the  
3 facility or its employees, or against other persons who are in  
4 a position to restrict, interfere with, or threaten the  
5 rights, health, safety, or welfare of the resident. The  
6 Legislature finds that concerned citizens are more effective  
7 advocates of the rights of others than governmental agencies.  
8 The Legislature further finds that in order to be eligible to  
9 receive an allotment of funds authorized and appropriated  
10 under the federal Older Americans Act, the state must  
11 establish and operate an Office of State Long-Term Care  
12 Ombudsman, to be headed by the State Long-Term Care Ombudsman,  
13 and carry out a long-term care ombudsman program.

14 Section 112. Paragraph (f) of subsection (2) of  
15 section 400.0065, Florida Statutes, is amended to read:

16 400.0065 State Long-Term Care Ombudsman; duties and  
17 responsibilities; conflict of interest.--

18 (2) The State Long-Term Care Ombudsman shall have the  
19 duty and authority to:

20 (f) Perform the duties specified in state and federal  
21 law without interference by officials of the Department of  
22 Elderly Affairs, the Agency for Health Care Administration, or  
23 the Department of Children and Family Health and  
24 ~~Rehabilitative~~ Services. The ombudsman shall report to the  
25 Governor, the President of the Senate, and the Speaker of the  
26 House of Representatives whenever organizational or  
27 departmental policy issues threaten the ability of the Office  
28 of State Long-Term Care Ombudsman to carry out its duties  
29 under state or federal law.

30 Section 113. Paragraphs (f) and (h) of subsection (2)  
31 of section 400.0067, Florida Statutes, are amended to read:

1           400.0067 Establishment of State Long-Term Care  
2 Ombudsman Council; duties; membership.--

3           (2) The State Long-Term Care Ombudsman Council shall:

4           (f) Be authorized to call upon appropriate agencies of  
5 state government for such professional assistance as may be  
6 needed in the discharge of its duties, including assistance  
7 from the adult protective services program of the Department  
8 of Children and Family ~~Health and Rehabilitative~~ Services.

9           (h) Prepare an annual report describing the activities  
10 carried out by the ombudsman and the State Long-Term Care  
11 Ombudsman Council in the year for which the report is  
12 prepared. The State Long-Term Care Ombudsman Council shall  
13 submit the report to the Commissioner of the United States  
14 Administration on Aging, the Governor, the President of the  
15 Senate, the Speaker of the House of Representatives, the  
16 minority leaders of the House and Senate, the chairpersons of  
17 appropriate House and Senate committees, the Secretaries of  
18 Elderly Affairs and Children and Family ~~Health and~~  
19 ~~Rehabilitative~~ Services, and the Director of Health Care  
20 Administration. The report shall be submitted at least 30  
21 days before the convening of the regular session of the  
22 Legislature and shall, at a minimum:

23           1. Contain and analyze data collected concerning  
24 complaints about and conditions in long-term care facilities.

25           2. Evaluate the problems experienced by residents of  
26 long-term care facilities.

27           3. Contain recommendations for improving the quality  
28 of life of the residents and for protecting the health,  
29 safety, welfare, and rights of the residents.

30           4. Analyze the success of the ombudsman program during  
31 the preceding year and identify the barriers that prevent the

1 optimal operation of the program. The report of the program's  
2 successes shall also address the relationship between the  
3 state long-term care ombudsman program, the Department of  
4 Elderly Affairs, the Agency for Health Care Administration,  
5 and the Department of Children and Family Health and  
6 ~~Rehabilitative~~ Services, and an assessment of how successfully  
7 the state long-term care ombudsman program has carried out its  
8 responsibilities under the Older Americans Act.

9           5. Provide policy and regulatory and legislative  
10 recommendations to solve identified problems; resolve  
11 residents' complaints; improve the quality of care and life of  
12 the residents; protect the health, safety, welfare, and rights  
13 of the residents; and remove the barriers to the optimal  
14 operation of the state long-term care ombudsman program.

15           6. Contain recommendations from the district ombudsman  
16 councils regarding program functions and activities.

17           7. Include a report on the activities of the legal  
18 advocate and other legal advocates acting on behalf of the  
19 district and state councils.

20           Section 114. Subsections (4) and (9) of section  
21 400.0069, Florida Statutes, are amended to read:

22           400.0069 District long-term care ombudsman councils;  
23 duties; membership.--

24           (4) Each district ombudsman council shall be composed  
25 of no less than 15 members and no more than 30 members from  
26 the district, to include the following: one medical or  
27 osteopathic physician whose practice includes or has included  
28 a substantial number of geriatric patients and who may have  
29 limited practice in a long-term care facility; one registered  
30 nurse who has geriatric experience, if possible; one licensed  
31 pharmacist; one registered dietitian; at least six nursing

1 | home residents or representative consumer advocates for  
2 | nursing home residents; at least three residents of assisted  
3 | living facilities or adult family-care homes or three  
4 | representative consumer advocates for long-term care facility  
5 | residents; one attorney; and one professional social worker.  
6 | In no case shall the medical director of a long-term care  
7 | facility or an employee of the Agency for Health Care  
8 | Administration, the Department of Children and Family Health  
9 | ~~and Rehabilitative~~ Services, or the Department of Elderly  
10 | Affairs serve as a member or as an ex officio member of a  
11 | council. Each member of the council shall certify that  
12 | neither the council member nor any member of the council  
13 | member's immediate family has any conflict of interest  
14 | pursuant to subsection (10). District ombudsman councils are  
15 | encouraged to recruit council members who are 60 years of age  
16 | or older.

17 |         (9) The district ombudsman councils are authorized to  
18 | call upon appropriate agencies of state government for such  
19 | professional assistance as may be needed in the discharge of  
20 | their duties. All state agencies shall cooperate with the  
21 | district ombudsman councils in providing requested information  
22 | and agency representatives at council meetings. The  
23 | Department of Children and Family Health ~~and Rehabilitative~~  
24 | Services shall continue to provide space and in-kind  
25 | administrative support for each district ombudsman council  
26 | staff within available resources until the Legislature  
27 | appropriates funds for office space and administrative  
28 | support.

29 |         Section 115. Paragraphs (c) and (e) of subsection (2)  
30 | of section 400.0075, Florida Statutes, are amended to read:

31 |             400.0075 Complaint resolution procedures.--



1           (2) Upon referral from the district ombudsman council,  
2 the state ombudsman council shall assume the responsibility  
3 for the disposition of the complaint. If a long-term care  
4 facility fails to take action on a complaint found valid by  
5 the state ombudsman council, the state council may:

6           (c) Recommend to the agency changes in rules for  
7 inspecting and licensing or certifying long-term care  
8 facilities, and recommend to the Agency for Health Care  
9 Administration ~~Department of Health and Rehabilitative~~  
10 ~~Services~~ changes in rules for licensing and regulating  
11 long-term care facilities.

12           (e) Recommend to the Agency for Health Care  
13 Administration ~~Department of Health and Rehabilitative~~  
14 ~~Services~~ that the long-term care facility no longer receive  
15 payments under the State Medical Assistance Program  
16 (Medicaid).

17  
18 If the health, safety, welfare, or rights of the resident are  
19 in imminent danger, the State Long-Term Care Ombudsman Council  
20 shall seek immediate legal or administrative remedies to  
21 protect the resident.

22           Section 116. Section 400.0089, Florida Statutes, is  
23 amended to read:

24           400.0089 Agency reports.--The State Long-Term Care  
25 Ombudsman Council, shall, in cooperation with the Department  
26 of Elderly Affairs, maintain a statewide uniform reporting  
27 system to collect and analyze data relating to complaints and  
28 conditions in long-term care facilities and to residents, for  
29 the purpose of identifying and resolving significant problems.  
30 The council shall submit such data as part of its annual  
31 report required pursuant to s. 400.0067(2)(h) to the Agency

1 for Health Care Administration, the Department of Children and  
2 Family Health and Rehabilitative Services, the Statewide Human  
3 Rights Advocacy Committee, the Advocacy Center for Persons  
4 with Disabilities, the Commissioner for the United States  
5 Administration on Aging, the National Ombudsman Resource  
6 Center, and any other state or federal entities that the  
7 ombudsman determines appropriate.

8 Section 117. Subsection (6) of section 400.021,  
9 Florida Statutes, is amended to read:

10 400.021 Definitions.--When used in this part, unless  
11 the context otherwise requires, the term:

12 (6) "Department" means the Department of Children and  
13 Family Health and Rehabilitative Services.

14 Section 118. Paragraph (c) of subsection (1) of  
15 section 400.022, Florida Statutes, is amended to read:

16 400.022 Residents' rights.--

17 (1) All licensees of nursing home facilities shall  
18 adopt and make public a statement of the rights and  
19 responsibilities of the residents of such facilities and shall  
20 treat such residents in accordance with the provisions of that  
21 statement. The statement shall assure each resident the  
22 following:

23 (c) Any entity or individual that provides health,  
24 social, legal, or other services to a resident has the right  
25 to have reasonable access to the resident. The resident has  
26 the right to deny or withdraw consent to access at any time by  
27 any entity or individual. Notwithstanding the visiting policy  
28 of the facility, the following individuals must be permitted  
29 immediate access to the resident:

30 1. Any representative of the federal or state  
31 government, including, but not limited to, representatives of

1 the Department of Children and Family Health and  
2 ~~Rehabilitative~~ Services, the Agency for Health Care  
3 Administration, and the Department of Elderly Affairs; any law  
4 enforcement officer; members of the state or district  
5 ombudsman council; and the resident's individual physician.

6 2. Subject to the resident's right to deny or withdraw  
7 consent, immediate family or other relatives of the resident.

8  
9 The facility must allow representatives of the State Nursing  
10 Home and Long-Term Care Facility Ombudsman Council to examine  
11 a resident's clinical records with the permission of the  
12 resident or the resident's legal representative and consistent  
13 with state law.

14 Section 119. Subsection (4) and paragraph (c) of  
15 subsection (5) of section 400.179, Florida Statutes, are  
16 amended to read:

17 400.179 Sale or transfer of ownership of a nursing  
18 facility; liability for Medicaid underpayments and  
19 overpayments.--

20 (4) The transferor shall, prior to transfer of  
21 ownership, repay or make arrangements to repay to the agency  
22 or the Department of Children and Family Health and  
23 ~~Rehabilitative~~ Services any amounts owed to the agency or the  
24 department. Should the transferor fail to repay or make  
25 arrangements to repay the amounts owed to the agency or the  
26 department prior to the transfer of ownership, the issuance of  
27 a license to the transferee shall be delayed until repayment  
28 or until arrangements for repayment are made.

29 (5) Because any transfer of a nursing facility may  
30 expose the fact that Medicaid may have underpaid or overpaid  
31 the transferor, and because in most instances, any such

1 underpayment or overpayment can only be determined following a  
2 formal field audit, the liabilities for any such underpayments  
3 or overpayments shall be as follows:

4 (c) Where the facility transfer takes any form of a  
5 sale of assets, in addition to the transferor's continuing  
6 liability for any such overpayments, if the transferor fails  
7 to meet these obligations, the transferee shall be liable for  
8 all liabilities that can be readily identifiable 90 days in  
9 advance of the transfer. It shall be the burden of the  
10 transferee to determine the amount of all such readily  
11 identifiable overpayments from the Agency for Health Care  
12 Administration ~~Department of Health and Rehabilitative~~  
13 ~~Services~~, and the agency department shall cooperate in every  
14 way with the identification of such amounts. Readily  
15 identifiable overpayments shall include overpayments that will  
16 result from, but not be limited to:

- 17 1. Medicaid rate changes or adjustments;  
18 2. Any depreciation recapture;  
19 3. Any recapture of fair rental value system indexing;  
20 and/or  
21 4. Audits completed by the agency department.

22  
23 The transferor shall remain liable for any such Medicaid  
24 overpayments that were not readily identifiable 90 days in  
25 advance of the nursing facility transfer.

26 Section 120. Subsection (2) of section 400.211,  
27 Florida Statutes, 1998 Supplement, is amended to read:

28 400.211 Persons employed as nursing assistants;  
29 certification requirement.--

30 (2) The department ~~agency~~ may deny, suspend, or revoke  
31 the certification of any person to serve as a nursing

1 assistant, based upon written notification from a court of  
2 competent jurisdiction, law enforcement agency, or  
3 administrative agency of any finding of guilt of, regardless  
4 of adjudication, or a plea of nolo contendere or guilty to,  
5 any offense set forth in the level 1 screening standards of  
6 chapter 435 or any confirmed report of abuse of a vulnerable  
7 adult.

8 Section 121. Subsections (2) and (4) of section  
9 400.23, Florida Statutes, 1998 Supplement, are amended to  
10 read:

11 400.23 Rules; criteria; Nursing Home Advisory  
12 Committee; evaluation and rating system; fee for review of  
13 plans.--

14 (2) Pursuant to the intention of the Legislature, the  
15 agency, in consultation with the Department of Health ~~and~~  
16 ~~Rehabilitative Services~~ and the Department of Elderly Affairs,  
17 shall adopt and enforce rules to implement this part, which  
18 shall include reasonable and fair criteria in relation to:

19 (a) The location and construction of the facility;  
20 including fire and life safety, plumbing, heating, lighting,  
21 ventilation, and other housing conditions which will ensure  
22 the health, safety, and comfort of residents, including an  
23 adequate call system. The agency shall establish standards  
24 for facilities and equipment to increase the extent to which  
25 new facilities and a new wing or floor added to an existing  
26 facility after July 1, 1999, are structurally capable of  
27 serving as shelters only for residents, staff, and families of  
28 residents and staff, and equipped to be self-supporting during  
29 and immediately following disasters. The Agency for Health  
30 Care Administration shall work with facilities licensed under  
31 this part and report to the Governor and Legislature by April

1 1, 1999, its recommendations for cost-effective renovation  
2 standards to be applied to existing facilities. In making such  
3 rules, the agency shall be guided by criteria recommended by  
4 nationally recognized reputable professional groups and  
5 associations with knowledge of such subject matters. The  
6 agency shall update or revise such criteria as the need  
7 arises. All nursing homes must comply with those lifesafety  
8 code requirements and building code standards applicable at  
9 the time of approval of their construction plans. The agency  
10 may require alterations to a building if it determines that an  
11 existing condition constitutes a distinct hazard to life,  
12 health, or safety. The agency shall adopt fair and reasonable  
13 rules setting forth conditions under which existing facilities  
14 undergoing additions, alterations, conversions, renovations,  
15 or repairs shall be required to comply with the most recent  
16 updated or revised standards.

17 (b) The number and qualifications of all personnel,  
18 including management, medical, nursing, and other professional  
19 personnel, and nursing assistants, orderlies, and support  
20 personnel, having responsibility for any part of the care  
21 given residents.

22 (c) All sanitary conditions within the facility and  
23 its surroundings, including water supply, sewage disposal,  
24 food handling, and general hygiene which will ensure the  
25 health and comfort of residents.

26 (d) The equipment essential to the health and welfare  
27 of the residents.

28 (e) A uniform accounting system.

29 (f) The care, treatment, and maintenance of residents  
30 and measurement of the quality and adequacy thereof, based on  
31 rules developed under this chapter and the Omnibus Budget

1 Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22,  
2 1987), Title IV (Medicare, Medicaid, and Other Health-Related  
3 Programs), Subtitle C (Nursing Home Reform), as amended.

4 (g) The preparation and annual update of a  
5 comprehensive emergency management plan. The agency shall  
6 adopt rules establishing minimum criteria for the plan after  
7 consultation with the Department of Community Affairs. At a  
8 minimum, the rules must provide for plan components that  
9 address emergency evacuation transportation; adequate  
10 sheltering arrangements; postdisaster activities, including  
11 emergency power, food, and water; postdisaster transportation;  
12 supplies; staffing; emergency equipment; individual  
13 identification of residents and transfer of records; and  
14 responding to family inquiries. The comprehensive emergency  
15 management plan is subject to review and approval by the local  
16 emergency management agency. During its review, the local  
17 emergency management agency shall ensure that the following  
18 agencies, at a minimum, are given the opportunity to review  
19 the plan: the Department of Elderly Affairs, the Department  
20 of Health ~~and Rehabilitative Services~~, the Agency for Health  
21 Care Administration, and the Department of Community Affairs.  
22 Also, appropriate volunteer organizations must be given the  
23 opportunity to review the plan. The local emergency  
24 management agency shall complete its review within 60 days and  
25 either approve the plan or advise the facility of necessary  
26 revisions.

27 (4) The agency, in collaboration with the Division of  
28 Children's Medical Services Program Office of the Department  
29 of Health ~~and Rehabilitative Services~~, must, no later than  
30 December 31, 1993, adopt rules for minimum standards of care  
31 for persons under 21 years of age who reside in nursing home

1 facilities. The rules must include a methodology for  
2 reviewing a nursing home facility under ss. 408.031-408.045  
3 which serves only persons under 21 years of age.

4 Section 122. Subsection (2) of section 400.401,  
5 Florida Statutes, is amended to read:

6 400.401 Short title; purpose.--

7 (2) The purpose of this act is to promote the  
8 availability of appropriate services for elderly persons and  
9 adults with disabilities in the least restrictive and most  
10 homelike environment, to encourage the development of  
11 facilities that promote the dignity, individuality, privacy,  
12 and decisionmaking ability of such persons, to provide for the  
13 health, safety, and welfare of residents of assisted living  
14 facilities in the state, to promote continued improvement of  
15 such facilities, to encourage the development of innovative  
16 and affordable facilities particularly for persons with low to  
17 moderate incomes, to ensure that all agencies of the state  
18 cooperate in the protection of such residents, and to ensure  
19 that needed economic, social, mental health, health, and  
20 leisure services are made available to residents of such  
21 facilities through the efforts of the Agency for Health Care  
22 Administration, the Department of Elderly Affairs, the  
23 Department of Children and Family ~~Health and Rehabilitative~~  
24 Services, the Department of Health, assisted living  
25 facilities, and other community agencies. To the maximum  
26 extent possible, appropriate community-based programs must be  
27 available to state-supported residents to augment the services  
28 provided in assisted living facilities. The Legislature  
29 recognizes that assisted living facilities are an important  
30 part of the continuum of long-term care in the state. In  
31 support of the goal of aging in place, the Legislature further



1 recognizes that assisted living facilities should be operated  
2 and regulated as residential environments with supportive  
3 services and not as medical or nursing facilities. The  
4 services available in these facilities, either directly or  
5 through contract or agreement, are intended to help residents  
6 remain as independent as possible. Regulations governing these  
7 facilities must be sufficiently flexible to allow facilities  
8 to adopt policies that enable residents to age in place when  
9 resources are available to meet their needs and accommodate  
10 their preferences.

11 Section 123. Subsection (2) of section 400.431,  
12 Florida Statutes, is amended to read:

13 400.431 Closing of facility; notice; penalty.--

14 (2) Immediately upon the notice by the agency of the  
15 voluntary or involuntary termination of such operation, the  
16 agency shall monitor the transfer of residents to other  
17 facilities and ensure that residents' rights are being  
18 protected. The department, in consultation with the  
19 Department of Children and Family ~~Health and Rehabilitative~~  
20 Services, shall specify procedures for ensuring that all  
21 residents who receive services are appropriately relocated.

22 Section 124. Section 400.434, Florida Statutes, is  
23 amended to read:

24 400.434 Right of entry and inspection.--Any duly  
25 designated officer or employee of the department, the  
26 Department of Children and Family ~~Health and Rehabilitative~~  
27 Services, the agency, the state or local fire marshal, or a  
28 member of the state or district long-term care ombudsman  
29 council shall have the right to enter unannounced upon and  
30 into the premises of any facility licensed pursuant to this  
31 part in order to determine the state of compliance with the

1 provisions of this part and of rules or standards in force  
2 pursuant thereto. The right of entry and inspection shall  
3 also extend to any premises which the agency has reason to  
4 believe is being operated or maintained as a facility without  
5 a license; but no such entry or inspection of any premises may  
6 be made without the permission of the owner or person in  
7 charge thereof, unless a warrant is first obtained from the  
8 circuit court authorizing such entry. The warrant requirement  
9 shall extend only to a facility which the agency has reason to  
10 believe is being operated or maintained as a facility without  
11 a license. Any application for a license or renewal thereof  
12 made pursuant to this part shall constitute permission for,  
13 and complete acquiescence in, any entry or inspection of the  
14 premises for which the license is sought, in order to  
15 facilitate verification of the information submitted on or in  
16 connection with the application; to discover, investigate, and  
17 determine the existence of abuse or neglect; or to elicit,  
18 receive, respond to, and resolve complaints. Any current valid  
19 license shall constitute unconditional permission for, and  
20 complete acquiescence in, any entry or inspection of the  
21 premises by authorized personnel. The agency shall retain the  
22 right of entry and inspection of facilities that have had a  
23 license revoked or suspended within the previous 24 months, to  
24 ensure that the facility is not operating unlawfully. However,  
25 before entering the facility, a statement of probable cause  
26 must be filed with the director of the agency, who must  
27 approve or disapprove the action within 48 hours. Probable  
28 cause shall include, but is not limited to, evidence that the  
29 facility holds itself out to the public as a provider of  
30 personal care services or the receipt of a complaint by the  
31 long-term care ombudsman council about the facility.

1           Section 125. Paragraphs (f) and (g) of subsection (1)  
2 of section 400.4415, Florida Statutes, are amended to read:

3           400.4415 Assisted living facilities advisory  
4 committee.--

5           (1) There is created the assisted living facilities  
6 advisory committee, which shall assist the agency in  
7 developing and implementing a pilot rating system for  
8 facilities. The committee shall consist of nine members who  
9 are to be appointed by, and report directly to, the director  
10 of the agency. The membership is to include:

11           (f) One representative from the ~~aging and adult~~  
12 services program of the Department of Children and Family  
13 ~~Health and Rehabilitative~~ Services.

14           (g) One representative from the alcohol, drug abuse,  
15 and mental health program of the Department of Children and  
16 ~~Family Health and Rehabilitative~~ Services.

17           Section 126. Subsection (3) of section 400.462,  
18 Florida Statutes, is amended to read:

19           400.462 Definitions.--As used in this part, the term:

20           (3) "Department" means the Department of Health ~~and~~  
21 ~~Rehabilitative Services~~.

22           Section 127. Subsection (11) of section 400.471,  
23 Florida Statutes, 1998 Supplement, is amended to read:

24           400.471 Application for license; fee; provisional  
25 license; temporary permit.--

26           (11) The agency ~~department~~ shall not issue a license  
27 designated as certified to a home health agency which fails to  
28 receive a certificate of need under the provisions of ss.  
29 408.031-408.045.

30           Section 128. Subsection (1) of section 400.914,  
31 Florida Statutes, 1998 Supplement, is amended to read:

1           400.914 Rules establishing standards.--

2           (1) Pursuant to the intention of the Legislature to  
3 provide safe and sanitary facilities and healthful programs,  
4 the agency in conjunction with the Division of Children's  
5 Medical Services of the Department of Health shall adopt and  
6 publish rules to implement the provisions of this part, which  
7 shall include reasonable and fair standards. Any conflict  
8 between these standards and those that may be set forth in  
9 local, county, or city ordinances shall be resolved in favor  
10 of those having statewide effect. Such standards shall relate  
11 to:

12           (a) The assurance that PPEC services are family  
13 centered and provide individualized medical, developmental,  
14 and family training services.

15           (b) The maintenance of PPEC centers, not in conflict  
16 with the provisions of chapter 553 and based upon the size of  
17 the structure and number of children, relating to plumbing,  
18 heating, lighting, ventilation, and other building conditions,  
19 including adequate space, which will ensure the health,  
20 safety, comfort, and protection from fire of the children  
21 served.

22           (c) The appropriate provisions of the most recent  
23 edition of the "Life Safety Code" (NFPA-101) shall be applied.

24           (d) The number and qualifications of all personnel who  
25 have responsibility for the care of the children served.

26           (e) All sanitary conditions within the PPEC center and  
27 its surroundings, including water supply, sewage disposal,  
28 food handling, and general hygiene, and maintenance thereof,  
29 which will ensure the health and comfort of children served.

30           (f) Programs and basic services promoting and  
31 maintaining the health and development of the children served

1 and meeting the training needs of the children's legal  
2 guardians.

3 (g) Supportive, contracted, other operational, and  
4 transportation services.

5 (h) Maintenance of appropriate medical records, data,  
6 and information relative to the children and programs. Such  
7 records shall be maintained in the facility for inspection by  
8 the agency.

9 Section 129. Section 402.04, Florida Statutes, is  
10 amended to read:

11 402.04 Award of scholarships and stipends;  
12 disbursement of funds; administration.--The award of  
13 scholarships or stipends provided for herein shall be made by  
14 the Department of Children and Family Health and  
15 ~~Rehabilitative~~ Services, hereinafter referred to as the  
16 department. The department shall handle the administration of  
17 the scholarship or stipend and the Department of Education  
18 shall, for and on behalf of the department, handle the notes  
19 issued for the payment of the scholarships or stipends  
20 provided for herein and the collection of same. The  
21 department shall prescribe regulations governing the payment  
22 of scholarships or stipends to the school, college, or  
23 university for the benefit of the scholarship or stipend  
24 holders. All scholarship awards, expenses and costs of  
25 administration shall be paid from moneys appropriated by the  
26 Legislature and shall be paid upon vouchers approved by the  
27 department and properly certified by the Comptroller.

28 Section 130. Section 402.06, Florida Statutes, is  
29 amended to read:

30 402.06 Notes required of scholarship holders.--Each  
31 person who receives a scholarship or stipend as provided for

1 in this chapter shall execute a promissory note under seal, on  
2 forms to be prescribed by the Department of Education, which  
3 shall be endorsed by his or her parent or guardian or, if the  
4 person is 18 years of age or older, by some responsible  
5 citizen and shall deliver said note to the Department of  
6 Children and Family ~~Health and Rehabilitative~~ Services. Each  
7 note shall be payable to the state and shall bear interest at  
8 the rate of 5 percent per annum beginning 90 days after  
9 completion or termination of the training program. Said note  
10 shall provide for all costs of collection to be paid by the  
11 maker of the note. Said note shall be delivered by the  
12 Department of Children and Family ~~Health and Rehabilitative~~  
13 Services to said Department of Education for collection and  
14 final disposition.

15 Section 131. Subsections (1) and (7) of section  
16 402.07, Florida Statutes, are amended to read:

17 402.07 Payment of notes.--Prior to the award of a  
18 scholarship or stipend provided herein for trainees in  
19 psychiatric social work, psychiatry, clinical psychology, or  
20 psychiatric nursing, the recipient thereof must agree in  
21 writing to practice his or her profession in the employ of any  
22 one of the following institutions or agencies for 1 month for  
23 each month of grant immediately after graduation or, in lieu  
24 thereof, to repay the full amount of the scholarship or  
25 stipend together with interest at the rate of 5 percent per  
26 annum over a period not to exceed 10 years:

27 (1) The staff of one of the state hospitals of the  
28 ~~Division of Mental Health~~ Program Office.

29 (7) Such other accredited social agencies or state  
30 institutions as may be approved by the Department of Children  
31 and Family ~~Health and Rehabilitative~~ Services.

1           Section 132. Section 402.12, Florida Statutes, is  
2 amended to read:

3           402.12 National Community Mental Health Centers  
4 Act.--Any federal funds accruing to the state for the purposes  
5 of carrying out the national Community Mental Health Centers  
6 Act of 1963 shall be paid to the Department of Children and  
7 Family ~~Health and Rehabilitative~~ Services for expenditure as  
8 directed by said department.

9           Section 133. Section 402.16, Florida Statutes, is  
10 amended to read:

11           402.16 Proceedings by department.--

12           (1) Whenever it becomes necessary for the welfare and  
13 convenience of any of the institutions now under the  
14 supervision and control of the Department of Children and  
15 Family ~~Health and Rehabilitative~~ Services, or which may  
16 hereafter be placed under the supervision and control of said  
17 department, to acquire private property for the use of any of  
18 said institutions, and the same cannot be acquired by  
19 agreement satisfactory to the said department and the parties  
20 interested in, or the owners of said private property, the  
21 department is hereby empowered and authorized to exercise the  
22 right of eminent domain, and to proceed to condemn the said  
23 property in the same manner as provided by law for the  
24 condemnation of property.

25           (2) Any suit or actions brought by the said department  
26 to condemn property as provided in this section shall be  
27 brought in the name of the Department of Children and Family  
28 ~~Health and Rehabilitative~~ Services, and it shall be the duty  
29 of the Department of Legal Affairs to conduct the proceedings  
30 for, and to act as counsel for the said Department of Children  
31 and Family ~~Health and Rehabilitative~~ Services.

1           Section 134. Subsections (1) and (4) and paragraphs  
2 (a), (b), (d), and (g) of subsection (7) of section 402.165,  
3 Florida Statutes, 1998 Supplement, are amended to read:

4           402.165 Statewide Human Rights Advocacy Committee;  
5 confidential records and meetings.--

6           (1) There is created within the Department of Children  
7 and Family ~~Health and Rehabilitative~~ Services a Statewide  
8 Human Rights Advocacy Committee. The Department of Children  
9 and Family ~~Health and Rehabilitative~~ Services shall provide  
10 administrative support and service to the committee to the  
11 extent requested by the executive director within available  
12 resources. The Statewide Human Rights Advocacy Committee  
13 shall not be subject to control, supervision, or direction by  
14 the Department of Children and Family ~~Health and~~  
15 ~~Rehabilitative~~ Services in the performance of its duties. The  
16 committee shall consist of 15 citizens, one from each service  
17 district of the Department of Children and Family ~~Health and~~  
18 ~~Rehabilitative~~ Services, who broadly represent the interests  
19 of the public and the clients of that department. The members  
20 shall be representative of five groups of citizens as follows:  
21 one elected public official; two providers who deliver  
22 services or programs to clients of the Department of Children  
23 and Family ~~Health and Rehabilitative~~ Services; four  
24 nonsalaried representatives of nonprofit agencies or civic  
25 groups; four representatives of health and rehabilitative  
26 services consumer groups who are currently receiving, or have  
27 received, services from the Department of Children and Family  
28 ~~Health and Rehabilitative~~ Services within the past 4 years, at  
29 least one of whom must be a consumer; and four residents of  
30 the state who do not represent any of the foregoing groups,  
31 two of whom represent health-related professions and two of



1 whom represent the legal profession. In appointing the  
2 representatives of the health-related professions, the  
3 appointing authority shall give priority of consideration to a  
4 physician licensed under chapter 458 or chapter 459; and, in  
5 appointing the representatives of the legal profession, the  
6 appointing authority shall give priority of consideration to a  
7 member in good standing of The Florida Bar. Except for the  
8 member who is an elected public official, each member of the  
9 Statewide Human Rights Advocacy Committee must have served as  
10 a member of a district human rights advocacy committee.  
11 Persons related to each other by consanguinity or affinity  
12 within the third degree may not serve on the Statewide Human  
13 Rights Advocacy Committee at the same time.

14 (4) The Governor shall fill each vacancy on the  
15 Statewide Human Rights Advocacy Committee from a list of  
16 nominees submitted by the statewide committee. A list of  
17 candidates shall be submitted to the statewide committee by  
18 the district human rights advocacy committee in the district  
19 from which the vacancy occurs. Priority of consideration  
20 shall be given to the appointment of an individual whose  
21 primary interest, experience, or expertise lies with a major  
22 client group of the Department of Children and Family Health  
23 ~~and Rehabilitative~~ Services not represented on the committee  
24 at the time of the appointment. If an appointment is not made  
25 within 60 days after a vacancy occurs on the committee, the  
26 vacancy shall be filled by a majority vote of the statewide  
27 committee without further action by the Governor. No person  
28 who is employed by the Department of Children and Family  
29 ~~Health and Rehabilitative~~ Services may be appointed to the  
30 committee.

31

1           (7) The responsibilities of the committee include, but  
2 are not limited to:

3           (a) Serving as an independent third-party mechanism  
4 for protecting the constitutional and human rights of any  
5 client within a program or facility operated, funded,  
6 licensed, or regulated by the Department of Children and  
7 Family ~~Health and Rehabilitative~~ Services.

8           (b) Monitoring by site visit and inspection of  
9 records, the delivery and use of services, programs, or  
10 facilities operated, funded, regulated, or licensed by the  
11 Department of Children and Family ~~Health and Rehabilitative~~  
12 Services for the purpose of preventing abuse or deprivation of  
13 the constitutional and human rights of clients. The Statewide  
14 Human Rights Advocacy Committee may conduct an unannounced  
15 site visit or monitoring visit that involves the inspection of  
16 records if such visit is conditioned upon a complaint. A  
17 complaint may be generated by the committee itself if  
18 information from the Department of Children and Family ~~Health~~  
19 ~~and Rehabilitative~~ Services or other sources indicates a  
20 situation at the program or facility that indicates possible  
21 abuse or neglect of clients. The Statewide Human Rights  
22 Advocacy Committee shall establish and follow uniform criteria  
23 for the review of information and generation of complaints.  
24 Routine program monitoring and reviews that do not require an  
25 examination of records may be made unannounced.

26           (d) Reviewing existing programs or services and new or  
27 revised programs of the Department of Children and Family  
28 ~~Health and Rehabilitative~~ Services and making recommendations  
29 as to how the rights of clients are affected.

30           (g) Developing and adopting uniform procedures to be  
31 used to carry out the purpose and responsibilities of the

1 human rights advocacy committees, which procedures shall  
2 include, but need not be limited to, the following:

- 3 1. The responsibilities of the committee;
- 4 2. The organization and operation of the statewide  
5 committee and district committees, including procedures for  
6 replacing a member, formats for maintaining records of  
7 committee activities, and criteria for determining what  
8 constitutes a conflict of interest for purposes of assigning  
9 and conducting investigations and monitoring;
- 10 3. Uniform procedures for the statewide committee and  
11 district committees to receive and investigate reports of  
12 abuse of constitutional or human rights;
- 13 4. The responsibilities and relationship of the  
14 district human rights advocacy committees to the statewide  
15 committee;
- 16 5. The relationship of the committee to the Department  
17 of Children and Family ~~Health and Rehabilitative~~ Services,  
18 including the way in which reports of findings and  
19 recommendations related to reported abuse are given to the  
20 Department of Children and Family ~~Health and Rehabilitative~~  
21 Services;
- 22 6. Provision for cooperation with the State Long-Term  
23 Care Ombudsman Council;
- 24 7. Procedures for appeal. An appeal to the state  
25 committee is made by a district human rights advocacy  
26 committee when a valid complaint is not resolved at the  
27 district level. The statewide committee may appeal an  
28 unresolved complaint to the secretary of the Department of  
29 Children and Family ~~Health and Rehabilitative~~ Services. If,  
30 after exhausting all remedies, the statewide committee is not  
31 satisfied that the complaint can be resolved within the

1 Department of Children and Family ~~Health and Rehabilitative~~  
2 Services, the appeal may be referred to the Governor or the  
3 Legislature;

4 8. Uniform procedures for gaining access to and  
5 maintaining confidential information; and

6 9. Definitions of misfeasance and malfeasance for  
7 members of the statewide committee and district committees.

8 Section 135. Subsections (1) and (2) and paragraphs  
9 (a), (b), (d), and (e) of subsection (7) of section 402.166,  
10 Florida Statutes, 1998 Supplement, are amended to read:

11 402.166 District human rights advocacy committees;  
12 confidential records and meetings.--

13 (1) At least one district human rights advocacy  
14 committee is created in each service district of the  
15 Department of Children and Family ~~Health and Rehabilitative~~  
16 Services. The district human rights advocacy committees shall  
17 be subject to direction from and the supervision of the  
18 Statewide Human Rights Advocacy Committee. The district  
19 administrator shall assign staff to provide administrative  
20 support to the committees, and staff assigned to these  
21 positions shall perform the functions required by the  
22 committee without interference from the department. The  
23 district committees shall direct the activities of staff  
24 assigned to them to the extent necessary for the committees to  
25 carry out their duties. The number and areas of  
26 responsibility of the district human rights advocacy  
27 committees, not to exceed three in any district, shall be  
28 determined by the majority vote of district committee members.  
29 However, district II may have four committees. District  
30 committees shall meet at facilities under their jurisdiction  
31 whenever possible.

1           (2) Each district human rights advocacy committee  
2 shall have no fewer than 7 members and no more than 15  
3 members, 25 percent of whom are or have been clients of the  
4 Department of Children and Family ~~Health and Rehabilitative~~  
5 Services within the last 4 years, except that one member of  
6 this group may be an immediate relative or legal  
7 representative of a current or former client; two providers,  
8 who deliver services or programs to clients of the Department  
9 of Children and Family ~~Health and Rehabilitative~~ Services; and  
10 two representatives of professional organizations, one of whom  
11 represents health-related professions and one of whom  
12 represents the legal profession. Priority of consideration  
13 shall be given to the appointment of at least one medical or  
14 osteopathic physician, as defined in chapters 458 and 459, and  
15 one member in good standing of The Florida Bar. Priority of  
16 consideration shall also be given to the appointment of an  
17 individual whose primary interest, experience, or expertise  
18 lies with a major client group of the Department of Children  
19 and Family ~~Health and Rehabilitative~~ Services not represented  
20 on the committee at the time of the appointment. In no case  
21 shall a person who is employed by the Department of Children  
22 and Family ~~Health and Rehabilitative~~ Services be selected as a  
23 member of a committee. At no time shall individuals who are  
24 providing contracted services to the Department of Children  
25 and Family ~~Health and Rehabilitative~~ Services constitute more  
26 than 25 percent of the membership of a district committee.  
27 Persons related to each other by consanguinity or affinity  
28 within the third degree shall not serve on the same district  
29 human rights advocacy committee at the same time. All members  
30 of district human rights advocacy committees must successfully  
31 complete a standardized training course for committee members

1 within 3 months after their appointment to a committee. A  
2 member may not be assigned an investigation which requires  
3 access to confidential information prior to the completion of  
4 the training course. After he or she completes the required  
5 training course, a member of a committee shall not be  
6 prevented from participating in any activity of that  
7 committee, including investigations and monitoring, except due  
8 to a conflict of interest as described in the procedures  
9 established by the Statewide Human Rights Advocacy Committee  
10 pursuant to subsection (7).

11 (7) A district human rights advocacy committee shall  
12 first seek to resolve a complaint with the appropriate local  
13 administration, agency, or program; any matter not resolved by  
14 the district committee shall be referred to the Statewide  
15 Human Rights Advocacy Committee. A district human rights  
16 advocacy committee shall comply with appeal procedures  
17 established by the Statewide Human Rights Advocacy Committee.  
18 The duties, actions, and procedures of both new and existing  
19 district human rights advocacy committees shall conform to the  
20 provisions of this act. The duties of each district human  
21 rights advocacy committee shall include, but are not limited  
22 to:

23 (a) Serving as an independent third-party mechanism  
24 for protecting the constitutional and human rights of any  
25 client within a program or facility operated, funded,  
26 licensed, or regulated by the Department of Children and  
27 Family ~~Health and Rehabilitative~~ Services.

28 (b) Monitoring by site visit and inspection of  
29 records, the delivery and use of services, programs or  
30 facilities operated, funded, regulated or licensed by the  
31 Department of Children and Family ~~Health and Rehabilitative~~

1 Services for the purpose of preventing abuse or deprivation of  
2 the constitutional and human rights of clients. A district  
3 human rights advocacy committee may conduct an unannounced  
4 site visit or monitoring visit that involves the inspection of  
5 records if such visit is conditioned upon a complaint. A  
6 complaint may be generated by the committee itself if  
7 information from the Department of Children and Family Health  
8 ~~and Rehabilitative~~ Services or other sources indicates a  
9 situation at the program or facility that indicates possible  
10 abuse or neglect of clients. The district human rights  
11 advocacy committees shall follow uniform criteria established  
12 by the Statewide Human Rights Advocacy Committee for the  
13 review of information and generation of complaints. Routine  
14 program monitoring and reviews that do not require an  
15 examination of records may be made unannounced.

16 (d) Reviewing and making recommendation with respect  
17 to the involvement by clients of the Department of Children  
18 and Family Health and Rehabilitative Services as subjects for  
19 research projects, prior to implementation, insofar as their  
20 human rights are affected.

21 (e) Reviewing existing programs or services and new or  
22 revised programs of the Department of Children and Family  
23 ~~Health and Rehabilitative~~ Services and making recommendations  
24 as to how the rights of clients are affected.

25 Section 136. Section 402.167, Florida Statutes, is  
26 amended to read:

27 402.167 Department duties relating to the Statewide  
28 Human Rights Advocacy Committee and the District Human Rights  
29 Advocacy Committees.--

30 (1) The Department of Children and Family Health and  
31 ~~Rehabilitative~~ Services shall adopt rules which are consistent

1 with law, amended to reflect any statutory changes, which  
2 rules address at least the following:

3 (a) Procedures by which Department of Children and  
4 Family Health and Rehabilitative Services district staff refer  
5 reports of abuse to district human rights advocacy committees.

6 (b) Procedures by which client information is made  
7 available to members of the Statewide Human Rights Advocacy  
8 Committee and the district human rights advocacy committees.

9 (c) Procedures by which recommendations made by human  
10 rights advocacy committees will be incorporated into  
11 Department of Children and Family Health and Rehabilitative  
12 Services policies and procedures.

13 (d) Procedures by which committee members are  
14 reimbursed for authorized expenditures.

15 (2) The Department of Children and Family Health and  
16 Rehabilitative Services shall provide for the location of  
17 district human rights advocacy committees in district  
18 headquarters offices and shall provide necessary equipment and  
19 office supplies, including, but not limited to, clerical and  
20 word processing services, photocopiers, telephone services,  
21 and stationery and other necessary supplies.

22 (3) The secretary shall ensure the full cooperation  
23 and assistance of employees of the Department of Children and  
24 Family Health and Rehabilitative Services with members and  
25 staff of the human rights advocacy committees. Further, the  
26 secretary shall ensure that to the extent possible, staff  
27 assigned to the Statewide Human Rights Advocacy Committees and  
28 District Human Rights Advocacy Committees are free of  
29 interference from or control by the department in performing  
30 their duties relative to those committees.

31



1           Section 137. Section 402.17, Florida Statutes, is  
2 amended to read:

3           402.17 Claims for care and maintenance; trust  
4 property.--The Department of Children and Family ~~Health and~~  
5 ~~Rehabilitative~~ Services shall protect the financial interest  
6 of the state with respect to claims which the state may have  
7 for the care and maintenance of clients of the department.  
8 The department shall, as trustee, hold in trust and administer  
9 money of clients and property designated for the personal  
10 benefit of clients. The department shall act as trustee of  
11 clients' money and property entrusted to it in accordance with  
12 the usual fiduciary standards applicable generally to  
13 trustees, and shall act to protect both the short-term and  
14 long-term interests of the clients for whose benefit it is  
15 holding such money and property.

16           (1) CLAIMS FOR CARE AND MAINTENANCE.--

17           (a) The department shall perform the following acts:

18           1. Receive and supervise the collection of sums due  
19 the state.

20           2. Bring any court action necessary to collect any  
21 claim the state may have against any client, former client,  
22 guardian of any client or former client, executor or  
23 administrator of the client's estate, or any person against  
24 whom any client or former client may have a claim.

25           3. Obtain a copy of any inventory or appraisal of the  
26 client's property filed with any court.

27           4. Obtain from the Economic Self-Sufficiency ~~Social~~  
28 ~~and Economic Services~~ Program Office a financial status report  
29 on any client or former client, including the ability of third  
30 parties responsible for such client to pay all or part of the  
31 cost of the client's care and maintenance.

1           5. Petition the court for appointment of a guardian or  
2 administrator for an otherwise unrepresented client or former  
3 client should the financial status report or other information  
4 indicate the need for such action. The cost of any such action  
5 shall be charged against the assets or estate of the client.

6           6. Represent the interest of the state in any  
7 litigation in which a client or former client is a party.

8           7. File claims with any person, firm, or corporation  
9 or with any federal, state, county, district, or municipal  
10 agency on behalf of an unrepresented client.

11           8. Represent the state in the settlement of the  
12 estates of deceased clients or in the settlement of estates in  
13 which a client or a former client against whom the state may  
14 have a claim has a financial interest.

15           9. Establish procedures by rule for the use of amounts  
16 held in trust for the client to pay for the cost of care and  
17 maintenance, if such amounts would otherwise cause the client  
18 to become ineligible for services which are in the client's  
19 best interests.

20           (b) The Department of Children and Family Health and  
21 ~~Rehabilitative~~ Services may charge off accounts if it  
22 certifies that the accounts are uncollectible after diligent  
23 efforts have been made to collect them. If the department  
24 certifies an account to the Department of Banking and Finance,  
25 setting forth the circumstances upon which it predicates the  
26 uncollectibility, and if, pursuant to s. 17.04, the Department  
27 of Banking and Finance concurs, the account shall be charged  
28 off.

29           (2) MONEY OR OTHER PROPERTY RECEIVED FOR PERSONAL USE  
30 OR BENEFIT OF ANY CLIENT.--The department shall perform the  
31 following acts:

1           (a) Accept and administer in trust, as a trustee  
2 having a fiduciary responsibility to a client of the  
3 department, any money or other property received for personal  
4 use or benefit of that client. In the case of children in the  
5 legal custody of the department, following the termination of  
6 the parental rights as to that client, until such client  
7 leaves the legal custody of the department due to the client's  
8 adoption or because the client attains the age of 18 or, in  
9 the case of children who are otherwise in the custody of the  
10 department, the court having jurisdiction over such client  
11 shall have jurisdiction, upon application of the department or  
12 other interested party, to review or approve any extraordinary  
13 action of the department acting as trustee as to the client's  
14 money or other property. When directed by a court of  
15 competent jurisdiction, the department may further hold money  
16 or property of a person under the age of 18 who has been in  
17 the care, custody, or control of the department and who is the  
18 subject of a court proceeding during the pendency of that  
19 proceeding.

20           (b) Deposit the money in banks qualified as state  
21 depositories, or in any bank, credit union, or savings and  
22 loan association authorized to do business in this state,  
23 provided moneys so deposited or held by such institutions are  
24 fully insured by a federal depository or share insurance  
25 program, or an approved state depository or share insurance  
26 program, and are available on demand.

27           (c) Withdraw the money and use it to meet current  
28 needs of clients. For purposes of this paragraph, "current  
29 needs" includes payment of fees assessed under s. 402.33. The  
30 amount of money withdrawn by the department to meet current  
31 needs of a client shall take into account the need of the

1 department, as the trustee of a client's money and property,  
2 to provide for the long-term needs of a client, including, but  
3 not limited to, to provide for the need of a client under the  
4 age of 18 to have financial resources available to be able to  
5 function as an adult upon reaching the age of 18, or to meet  
6 the special needs of a client who has a disability and whose  
7 special needs cannot otherwise be met by any form of public  
8 assistance or family resources, or to maintain the client's  
9 eligibility for public assistance, including medical  
10 assistance, under state or federal law.

11 (d) As trustee, invest in the manner authorized by law  
12 for fiduciaries money not used for current needs of clients.  
13 Such investments may include, but shall not be limited to,  
14 investments in savings share accounts of any credit union  
15 chartered under the laws of the United States and doing  
16 business in this state, and savings share accounts of any  
17 credit union chartered under the laws of this state, provided  
18 the credit union is insured under the federal share insurance  
19 program or an approved state share insurance program.

20 (3) DEPOSIT OF FUNDS RECEIVED.--Funds received by the  
21 Department of Children and Family ~~Health and Rehabilitative~~  
22 Services in accordance with s. 402.33 shall be deposited into  
23 a trust fund for the operation of the department.

24 (4) DISPOSITION OF UNCLAIMED TRUST FUNDS.--Upon the  
25 death of any client affected by the provisions of this  
26 section, any unclaimed money held in trust by the department  
27 or by the Treasurer for him or her shall be applied first to  
28 the payment of any unpaid claim of the state against the  
29 client, and any balance remaining unclaimed for a period of 1  
30 year shall escheat to the state as unclaimed funds held by  
31 fiduciaries.

1           (5) LEGAL REPRESENTATION.--To the extent that the  
2 budget will permit, the Department of Legal Affairs shall  
3 furnish the legal services to carry out the provisions of this  
4 section. Upon the request of the Department of Children and  
5 Family ~~Health and Rehabilitative~~ Services, the various state  
6 and county attorneys shall assist in litigation within their  
7 jurisdiction. Such department may retain legal counsel for  
8 necessary legal services which cannot be furnished by the  
9 Department of Legal Affairs and the various state and county  
10 attorneys.

11           (6) DEPOSIT OR INVESTMENT OF FUNDS OF CLIENTS.--

12           (a) The Department of Children and Family ~~Health and~~  
13 ~~Rehabilitative~~ Services may deposit any funds of clients in  
14 its possession in any bank in the state or may invest or  
15 reinvest such funds in bonds or obligations of the United  
16 States for the payment of which the full faith and credit of  
17 the United States is pledged. For purposes of deposit only,  
18 the funds of any client may be mingled with the funds of any  
19 other clients.

20           (b) The interest or increment accruing on such funds  
21 shall be the property of the clients and shall be used or  
22 conserved for the personal use or benefit of the individual  
23 client, in accordance with the department's fiduciary  
24 responsibility as a trustee for the money and property of the  
25 client held by the department. Such interest shall not accrue  
26 to the general welfare of all clients. Whenever any proposed  
27 action of the department, acting in its own interest, may  
28 conflict with the department's obligation as a trustee with a  
29 fiduciary responsibility to the client, the department shall  
30 promptly present the matter to a court of competent  
31 jurisdiction for the court's determination as to what action

1 the department may take. The department shall establish rules  
2 governing reasonable fees for the cost of administering such  
3 accounts and for establishing the minimum balance eligible to  
4 earn interest.

5 (7) DISPOSITION OF MONEY AND PROPERTY OF CLIENTS UPON  
6 ATTAINING AGE 18 OR DISCHARGE FROM CARE, CUSTODY, CONTROL, OR  
7 SERVICES OF THE DEPARTMENT.--

8 (a) Whenever a client of the department for whom the  
9 department is holding money or property as a trustee attains  
10 the age of 18, and thereby will no longer be in the legal  
11 custody of the department, the department shall promptly  
12 disburse such money and property of the client the department  
13 has held as a trustee to that client, or as that client  
14 directs, as soon as practicable once the client attains the  
15 age of 18.

16 (b) Whenever a client of the department over the age  
17 of 18 for whom the department is holding money or property as  
18 a trustee no longer requires the care, custody, control, or  
19 services of the department, the department shall promptly  
20 disburse such money and property of the client the department  
21 has held as a trustee to that client, or as that client or a  
22 court directs, as soon as practicable.

23 (c) When a client under the age of 18 who has been in  
24 the legal custody, care, or control of the department and for  
25 whom the department is holding money or property as a trustee  
26 attains the age of 18 and has a physical or mental disability,  
27 or is otherwise incapacitated or incompetent to handle that  
28 client's own financial affairs, the department shall apply for  
29 a court order from a court of competent jurisdiction to  
30 establish a trust on behalf of that client. Where there is no  
31 willing relative of the client acceptable to the court

1 available to serve as trustee of such proposed trust, the  
2 court may enter an order authorizing the department to serve  
3 as trustee of a separate trust under such terms and conditions  
4 as the court determines appropriate to the circumstances.

5 (d) When a client under the age of 18 who has been in  
6 the legal custody, care, or control of the department and for  
7 whom the department is holding money or property as a trustee  
8 leaves the care, custody, and control of the department due to  
9 adoption or placement of the client with a relative, or as  
10 otherwise directed by a court of competent jurisdiction, the  
11 department shall notify that court of the existence of the  
12 money and property in the possession of the department either  
13 prior to, or promptly after, receiving knowledge of the change  
14 of custody, care, or control. The department shall apply for  
15 an order from the court exercising jurisdiction over the  
16 client to direct the disposition of the money and property  
17 belonging to that client. The court order may establish a  
18 trust in which the money and property of the client will be  
19 deposited, appoint a guardian of a property as to the money or  
20 property of the client, or direct the creation of a Uniform  
21 Gifts to Minors Act account on behalf of that client, as the  
22 court finds appropriate and under the terms and conditions the  
23 court determines appropriate to the circumstances.

24 Section 138. Subsection (1) of section 402.18, Florida  
25 Statutes, is amended to read:

26 402.18 Welfare trust funds created; use of.--

27 (1) All moneys now held in any auxiliary, canteen,  
28 welfare, donated, or similar fund in any state institution  
29 under the jurisdiction of the Department of Children and  
30 Family ~~Health and Rehabilitative~~ Services shall be deposited  
31 in a welfare trust fund, which fund is hereby created in the

1 State Treasury, or in a place which the department shall  
2 designate. The money in the fund of each institution of the  
3 department, or which may accrue thereto, is hereby  
4 appropriated for the benefit, education, and general welfare  
5 of clients in that institution. The general welfare of  
6 clients includes, but is not limited to, the establishment of,  
7 maintenance of, employment of personnel for, and the purchase  
8 of items for resale at canteens or vending machines maintained  
9 at the state institutions and for the establishment of,  
10 maintenance of, employment of personnel for, and the operation  
11 of canteens, hobby shops, recreational or entertainment  
12 facilities, sheltered workshops, activity centers, farming  
13 projects, or other like facilities or programs at the  
14 institutions.

15 Section 139. Subsection (1) and paragraph (b) of  
16 subsection (3) of section 402.181, Florida Statutes, are  
17 amended to read:

18 402.181 State Institutions Claims Program.--

19 (1) There is created a State Institutions Claims  
20 Program, for the purpose of making restitution for property  
21 damages and direct medical expenses for injuries caused by  
22 shelter children or foster children, or escapees or inmates of  
23 state institutions under the Department of Children and Family  
24 ~~Health and Rehabilitative~~ Services, the Department of Juvenile  
25 Justice, or the Department of Corrections.

26 (3)

27 (b) The Department of Legal Affairs shall work with  
28 the Department of Children and Family ~~Health and~~  
29 ~~Rehabilitative~~ Services, the Department of Juvenile Justice,  
30 and the Department of Corrections to streamline the process of  
31 investigations, hearings, and determinations with respect to



1 claims under this section, to ensure that eligible claimants  
2 receive restitution within a reasonable time.

3 Section 140. Section 402.19, Florida Statutes, is  
4 amended to read:

5 402.19 Photographing records; destruction of records;  
6 effect as evidence.--The Department of Children and Family  
7 ~~Health and Rehabilitative~~ Services may authorize each of the  
8 agencies under its supervision and control to photograph,  
9 microphotograph, or reproduce on film or prints, such  
10 correspondence, documents, records, data, and other  
11 information as the department shall determine, and which is  
12 not otherwise authorized to be reproduced under chapter 119,  
13 whether the same shall be of a temporary or permanent  
14 character and whether public, private, or confidential,  
15 including that pertaining to patients or inmates of the  
16 agencies, and to destroy any of said documents after they have  
17 been reproduced. Photographs or microphotographs in the form  
18 of film or prints made in compliance with the provisions of  
19 this section shall have the same force and effect as the  
20 originals thereof would have, and shall be treated as  
21 originals for the purpose of their admissibility in evidence.  
22 Duly certified or authenticated reproductions of such  
23 photographs or microphotographs shall be admitted in evidence  
24 equally with the original photographs or microphotographs.

25 Section 141. Section 402.20, Florida Statutes, is  
26 amended to read:

27 402.20 County contracts authorized for services and  
28 facilities in mental health and retardation areas.--The boards  
29 of county commissioners are authorized to provide monetary  
30 grants and facilities, and to enter into renewable contracts,  
31 for services and facilities, for a period not to exceed 2

1 years, with public and private hospitals, clinics, and  
2 laboratories; other state agencies, departments, or divisions;  
3 the state colleges and universities; the community colleges;  
4 private colleges and universities; counties; municipalities;  
5 towns; townships; and any other governmental unit or nonprofit  
6 organization which provides needed facilities for the mentally  
7 ill or retarded. These services are hereby declared to be for  
8 a public and county purpose. The county commissioners may  
9 make periodic inspections to assure that the services or  
10 facilities provided under this chapter meet the standards of  
11 the Department of Children and Family Health and  
12 ~~Rehabilitative~~ Services.

13 Section 142. Subsection (1) of section 402.24, Florida  
14 Statutes, is amended to read:

15 402.24 Recovery of third-party payments for medical  
16 services.--

17 (1) As used in this section, "medical services" means  
18 medical or medically related institutional or noninstitutional  
19 services which are provided or paid for by the Department of  
20 ~~Health and Rehabilitative Services~~, except for services  
21 provided or paid for pursuant to chapter 394 or chapter 397.

22 Section 143. Section 402.27, Florida Statutes, is  
23 amended to read:

24 402.27 Child care and early childhood resource and  
25 referral.--The Department of Children and Family Health and  
26 ~~Rehabilitative~~ Services shall establish a statewide child care  
27 resource and referral network. Preference shall be given to  
28 using the already established central agencies for subsidized  
29 child care as the child care resource and referral agency. If  
30 the agency cannot comply with the requirements to offer the  
31 resource information component or does not want to offer that

1 service, the Department of Children and Family Health and  
2 ~~Rehabilitative~~ Services shall select the resource information  
3 agency based upon a request for proposal. At least one child  
4 care resource and referral agency must be established in each  
5 district of the department, but no more than one may be  
6 established in any county. Child care resource and referral  
7 agencies shall provide the following services:

8 (1) Identification of existing public and private  
9 child care and early childhood education services, including  
10 child care services by public and private employers, and the  
11 development of a resource file of those services. These  
12 services may include family day care, public and private child  
13 care programs, head start, prekindergarten early intervention  
14 programs, special education programs for prekindergarten  
15 handicapped children, services for children with developmental  
16 disabilities, full-time and part-time programs, before-school  
17 and after-school programs, vacation care programs, parent  
18 education, the WAGES Program, and related family support  
19 services. The resource file shall include, but not be limited  
20 to:

- 21 (a) Type of program.  
22 (b) Hours of service.  
23 (c) Ages of children served.  
24 (d) Number of children served.  
25 (e) Significant program information.  
26 (f) Fees and eligibility for services.  
27 (g) Availability of transportation.

28 (2) The establishment of a referral process which  
29 responds to parental need for information and which is  
30 provided with full recognition of the confidentiality rights  
31 of parents. Resource and referral programs shall make

1 referrals to licensed child care facilities. Referrals shall  
2 be made to an unlicensed child care facility or arrangement  
3 only if there is no requirement that the facility or  
4 arrangement be licensed.

5 (3) Maintenance of ongoing documentation of requests  
6 for service tabulated through the internal referral process.  
7 The following documentation of requests for service shall be  
8 maintained by all child care resource and referral agencies:

9 (a) Number of calls and contacts to the child care  
10 information and referral agency component by type of service  
11 requested.

12 (b) Ages of children for whom service was requested.

13 (c) Time category of child care requests for each  
14 child.

15 (d) Special time category, such as nights, weekends,  
16 and swing shift.

17 (e) Reason that the child care is needed.

18 (f) Name of the employer and primary focus of the  
19 business.

20 (4) Provision of technical assistance to existing and  
21 potential providers of child care services. This assistance  
22 may include:

23 (a) Information on initiating new child care services,  
24 zoning, and program and budget development and assistance in  
25 finding such information from other sources.

26 (b) Information and resources which help existing  
27 child care services providers to maximize their ability to  
28 serve children and parents in their community.

29 (c) Information and incentives which could help  
30 existing or planned child care services offered by public or  
31 private employers seeking to maximize their ability to serve

1 the children of their working parent employees in their  
2 community, through contractual or other funding arrangements  
3 with businesses.

4 (5) Assistance to families and employers in applying  
5 for various sources of subsidy including, but not limited to,  
6 subsidized child care, head start, prekindergarten early  
7 intervention programs, Project Independence, private  
8 scholarships, and the federal dependent care tax credit.

9 (6) Assistance to state agencies in determining the  
10 market rate for child care.

11 (7) Assistance in negotiating discounts or other  
12 special arrangements with child care providers.

13 (8) Information and assistance to local interagency  
14 councils coordinating services for prekindergarten handicapped  
15 children.

16 (9) A child care facility licensed under s. 402.305  
17 and licensed and registered family day care homes must provide  
18 the statewide child care and resource and referral agencies  
19 with the following information annually:

- 20 (a) Type of program.  
21 (b) Hours of service.  
22 (c) Ages of children served.  
23 (d) Fees and eligibility for services.

24 Section 144. Subsection (3) of section 402.28, Florida  
25 Statutes, is amended to read:

26 402.28 Child Care Plus.--

27 (3) The child care quality standards for a Child Care  
28 Plus facility or home shall be developed by the Department of  
29 Children and Family ~~Health and Rehabilitative~~ Services, in  
30 consultation with the Department of Education, and shall  
31 address, but not be limited to, the following areas:

1 (a) Child development, including language, cognitive,  
2 motor, social, and self-help skill development.

3 (b) Child health.

4 (c) Family counseling.

5 (d) Parent training.

6 (e) Child nutrition.

7 (f) Staff credentials.

8 Section 145. Paragraph (a) of subsection (1) and  
9 subsection (9) of section 402.3015, Florida Statutes, are  
10 amended to read:

11 402.3015 Subsidized child care program; purpose; fees;  
12 contracts.--

13 (1) The purpose of the subsidized child care program  
14 is to provide quality child care to enhance the development,  
15 including language, cognitive, motor, social, and self-help  
16 skills of children who are at risk of abuse or neglect and  
17 children of low-income families, and to promote financial  
18 self-sufficiency and life skills for the families of these  
19 children, unless prohibited by federal law. Priority for  
20 participation in the subsidized child care program shall be  
21 accorded to children under 13 years of age who are:

22 (a) Determined to be at risk of abuse, neglect, or  
23 exploitation and who are currently clients of the department's  
24 Children and Families ~~Services~~ Program Office;

25 (9) The central agency for state subsidized child care  
26 or the local service district of the Department of Children  
27 and Family ~~Health and Rehabilitative~~ Services shall cooperate  
28 with the local interagency coordinating council as defined in  
29 s. 230.2305 in the development of written collaborative  
30 agreements with each local school district.

31

1 (a) The central agency shall develop in consultation  
2 with the local interagency council a plan for implementing and  
3 conducting a child care program. Such plan shall include the  
4 tentative budget and measures for maximizing public resources.

5 (b) The department shall monitor each subsidized child  
6 care provider at least annually to determine compliance with  
7 the collaborative agreement facilitated by the local  
8 interagency coordinating council. If a provider fails to  
9 bring its program into compliance with the agreement or the  
10 plan within 3 months after an evaluation citing deficiencies,  
11 the department must withhold such administrative funds as have  
12 been allocated to the program and which have not yet been  
13 released.

14 Section 146. Subsections (1) and (2) of section  
15 402.3026, Florida Statutes, are amended to read:

16 402.3026 Full-service schools.--

17 (1) The State Board of Education and the Department of  
18 Health ~~and Rehabilitative Services~~ shall jointly establish  
19 full-service schools to serve students from schools that have  
20 a student population that has a high risk of needing medical  
21 and social services, based on the results of the demographic  
22 evaluations. The full-service schools must integrate the  
23 services of the Department of Health ~~and Rehabilitative~~  
24 ~~Services~~ that are critical to the continuity-of-care process.  
25 The Department of Health ~~and Rehabilitative Services~~ shall  
26 provide services to these high-risk students through  
27 facilities established within the grounds of the school. The  
28 Department of Health ~~and Rehabilitative Services~~ professionals  
29 shall carry out their specialized services as an extension of  
30 the educational environment. Such services may include,  
31 without limitation, nutritional services, basic medical

1 services, aid to dependent children, parenting skills,  
2 counseling for abused children, counseling for children at  
3 high risk for delinquent behavior and their parents, and adult  
4 education.

5 (2) The Department of Health ~~and Rehabilitative~~  
6 ~~Services~~ shall designate an executive staff director to  
7 coordinate the full-service schools program and to act as  
8 liaison with the Department of Education to coordinate the  
9 provision of health and rehabilitative services in educational  
10 facilities.

11 Section 147. Section 402.3115, Florida Statutes, 1998  
12 Supplement, is amended to read:

13 402.3115 Elimination of duplicative and unnecessary  
14 inspections; abbreviated inspections.--The Department of  
15 Children and Family ~~Health and Rehabilitative~~ Services and  
16 local governmental agencies that license child care facilities  
17 shall develop and implement a plan to eliminate duplicative  
18 and unnecessary inspections of child care facilities. In  
19 addition, the department and the local governmental agencies  
20 shall develop and implement an abbreviated inspection plan for  
21 child care facilities that have had no Class 1 or Class 2  
22 deficiencies, as defined by rule, for at least 2 consecutive  
23 years. The abbreviated inspection must include those elements  
24 identified by the department and the local governmental  
25 agencies as being key indicators of whether the child care  
26 facility continues to provide quality care and programming.  
27 The department and local governmental agencies shall conduct  
28 the first meeting not later than August 15, 1996, and shall  
29 jointly share administrative responsibilities. The department  
30 and local governmental agencies shall report to the  
31 Legislature not later than January 15, 1997, regarding the



1 status of implementing this section and any recommendations  
2 for statutory changes necessary to further reduce duplicative  
3 and unnecessary inspections and fully implement the plan for  
4 abbreviated inspections.

5 Section 148. Paragraph (c) of subsection (1) of  
6 section 402.33, Florida Statutes, is amended to read:

7 402.33 Department authority to charge fees for  
8 services provided.--

9 (1) As used in this section, the term:

10 (c) "Department" means the Department of Children and  
11 Family Health and Rehabilitative Services and the Department  
12 of Health.

13 Section 149. Section 402.35, Florida Statutes, is  
14 amended to read:

15 402.35 Employees.--All personnel of the Department of  
16 Children and Family Health and Rehabilitative Services shall  
17 be governed by rules and regulations adopted and promulgated  
18 by the Department of Management Services relative thereto  
19 except the director and persons paid on a fee basis. The  
20 Department of Children and Family Health and Rehabilitative  
21 Services may participate with other state departments and  
22 agencies in a joint merit system. No federal, state, county,  
23 or municipal officer shall be eligible to serve as an employee  
24 of the Department of Children and Family Health and  
25 Rehabilitative Services.

26 Section 150. Subsection (1), paragraphs (a), (b), and  
27 (c) of subsection (3), paragraph (a) of subsection (5), and  
28 subsections (6) and (7) of section 402.40, Florida Statutes,  
29 are amended to read:

30 402.40 Child welfare training academies established;  
31 Child Welfare Standards and Training Council created;

1 responsibilities of council; Child Welfare Training Trust Fund  
2 created.--

3 (1) LEGISLATIVE INTENT.--In order to enable the state  
4 to provide a systematic approach to staff development and  
5 training for dependency program staff that will meet the needs  
6 of such staff in their discharge of duties, it is the intent  
7 of the Legislature that the Department of Children and Family  
8 ~~Health and Rehabilitative~~ Services establish, maintain, and  
9 oversee the operation of child welfare training academies in  
10 the state. The Legislature further intends that the staff  
11 development and training programs that are established will  
12 aid in the reduction of poor staff morale and of staff  
13 turnover, will positively impact on the quality of decisions  
14 made regarding children and families who require assistance  
15 from dependency programs, and will afford better quality care  
16 of children who must be removed from their families.

17 (3) CHILD WELFARE STANDARDS AND TRAINING COUNCIL.--

18 (a) There is created within the Department of Children  
19 and Family ~~Health and Rehabilitative~~ Services the Child  
20 Welfare Training Council, hereinafter referred to as the  
21 council. The 21-member council shall consist of the  
22 Commissioner of Education or his or her designee; a member of  
23 the judiciary who has experience in the area of dependency and  
24 has served at least 3 years in the Juvenile Division of the  
25 circuit court, to be appointed by the Chief Justice of the  
26 Supreme Court; and 19 members to be appointed by the Secretary  
27 of Children and Family ~~Health and Rehabilitative~~ Services as  
28 follows:

- 29 1. Nine members shall be dependency program staff:  
30 a. An intake supervisor or counselor, a protective  
31 services supervisor or counselor, a foster care supervisor or

1 counselor, and an adoption and related services supervisor or  
2 counselor. Each such member shall have at least 5 years'  
3 experience working with children and families, at least two  
4 members shall each have a master's degree in social work, and  
5 any member not having a master's degree in social work shall  
6 have at least a bachelor's degree in social work, child  
7 development, behavioral psychology, or any other discipline  
8 directly related to providing care or counseling for families.

9       b. A representative from a licensed, residential  
10 child-caring agency contracted with by the state; a  
11 representative from a runaway shelter or similar program  
12 primarily serving adolescents, which shelter or program must  
13 be contracted with by the state; and a representative from a  
14 licensed child-placing agency contracted with by the state.  
15 At least two of these members shall each have a master's  
16 degree in social work, and any member not having a master's  
17 degree in social work shall have a degree as cited in  
18 sub-subparagraph a. All three members shall have at least 5  
19 years' experience working with children and families.

20       c. A family foster home parent and an emergency  
21 shelter home parent, both of whom shall have been providing  
22 such care for at least 5 years and shall have participated in  
23 training for foster parents or shelter parents on an ongoing  
24 basis.

25       2. One member shall be a supervisor or counselor from  
26 the WAGES Program.

27       3. Two members shall be educators from the state's  
28 university and community college programs of social work,  
29 child development, psychology, sociology, or other field of  
30 study pertinent to the training of dependency program staff.

31

1           4. One member shall be a pediatrician with expertise  
2 in the area of child abuse and neglect.

3           5. One member shall be a psychiatrist or licensed  
4 clinical psychologist with extensive experience in counseling  
5 children and families.

6           6. One member shall be an attorney with extensive  
7 experience in the practice of family law.

8           7. One member shall be a guardian ad litem or a child  
9 welfare attorney, either of whom shall have extensive  
10 experience in the representation of children.

11           8. One member shall be a state attorney with  
12 experience and expertise in the area of dependency and family  
13 law.

14           9. One member shall be a representative from a local  
15 law enforcement unit specializing in child abuse and neglect.

16           10. One member shall be a lay citizen who is a member  
17 of a child advocacy organization.

18  
19 The initial members of the council shall be appointed within  
20 30 days of the effective date of this section. Of the initial  
21 appointments, the member appointed by the Chief Justice of the  
22 Supreme Court, three members appointed pursuant to  
23 subparagraph 1., one member appointed pursuant to subparagraph  
24 3., and the members specified in subparagraphs 4. and 5. shall  
25 be appointed to terms of 3 years each; three members appointed  
26 pursuant to subparagraph 1., one of the members appointed  
27 pursuant to subparagraph 3., and the members specified in  
28 subparagraphs 2., 6., and 7. shall be appointed for terms of 2  
29 years each; and three members appointed pursuant to  
30 subparagraph 1., and the members specified in subparagraphs  
31 8., 9., and 10. shall be appointed to terms of 1 year each.

1 Thereafter, all appointed members shall serve terms of 3 years  
2 each. No person shall serve more than two consecutive terms.

3 (b) The functions of the council shall be to:

4 1. Advise the department on the overall comprehensive  
5 system for both preservice and inservice child welfare  
6 competency-based training and the components of such training;  
7 curriculum to be used in the training of dependency programs  
8 staff; targeting of areas of training and prioritization of  
9 dependency program staff to be trained; methods of delivery of  
10 the training; timeframes for participation in and completion  
11 of training by dependency program staff; location of training  
12 academies; types and frequencies of evaluations of the  
13 training academies; the budget for the child welfare training  
14 academies; and the contractor or contractors to be selected to  
15 organize and operate the training academies and to provide the  
16 training curriculum.

17 2. Advise the department on staffing for the council,  
18 including the securing of national consultants with expertise  
19 in the development of child welfare competency-based training  
20 and the securing of Florida professionals to assist in the  
21 development of the comprehensive system for training.

22 3. Review, evaluate, and advise the department  
23 concerning revisions, if needed, in both rules and law  
24 affecting standards and training for dependency programs.

25 4. Recommend improvements, if needed, in the  
26 administration of dependency programs as it relates to  
27 standards and training for dependency program staff,  
28 including, but not limited to, the qualifications,  
29 recruitment, and retention of such staff.

30  
31

1           5. Report annually to the Secretary of Children and  
2 Family Health and Rehabilitative Services, the President of  
3 the Senate, and the Speaker of the House of Representatives.

4           (c) The Secretary of Children and Family Health and  
5 Rehabilitative Services shall respond to the recommendations  
6 of the council in writing. The response shall be forwarded to  
7 the council, the President of the Senate, and the Speaker of  
8 the House of Representatives.

9           (5) CHILD WELFARE TRAINING TRUST FUND.--

10           (a) There is created within the State Treasury a Child  
11 Welfare Training Trust Fund to be used by the Department of  
12 Children and Family Health and Rehabilitative Services for the  
13 purpose of funding a comprehensive system of child welfare  
14 training, including the securing of consultants to develop the  
15 system, the staff of the council, the expenses of the council  
16 members, the child welfare training academies and the  
17 participation of dependency program staff in the training.

18           (6) TIMEFRAME FOR ESTABLISHMENT OF TRAINING  
19 ACADEMIES.--By June 30, 1987, the department shall have  
20 established and have operational at least one training  
21 academy, which shall be located in subdistrict IIB. The  
22 department shall contract for the operation of the academy  
23 with Tallahassee Community College. The number, location, and  
24 timeframe for establishment of additional training academies  
25 shall be according to the recommendation of the council as  
26 approved by the Secretary of Children and Family Health and  
27 Rehabilitative Services.

28           (7) ADOPTION OF RULES.--The Department of Children and  
29 Family Health and Rehabilitative Services shall adopt rules  
30 necessary to carry out the provisions of this section.

31

1           Section 151. Subsections (1), (3), (5), (6), (7), (8),  
2 and (9) of section 402.45, Florida Statutes, are amended to  
3 read:

4           402.45 Community resource mother or father program.--

5           (1) The Department of Health ~~and Rehabilitative~~  
6 ~~Services~~ shall establish a community resource mother or father  
7 program pursuant to this section within the resources  
8 allocated. The purpose of the program shall be to demonstrate  
9 the benefits of utilizing community resource mothers or  
10 fathers to improve maternal and child health outcomes; to  
11 enhance parenting and child development, including the  
12 educational enrichment of children through the promotion of  
13 increased awareness by mothers and fathers of their own  
14 strengths and potentials as home educators; to support family  
15 integrity through the provision of social support and parent  
16 education and training; to provide assistance to children at  
17 high risk for delinquent behavior and their parents; and to  
18 provide assistance to high-risk pregnant women and to  
19 high-risk or handicapped infants, toddlers, and preschool  
20 children and their parents.

21           (3) The Department of Health ~~and Rehabilitative~~  
22 ~~Services~~ shall contract with county health departments, other  
23 public agencies, or not-for-profit agencies, or any  
24 combination thereof, to carry out the programs utilizing  
25 community resource mother or father services.

26           (5) The Department of Health ~~and Rehabilitative~~  
27 ~~Services~~ may, in addition to the criteria in subsection (4),  
28 require other criteria to contract for community resource  
29 mother or father services.

30           (6) The community resource mother or father program  
31 shall be included under the jurisdiction of the State

1 Coordinating Council for Early Childhood Services established  
2 pursuant to s. 411.222. The council shall make  
3 recommendations for effective implementation of the program  
4 and shall advise the Department of Health ~~and Rehabilitative~~  
5 ~~Services~~ in the development of program guidelines, the  
6 schedule for implementation, the establishment of evaluation  
7 procedures, the provision of technical assistance to  
8 individual programs, and the development of the program  
9 evaluation report.

10 (7) The Department of Health ~~and Rehabilitative~~  
11 ~~Services~~ shall develop the program guidelines.

12 (8) Individuals under contract to provide community  
13 resource mother or father services shall participate in  
14 preservice and ongoing training as determined by the  
15 Department of Health ~~and Rehabilitative Services~~ in  
16 consultation with the State Coordinating Council for Early  
17 Childhood Services. A community resource mother or father  
18 shall not be assigned a client caseload until all preservice  
19 training requirements are completed.

20 (9) The community resource mother or father shall be  
21 assigned a caseload based on the criteria established by the  
22 Department of Health ~~and Rehabilitative Services~~, which  
23 criteria consider geographic distance, severity of problems on  
24 the caseload, and skills needed to address the problems. A  
25 plan shall be developed for each case that includes, at a  
26 minimum:

27 (a) A statement of the high-risk pregnant woman's  
28 problems or high-risk child's problems and needs.

29 (b) The goals and objectives of the intervention  
30 program.

31



1 (c) The services to be provided by the community  
2 resource mother or father.

3 (d) Community resources to be used.

4 (e) Schedule of visits between community resource  
5 mothers or fathers and clients.

6 Section 152. Subsection (1) of section 402.49, Florida  
7 Statutes, is amended to read:

8 402.49 Mediation process established.--

9 (1) The Department of Children and Family Health and  
10 ~~Rehabilitative~~ Services shall establish a mediation process  
11 for the purpose of resolving disputes that arise between the  
12 department and agencies that are operating under contracts  
13 with the department.

14 Section 153. Subsection (1) of section 402.50, Florida  
15 Statutes, is amended to read:

16 402.50 Administrative infrastructure; legislative  
17 intent; establishment of standards.--

18 (1) LEGISLATIVE INTENT.--The Legislature finds  
19 evidence of deficiencies in the administrative infrastructure  
20 of the Department of Children and Family Health and  
21 ~~Rehabilitative~~ Services, hereafter referred to as the  
22 "department," that may negatively affect the timeliness and  
23 quality of delivery of services. Particularly, the Legislature  
24 finds that inadequate client and management information  
25 systems have impeded integrated service delivery, that program  
26 evaluation activities have been insufficient, that workloads  
27 of administrative personnel are excessive, and that clients  
28 and service providers have been adversely affected by these  
29 administrative deficiencies. It is the intent of the  
30 Legislature that the administrative infrastructure of the  
31 department be established at levels necessary to support

1 efficient and effective delivery of services. Further, it is  
2 the intent of the Legislature that contracts of the department  
3 with service providers include established levels of funding  
4 for administrative infrastructure to support efficient and  
5 effective delivery of contracted services.

6 Section 154. Section 402.55, Florida Statutes, is  
7 amended to read:

8 402.55 Management fellows program.--

9 (1) It is the intent of the Legislature to provide a  
10 program whereby the Department of Children and Family Health  
11 ~~and Rehabilitative Services~~ and the Department of Health may  
12 identify, designate, train, and promote employees with high  
13 levels of administrative and management potential in order to  
14 meet the need of the departments ~~department~~ for broad-based  
15 administrative and managerial knowledge and skills in key  
16 positions within the departments ~~department~~.

17 (2) The departments are ~~department is~~ authorized to  
18 establish a management fellows program in order to provide  
19 highly qualified career candidates for key administrative and  
20 managerial positions in the departments ~~department~~. Such  
21 program shall include, but is not limited to:

22 (a) The identification annually by the secretaries  
23 ~~secretary, the assistant secretaries, Deputy Secretary for~~  
24 ~~Administration, the Deputy Secretary for Human Services, the~~  
25 ~~Deputy Secretary for Health,~~ and the district administrator in  
26 each district of one high-potential career service employee  
27 each, to be designated and appointed to serve as a full-time  
28 health and rehabilitative services management fellow for a  
29 period of 1 year.

30 (b) The design, development, implementation, and  
31 monitoring of a full-time, 1-year placement program based on a

1 self-motivated enrichment plan for each respective fellow in  
2 various units of the departments ~~department~~.

3 (c) The participation of each management fellow in  
4 on-the-job management training and inservice administrative  
5 training project assignments, supplemented by periodic  
6 management workshops, seminars, and courses within and outside  
7 the departments ~~department~~.

8 (3) The departments ~~department~~ shall develop,  
9 implement, operate, and monitor the management fellows program  
10 provided by this act within existing resources, including the  
11 annual identification and allocation of resources necessary to  
12 support the training activities of each management fellow.

13 (4) Notwithstanding the provisions of chapter 110, the  
14 departments ~~department~~ may grant special pay increases to  
15 management fellows upon successful completion of the program.

16 (5) The departments ~~department~~ may adopt rules to  
17 implement this section.

18 Section 155. Subsection (3) of section 403.061,  
19 Florida Statutes, 1998 Supplement, is amended to read:

20 403.061 Department; powers and duties.--The department  
21 shall have the power and the duty to control and prohibit  
22 pollution of air and water in accordance with the law and  
23 rules adopted and promulgated by it and, for this purpose, to:

24 (3) Utilize the facilities and personnel of other  
25 state agencies, including the Department of Health ~~and~~  
26 ~~Rehabilitative Services~~, and delegate to any such agency any  
27 duties and functions as the department may deem necessary to  
28 carry out the purposes of this act.

29 Section 156. Section 403.081, Florida Statutes, is  
30 amended to read:

31

1           403.081 Performance by other state agencies.--All  
2 state agencies, including the Department of Health ~~and~~  
3 ~~Rehabilitative Services~~, shall be available to the department  
4 to perform, at its direction, the duties required of the  
5 department under this act.

6           Section 157. Subsections (1) and (3) of section  
7 403.085, Florida Statutes, are amended to read:

8           403.085 Sanitary sewage disposal units; advanced and  
9 secondary waste treatment; industrial waste, ocean outfall,  
10 inland outfall, or disposal well waste treatment.--

11           (1) Neither the Department of Health ~~and~~  
12 ~~Rehabilitative Services~~ nor any other state agency, county,  
13 special district, or municipality shall approve construction  
14 of any ocean outfall or disposal well for sanitary sewage  
15 disposal which does not provide for secondary waste treatment  
16 and, in addition thereto, advanced waste treatment as deemed  
17 necessary and ordered by the department.

18           (3) Neither the Department of Health ~~and~~  
19 ~~Rehabilitative Services~~ nor any other state agency, county,  
20 special district, or municipality shall approve construction  
21 of any ocean outfall, inland outfall, or disposal well for the  
22 discharge of industrial waste of any kind which does not  
23 provide for secondary waste treatment or such other treatment  
24 as is deemed necessary and ordered by the department.

25           Section 158. Paragraph (a) of subsection (1) of  
26 section 403.086, Florida Statutes, is amended to read:

27           403.086 Sewage disposal facilities; advanced and  
28 secondary waste treatment.--

29           (1)(a) Neither the Department of Health ~~and~~  
30 ~~Rehabilitative Services~~ nor any other state agency, county,  
31 special district, or municipality shall approve construction

1 of any facilities for sanitary sewage disposal which do not  
2 provide for secondary waste treatment and, in addition  
3 thereto, advanced waste treatment as deemed necessary and  
4 ordered by the department.

5 Section 159. Subsection (1) of section 403.088,  
6 Florida Statutes, is amended to read:

7 403.088 Water pollution operation permits;  
8 conditions.--

9 (1) No person, without written authorization of the  
10 department, shall discharge into waters within the state any  
11 waste which, by itself or in combination with the wastes of  
12 other sources, reduces the quality of the receiving waters  
13 below the classification established for them. However, this  
14 section shall not be deemed to prohibit the application of  
15 pesticides to waters in the state for the control of insects,  
16 aquatic weeds, or algae, provided the application is performed  
17 pursuant to a program approved by the Department of Health ~~and~~  
18 ~~Rehabilitative Services~~, in the case of insect control, or the  
19 department, in the case of aquatic weed or algae control. The  
20 department is directed to enter into interagency agreements to  
21 establish the procedures for program approval. Such agreements  
22 shall provide for public health, welfare, and safety, as well  
23 as environmental factors. Approved programs must provide that  
24 only chemicals approved for the particular use by the United  
25 States Environmental Protection Agency or by the Department of  
26 Agriculture and Consumer Services may be employed and that  
27 they be applied in accordance with registered label  
28 instructions, state standards for such application, and the  
29 provisions of the Florida Pesticide Law, part I of chapter  
30 487.

31

1           Section 160. Subsection (37) of section 403.703,  
2 Florida Statutes, is amended to read:

3           403.703 Definitions.--As used in this act, unless the  
4 context clearly indicates otherwise, the term:

5           (37) "Biomedical waste" means any solid waste or  
6 liquid waste which may present a threat of infection to  
7 humans. The term includes, but is not limited to, nonliquid  
8 human tissue and body parts; laboratory and veterinary waste  
9 which contain human-disease-causing agents; discarded  
10 disposable sharps; human blood, and human blood products and  
11 body fluids; and other materials which in the opinion of the  
12 Department of Health ~~and Rehabilitative Services~~ represent a  
13 significant risk of infection to persons outside the  
14 generating facility. The term does not include human remains  
15 that are disposed of by persons licensed under chapter 470.

16           Section 161. Subsection (3) of section 403.7841,  
17 Florida Statutes, is amended to read:

18           403.7841 Application for certification.--

19           (3) Within 7 days after filing the application with  
20 the department, the applicant shall provide two copies of the  
21 application as filed to each of the following: the Department  
22 of Community Affairs, the water management district which has  
23 jurisdiction over the area wherein the proposed project is to  
24 be located, the Department of Transportation, the Game and  
25 Fresh Water Fish Commission, the Department of Health ~~and~~  
26 ~~Rehabilitative Services~~, the Department of Agriculture and  
27 Consumer Services, and the local governmental entities which  
28 have jurisdiction.

29           Section 162. Subsection (1) of section 403.786,  
30 Florida Statutes, is amended to read:

31           403.786 Report and studies.--

1           (1) The Department of Community Affairs, the water  
2 management district which has jurisdiction over the area  
3 wherein the proposed project is to be located, the Department  
4 of Transportation, the Game and Fresh Water Fish Commission,  
5 the Department of Health ~~and Rehabilitative Services~~, the  
6 Department of Agriculture and Consumer Services, and each  
7 local government which has jurisdiction shall each submit a  
8 report of matters within their jurisdiction to the department  
9 within 90 days after their receipt of the application. Any  
10 other agency may submit comments relating to matters within  
11 its jurisdiction to the department within 90 days after the  
12 filing of the application with the Division of Administrative  
13 Hearings.

14           Section 163. Paragraph (g) of subsection (2) of  
15 section 403.813, Florida Statutes, 1998 Supplement, is amended  
16 to read:

17           403.813 Permits issued at district centers;  
18 exceptions.--

19           (2) No permit under this chapter, chapter 373, chapter  
20 61-691, Laws of Florida, or chapter 25214 or chapter 25270,  
21 1949, Laws of Florida, shall be required for activities  
22 associated with the following types of projects; however,  
23 nothing in this subsection relieves an applicant from any  
24 requirement to obtain permission to use or occupy lands owned  
25 by the Board of Trustees of the Internal Improvement Trust  
26 Fund or any water management district in its governmental or  
27 proprietary capacity or from complying with applicable local  
28 pollution control programs authorized under this chapter or  
29 other requirements of county and municipal governments:

30           (g) The maintenance of existing insect control  
31 structures, dikes, and irrigation and drainage ditches,

1 provided that spoil material is deposited on a self-contained,  
2 upland spoil site which will prevent the escape of the spoil  
3 material into waters of the state. In the case of insect  
4 control structures, if the cost of using a self-contained  
5 upland spoil site is so excessive, as determined by the  
6 Department of Health ~~and Rehabilitative Services~~, pursuant to  
7 s. 403.088(1), that it will inhibit proposed insect control,  
8 then-existing spoil sites or dikes may be used, upon  
9 notification to the department. In the case of insect control  
10 where upland spoil sites are not used pursuant to this  
11 exemption, turbidity control devices shall be used to confine  
12 the spoil material discharge to that area previously disturbed  
13 when the receiving body of water is used as a potable water  
14 supply, is designated as shellfish harvesting waters, or  
15 functions as a habitat for commercially or recreationally  
16 important shellfish or finfish. In all cases, no more  
17 dredging is to be performed than is necessary to restore the  
18 dike or irrigation or drainage ditch to its original design  
19 specifications.

20 Section 164. Section 403.851, Florida Statutes, is  
21 amended to read:

22 403.851 Declaration of policy; intent.--It is the  
23 policy of the state that the citizens of Florida shall be  
24 assured of the availability of safe drinking water.  
25 Recognizing that this policy encompasses both environmental  
26 and public health aspects, it is the intent of the Legislature  
27 to provide a water supply program operated jointly by the  
28 department, in a lead-agency role of primary responsibility  
29 for the program, and by the Department of Health ~~and~~  
30 ~~Rehabilitative Services~~ and its units, including county health  
31 departments, in a supportive role with specific duties and



1 responsibilities of its own. Without any relinquishment of  
2 Florida's sovereign powers and responsibilities to provide for  
3 the public health, public safety, and public welfare of the  
4 people of Florida, the Legislature intends:

5 (1) To give effect to Pub. L. No. 93-523 promulgated  
6 under the commerce clause of the United States Constitution,  
7 to the extent that interstate commerce is directly affected.

8 (2) To encourage cooperation between federal, state,  
9 and local agencies, not only in their enforcement role, but  
10 also in their service and assistance roles to city and county  
11 elected bodies.

12 (3) To provide for safe drinking water at all times  
13 throughout the state, with due regard for economic factors and  
14 efficiency in government.

15 Section 165. Paragraph (b) of subsection (12) of  
16 section 403.852, Florida Statutes, is amended to read:

17 403.852 Definitions; ss. 403.850-403.864.--As used in  
18 ss. 403.850-403.864:

19 (12) "Primary drinking water regulation" means a rule  
20 which:

21 (b) Specifies contaminants which, in the judgment of  
22 the department, after consultation with the Department of  
23 Health ~~and Rehabilitative Services~~, may have an adverse effect  
24 on the health of the public;

25 Section 166. Section 403.855, Florida Statutes, is  
26 amended to read:

27 403.855 Imminent hazards.--In coordination with the  
28 Department of Health ~~and Rehabilitative Services~~, the  
29 department, upon receipt of information that a contaminant  
30 which is present in, or is likely to enter, public or private  
31 water supplies may present an imminent and substantial danger

1 to the public health, may take such actions as it may deem  
2 necessary in order to protect the public health. Department  
3 actions shall include, but are not limited to:

4 (1) Adopting emergency rules pursuant to s. 120.54(4).

5 (2) Issuing such corrective orders as may be necessary  
6 to protect the health of persons who are or may be users of  
7 such supplies, including travelers. An order issued by the  
8 department under this section shall become effective upon  
9 service of such order on the alleged violator, notwithstanding  
10 the provisions of s. 403.860(3).

11 (3) Establishing a program designed to prevent  
12 contamination or to minimize the danger of contamination to  
13 potable water supplies.

14 (4) Contracting for clinical tests on samples of the  
15 affected population if the department determines there is a  
16 real and immediate danger to the public health.

17 (5) Commencing a civil action for appropriate relief,  
18 including a restraining order or permanent or temporary  
19 injunction.

20 Section 167. Section 403.856, Florida Statutes, is  
21 amended to read:

22 403.856 Plan for emergency provision of water.--The  
23 department shall adopt an adequate plan, after consultation  
24 with the Department of Health ~~and Rehabilitative Services~~, for  
25 the provision of safe drinking water under emergency  
26 circumstances. When, in the judgment of the department,  
27 emergency circumstances exist in the state with respect to a  
28 need for safe drinking water, it may issue such rule or order  
29 as it may deem necessary in order to provide such water where  
30 it would not otherwise be available.

31

1           Section 168. Section 403.858, Florida Statutes, is  
2 amended to read:

3           403.858 Inspections.--Any duly authorized  
4 representative of the department or of the Department of  
5 Health ~~and Rehabilitative Services~~ may enter, take water  
6 samples from, and inspect any property, premises, or place,  
7 except a building which is used exclusively for a private  
8 residence, on or at which a public water system is located or  
9 is being constructed or installed, at any reasonable time, for  
10 the purpose of ascertaining the state of compliance with the  
11 law or with rules or orders of the department.

12           Section 169. Subsection (4) of section 403.859,  
13 Florida Statutes, is amended to read:

14           403.859 Prohibited acts.--The following acts and the  
15 causing thereof are prohibited and are violations of this act:

16           (4) Failure by a supplier of water to allow any duly  
17 authorized representative of the department or of the  
18 Department of Health ~~and Rehabilitative Services~~ to conduct  
19 inspections pursuant to s. 403.858.

20           Section 170. Subsections (11) and (15) of section  
21 403.861, Florida Statutes, 1998 Supplement, are amended to  
22 read:

23           403.861 Department; powers and duties.--The department  
24 shall have the power and the duty to carry out the provisions  
25 and purposes of this act and, for this purpose, to:

26           (11) Establish and maintain laboratories for  
27 radiological, microbiological, and chemical analyses of water  
28 samples from public water systems, if the department  
29 determines that an additional laboratory capability beyond  
30 that provided by the Department of Health ~~and Rehabilitative~~  
31 ~~Services~~ is necessary.

1           (15) Establish and collect fees for conducting state  
2 laboratory analyses as may be necessary, to be collected and  
3 used by either the department or the Department of Health ~~and~~  
4 ~~Rehabilitative Services~~ in conducting its public water supply  
5 laboratory functions.

6           Section 171. Subsections (1), (2), (3), (4), (5), and  
7 (6) of section 403.862, Florida Statutes, are amended to read:

8           403.862 Department of Health ~~and Rehabilitative~~  
9 ~~Services~~; public water supply duties and responsibilities;  
10 coordinated budget requests with department.--

11           (1) Recognizing that supervision and control of county  
12 health departments of the Department of Health ~~and~~  
13 ~~Rehabilitative Services~~ is retained by the secretary of that  
14 agency, and that public health aspects of the state public  
15 water supply program require joint participation in the  
16 program by the Department of Health ~~and Rehabilitative~~  
17 ~~Services~~ and its units and the department, the Department of  
18 Health ~~and Rehabilitative Services~~ shall:

19           (a) Establish and maintain laboratories for the  
20 conducting of radiological, microbiological, and chemical  
21 analyses of water samples from public water systems, which are  
22 submitted to such laboratories for analysis. Copies of the  
23 reports of such analyses and quarterly summary reports shall  
24 be submitted to the appropriate department district or  
25 subdistrict office.

26           (b) Require each county health department to:

27           1. Collect such water samples for analysis as may be  
28 required by the terms of this act, from public water systems  
29 within its jurisdiction. The duty to collect such samples may  
30 be shared with the appropriate department district or  
31

1 subdistrict office and shall be coordinated by field personnel  
2 involved.

3 2. Submit the collected water samples to the  
4 appropriate laboratory for analysis.

5 3. Maintain reports of analyses for its own records.

6 4. Conduct complaint investigation of public water  
7 systems to determine compliance with federal, state, and local  
8 standards and permit compliance.

9 5. Notify the appropriate department district or  
10 subdistrict office of potential violations of federal, state,  
11 and local standards and permit conditions by public water  
12 systems and assist the department in enforcement actions with  
13 respect to such violations to the maximum extent practicable.

14 6. Review and evaluate laboratory analyses of water  
15 samples from private water systems.

16 (c) Require those county health departments designated  
17 by the Department of Health ~~and Rehabilitative Services~~ and  
18 approved by the department as having qualified sanitary  
19 engineering staffs and available legal resources, in addition  
20 to the duties prescribed in paragraph (b), to:

21 1. Review, evaluate, and approve or disapprove each  
22 application for the construction, modification, or expansion  
23 of a public water system to determine compliance with federal,  
24 state, and local requirements. A copy of the completed permit  
25 application and a report of the final action taken by the  
26 county health department shall be forwarded to the appropriate  
27 department district office.

28 2. Review, evaluate, and approve or disapprove  
29 applications for the expansion of distribution systems.  
30 Written notification of action taken on such applications

31

1 shall be forwarded to the appropriate department district or  
2 subdistrict office.

3 3. Maintain inventory, operational, and  
4 bacteriological records and carry out monitoring,  
5 surveillance, and sanitary surveys of public water systems to  
6 ensure compliance with federal, state, and local regulations.

7 4. Participate in educational and training programs  
8 relating to drinking water and public water systems.

9 5. Enforce the provisions of this part and rules  
10 adopted under this part.

11 (d) Require those county health departments designated  
12 by the Department of Health ~~and Rehabilitative Services~~ as  
13 having the capability of performing bacteriological analyses,  
14 in addition to the duties prescribed in paragraph (b), to:

15 1. Perform bacteriological analyses of water samples  
16 submitted for analysis.

17 2. Submit copies of the reports of such analyses to  
18 the appropriate department district or subdistrict office.

19 (e) Make available to the central and branch  
20 laboratories funds sufficient, to the maximum extent possible,  
21 to carry out the public water supply functions and  
22 responsibilities required of such laboratories as provided in  
23 this section.

24 (f) Have general supervision and control over all  
25 private water systems and all public water systems not  
26 otherwise covered or included in this part. This shall include  
27 the authority to adopt and enforce rules to protect the  
28 health, safety, or welfare of persons being served by all  
29 private water systems and all public water systems not  
30 otherwise covered by this part.

31

1           (g) Assist state and local agencies in the  
2 determination and investigation of suspected waterborne  
3 disease outbreaks, including diseases associated with chemical  
4 contaminants.

5           (h) Upon request, consult with and advise any county  
6 or municipal authority as to water supply activities.

7           (2) Funds appropriated to support activities of county  
8 health departments of the Department of Health ~~and~~  
9 ~~Rehabilitative Services~~ pursuant to this act shall be  
10 deposited to the County Health Department Trust Fund and used  
11 exclusively for the purposes of this act.

12           (3) The Department of Health ~~and Rehabilitative~~  
13 ~~Services~~ and the department shall coordinate their respective  
14 budget requests to ensure that sufficient funding is provided  
15 to the Department of Health ~~and Rehabilitative Services~~ in  
16 order that it may carry out its public water supply functions  
17 and responsibilities as provided in this section. In the event  
18 the Department of Health ~~and Rehabilitative Services~~ lacks  
19 sufficient funds in any fiscal year to the extent that it is  
20 unable adequately to carry out its public water supply duties,  
21 an interagency agreement may be entered into between the two  
22 departments in order to remedy administratively, either  
23 through the transfer of funds or of services, the lack of  
24 sufficient public water supply funds within the Department of  
25 Health ~~and Rehabilitative Services~~.

26           (4) If the department determines that a county health  
27 department or other unit of the Department of Health ~~and~~  
28 ~~Rehabilitative Services~~ is not performing its public water  
29 supply responsibilities satisfactorily, the secretary of the  
30 department shall certify such determination in writing to the  
31 Secretary of Health ~~and Rehabilitative Services~~. The

1 Secretary of Health ~~and Rehabilitative Services~~ shall evaluate  
2 the determination of the department and shall inform the  
3 secretary of the department of his or her evaluation. Upon  
4 concurrence, the Secretary of Health ~~and Rehabilitative~~  
5 ~~Services~~ shall take immediate corrective action.

6 (5) Nothing in this section shall serve to negate the  
7 powers, duties, and responsibilities of the Secretary of  
8 Health ~~and Rehabilitative Services~~ relating to the protection  
9 of the public from the spread of communicable disease,  
10 epidemics, and plagues.

11 (6) No county health department may be designated and  
12 approved unless it can carry out all functions of the drinking  
13 water program. Each year, the department, in conjunction with  
14 the Department of Health ~~and Rehabilitative Services~~, shall  
15 review approved county health departments to determine  
16 continued qualification for approved status. To receive and  
17 maintain approved status, a county health department shall  
18 meet the following criteria and other reasonable and necessary  
19 requirements established by the department for its district  
20 offices:

21 (a) The staff shall be under the direction of a  
22 qualified individual who is a registered professional engineer  
23 in Florida pursuant to chapter 471.

24 (b) The county health department shall have sufficient  
25 legal resources to carry out the requirements of this part.

26 Section 172. Section 403.8635, Florida Statutes, is  
27 amended to read:

28 403.8635 State drinking water sample laboratory  
29 certification program.--

30 (1) In addition to certifying laboratories pursuant to  
31 s. 403.863, the Department of Health ~~and Rehabilitative~~



1 ~~Services~~ is authorized to establish a periodic certification  
2 and approval program for laboratories that perform analyses of  
3 drinking water samples, which program will assure the  
4 acceptable quality, reliability, and validity of all testing  
5 results.

6 (2) The Department of Health ~~and Rehabilitative~~  
7 ~~Services~~ has the responsibility for the operation and  
8 implementation of laboratory certification pursuant to this  
9 section, except that, upon completion of the evaluation and  
10 review of an application for laboratory certification, the  
11 evaluation shall be forwarded, along with recommendations, to  
12 the department for review and comment prior to final approval  
13 or disapproval.

14 (3) The Department of Health ~~and Rehabilitative~~  
15 ~~Services~~ is authorized to charge and collect fees for the  
16 evaluation and certification of laboratories pursuant to this  
17 part. The fee schedule shall be based on the number of  
18 analytical functions for which certification is sought. Such  
19 fees shall be sufficient to meet the costs incurred by the  
20 Department of Health ~~and Rehabilitative Services~~ in the  
21 administration and operation of this program. All fees shall  
22 be deposited in a trust fund administered by the Department of  
23 Health ~~and Rehabilitative Services~~ to be used for the sole  
24 purpose of this section.

25 Section 173. Section 403.864, Florida Statutes, is  
26 amended to read:

27 403.864 Public water supply accounting program.--

28 (1) It is the intent of the Legislature to require a  
29 yearly accounting of funds, overhead, personnel, and property  
30 used by the department and the Department of Health ~~and~~  
31 ~~Rehabilitative Services~~ and its units, including each of the

1 county health departments, in conducting their respective  
2 responsibilities for the state public water supply program.  
3 Such accounting shall be presented to the Governor, the  
4 President of the Senate, and the Speaker of the House of  
5 Representatives by the department and the Department of Health  
6 ~~and Rehabilitative Services~~ no later than February 1 of each  
7 year.

8 (2) In furtherance of this intent, the Department of  
9 Health ~~and Rehabilitative Services~~, the department, and the  
10 Auditor General shall jointly develop an accounting program  
11 for use by the department and the Department of Health ~~and~~  
12 ~~Rehabilitative Services~~ and its units, including the county  
13 health departments, to determine the funds, overhead,  
14 personnel, and property used by each of the departments in  
15 conducting its respective public water supply functions and  
16 responsibilities for each fiscal year. The accounting program  
17 shall provide information sufficient to satisfy state auditing  
18 and federal grant and aid reporting requirements and shall  
19 include provisions requiring the Department of Health ~~and~~  
20 ~~Rehabilitative Services~~ to:

21 (a) Segregate, from an accounting standpoint, funds  
22 distributed to county health departments for public water  
23 supply functions from other county health department trust  
24 funds.

25 (b) Segregate, from an accounting standpoint, funds  
26 distributed to the central and branch laboratories of the  
27 Department of Health ~~and Rehabilitative Services~~ for public  
28 water supply functions from other laboratory funds.

29 (c) Require each county health department, the central  
30 and each branch laboratory of the Department of Health ~~and~~  
31 ~~Rehabilitative Services~~, and any other entity of the

1 Department of Health ~~and Rehabilitative Services~~ involved in  
2 and carrying out public water supply functions to account to  
3 the Department of Health ~~and Rehabilitative Services~~ on a  
4 semiannual basis for the funds received, from whatever source,  
5 and used for public water supply functions.

6 (d) Require each county health department, the central  
7 and each branch laboratory of the Department of Health ~~and~~  
8 ~~Rehabilitative Services~~, and any other entity of the  
9 Department of Health ~~and Rehabilitative Services~~ involved in  
10 carrying out public water supply functions either wholly or  
11 partially with funds, either federal or state, received from  
12 the department through an interagency agreement or other means  
13 to account to the department on a semiannual basis for such  
14 funds received and used for public water supply functions.

15 Section 174. Paragraph (c) of subsection (1) of  
16 section 406.02, Florida Statutes, is amended to read:

17 406.02 Medical Examiners Commission; membership;  
18 terms; duties; staff.--

19 (1) There is created the Medical Examiners Commission  
20 within the Department of Law Enforcement. The commission  
21 shall consist of nine persons appointed or selected as  
22 follows:

23 (c) One member shall be the Secretary of Health ~~Deputy~~  
24 ~~Assistant Secretary for Health of the Department of Health and~~  
25 ~~Rehabilitative Services~~ or her or his designated  
26 representative.

27 Section 175. Paragraph (b) of subsection (2) of  
28 section 408.033, Florida Statutes, is amended to read:

29 408.033 Local and state health planning.--

30 (2) FUNDING.--

31

1 (b)1. A hospital licensed under chapter 395, a nursing  
2 home licensed under chapter 400, and an assisted living  
3 facility licensed under chapter 400 shall be assessed an  
4 annual fee based on number of beds.

5 2. All other facilities and organizations listed in  
6 paragraph (a) shall each be assessed an annual fee of \$150.

7 3. Facilities operated by the Department of Children  
8 and Family Health and Rehabilitative Services, the Department  
9 of Health, or the Department of Corrections and any hospital  
10 which meets the definition of rural hospital pursuant to s.  
11 395.602 are exempt from the assessment required in this  
12 subsection.

13 Section 176. Paragraphs (c), (d), and (g) of  
14 subsection (3) of section 408.05, Florida Statutes, 1998  
15 Supplement, are amended to read:

16 408.05 State Center for Health Statistics.--

17 (3) COMPREHENSIVE HEALTH INFORMATION SYSTEM.--In order  
18 to produce comparable and uniform health information and  
19 statistics, the agency shall perform the following functions:

20 (c) Review the statistical activities of the  
21 Department of Health ~~and Rehabilitative Services~~ to assure  
22 that they are consistent with the comprehensive health  
23 information system.

24 (d) Develop written agreements with local, state, and  
25 federal agencies for the sharing of health-care-related data  
26 or using the facilities and services of such agencies. State  
27 agencies, local health councils, and other agencies under  
28 contract with the Department of Health ~~and Rehabilitative~~  
29 ~~Services~~ shall assist the center in obtaining, compiling, and  
30 transferring health-care-related data maintained by state and  
31 local agencies. Written agreements must specify the types,

1 methods, and periodicity of data exchanges and specify the  
2 types of data that will be transferred to the center.

3 (g) Establish minimum health-care-related data sets  
4 which are necessary on a continuing basis to fulfill the  
5 collection requirements of the center and which shall be used  
6 by state agencies in collecting and compiling  
7 health-care-related data. The agency shall periodically  
8 review ongoing health care data collections of the Department  
9 of Health ~~and Rehabilitative Services~~ and other state agencies  
10 to determine if the collections are being conducted in  
11 accordance with the established minimum sets of data.

12 Section 177. Paragraph (a) of subsection (4) of  
13 section 408.061, Florida Statutes, 1998 Supplement, is amended  
14 to read:

15 408.061 Data collection; uniform systems of financial  
16 reporting; information relating to physician charges;  
17 confidentiality of patient records; immunity.--

18 (4)(a) Within 120 days after the end of its fiscal  
19 year, each health care facility shall file with the agency, on  
20 forms adopted by the agency and based on the uniform system of  
21 financial reporting, its actual financial experience for that  
22 fiscal year, including expenditures, revenues, and statistical  
23 measures. Such data may be based on internal financial  
24 reports which are certified to be complete and accurate by the  
25 provider. However, hospitals' actual financial experience  
26 shall be their audited actual experience. Nursing homes that  
27 do not participate in the Medicare or Medicaid programs shall  
28 also submit audited actual experience. Every nursing home  
29 shall submit to the agency, in a format designated by the  
30 agency, a statistical profile of the nursing home residents.  
31 The agency, in conjunction with the Department of Elderly

1 Affairs and the Department of Health ~~and Rehabilitative~~  
2 ~~Services~~, shall review these statistical profiles and develop  
3 recommendations for the types of residents who might more  
4 appropriately be placed in their homes or other  
5 noninstitutional settings. The agency shall include its  
6 findings in the final Florida Health Plan which must be  
7 submitted to the Legislature by December 31, 1993. Included  
8 in the findings shall be outcome data and cost differential  
9 data as part of patient profiles.

10 Section 178. Subsection (4) of section 408.20, Florida  
11 Statutes, 1998 Supplement, is amended to read:

12 408.20 Assessments; Health Care Trust Fund.--

13 (4) Hospitals operated by the Department of Children  
14 and Family ~~Health and Rehabilitative~~ Services, the Department  
15 of Health, or the Department of Corrections are exempt from  
16 the assessments required under this section.

17 Section 179. Section 408.301, Florida Statutes, is  
18 amended to read:

19 408.301 Legislative findings.--The Legislature has  
20 found that access to quality, affordable, health care for all  
21 Floridians is an important goal for the state. The  
22 Legislature has charged the Agency for Health Care  
23 Administration with the responsibility of developing the  
24 Florida Health Plan for assuring access to health care for all  
25 Floridians. At the same time, the Legislature recognizes that  
26 there are Floridians with special health care and social needs  
27 which require particular attention. The people served by the  
28 Department of Children and Family ~~Health and Rehabilitative~~  
29 Services and the Department of Health are examples of citizens  
30 with special needs. The Legislature further recognizes that  
31 the Medicaid program is an intricate part of the service

1 delivery system for the special needs citizens served by or  
2 through the Department of Children and Family Health and  
3 Rehabilitative Services and the Department of Health. The  
4 Agency for Health Care Administration is not a service  
5 provider and does not develop or direct programs for the  
6 special needs citizens served by or through the Department of  
7 Children and Family Health and Rehabilitative Services and the  
8 Department of Health. Therefore, it is the intent of the  
9 Legislature that the Agency for Health Care Administration  
10 work closely with the Department of Children and Family Health  
11 and Rehabilitative Services and the Department of Health in  
12 developing plans for assuring access to all Floridians in  
13 order to assure that the needs of special citizens are met.

14 Section 180. Section 408.302, Florida Statutes, is  
15 amended to read:

16 408.302 Interagency agreement.--

17 (1) The Agency for Health Care Administration shall  
18 enter into an interagency agreement with the Department of  
19 Children and Family Health and Rehabilitative Services and the  
20 Department of Health to assure coordination and cooperation in  
21 serving special needs citizens. The agreement shall include  
22 the requirement that the secretary of the Department of  
23 Children and Family Health and Rehabilitative Services and the  
24 secretary of the Department of Health approve, prior to  
25 adoption, any rule developed by the Agency for Health Care  
26 Administration where such rule has a direct impact on the  
27 mission of the Department of Children and Family Health and  
28 Rehabilitative Services and the Department of Health, their  
29 programs, its program, or their budgets its budget.

30 (2) For rules which indirectly impact on the mission  
31 of the Department of Children and Family Health and

1 ~~Rehabilitative~~ Services and the Department of Health, their,  
2 ~~its~~ programs, or their budgets ~~its budget~~, the concurrence of  
3 the secretary of the Department of Children and Family Health  
4 ~~and Rehabilitative Services~~ and the secretary of the  
5 Department of Health on the rule is required.

6 (3) For all other rules developed by the Agency for  
7 Health Care Administration, coordination with the Department  
8 of Children and Family Health and Rehabilitative Services and  
9 the Department of Health is encouraged.

10 (4) The interagency agreement shall also include any  
11 other provisions necessary to ensure a continued cooperative  
12 working relationship between the Agency for Health Care  
13 Administration and the Department of Children and Family  
14 ~~Health and Rehabilitative Services~~ and the Department of  
15 Health as each strives to meet the needs of the citizens of  
16 Florida.

17 Section 181. Paragraph (c) of subsection (4) of  
18 section 409.166, Florida Statutes, is amended to read:

19 409.166 Special needs children; subsidized adoption  
20 program.--

21 (4) ELIGIBILITY FOR SERVICES.--

22 (c) A child who is handicapped at the time of adoption  
23 shall be eligible for services of the Division of Children's  
24 Medical Services program if the child was eligible for such  
25 services prior to the adoption.

26 Section 182. Paragraph (a) of subsection (1) of  
27 section 409.352, Florida Statutes, is amended to read:

28 409.352 Licensing requirements for physicians,  
29 osteopathic physicians, and chiropractic physicians employed  
30 by the department.--

31



1           (1) It is the intent of the Legislature that  
2 physicians providing services in state institutions meet the  
3 professional standards of their respective licensing boards  
4 and that such institutions make every reasonable effort to  
5 assure that all physicians employed are licensed, or will  
6 become licensed, in this state. When state-licensed  
7 physicians cannot be obtained in sufficient numbers to provide  
8 quality services, the licensing requirements in chapters 458,  
9 459, and 460 to the contrary notwithstanding, persons employed  
10 as physicians, osteopathic physicians, or chiropractic  
11 physicians in a state institution, except those under the  
12 control of the Department of Corrections on June 28, 1977, may  
13 be exempted from licensure in accordance with the following  
14 provisions:

15           (a) No more than 10 percent of such persons shall be  
16 exempted from licensure during their continued employment in a  
17 state institution. Those persons who shall be so exempted  
18 shall be selected by the secretary of the Department of Health  
19 ~~and Rehabilitative Services~~. In making the selection, the  
20 secretary shall submit his or her recommendations to the  
21 appropriate licensing board for a determination by the board,  
22 without written examination, of whether or not the person  
23 recommended meets the professional standards required of such  
24 person in the performance of his or her duties or functions.  
25 The criteria to be used by the respective board in making its  
26 determination shall include, but not be limited to, the  
27 person's professional educational background, formal specialty  
28 training, and professional experience within the 10 years  
29 immediately preceding employment by the state institution.

30           Section 183. Subsections (15) and (18) of section  
31 409.901, Florida Statutes, are amended to read:

1           409.901 Definitions.--As used in ss. 409.901-409.920,  
2 except as otherwise specifically provided, the term:

3           (15) "Medicaid program" means the program authorized  
4 under Title XIX of the federal Social Security Act which  
5 provides for payments for medical items or services, or both,  
6 on behalf of any person who is determined by the Department of  
7 Children and Family Health and Rehabilitative Services to be  
8 eligible on the date of service for Medicaid assistance.

9           (18) "Medicaid recipient" or "recipient" means an  
10 individual whom the Department of Children and Family Health  
11 ~~and Rehabilitative~~ Services determines is eligible, pursuant  
12 to federal and state law, to receive medical assistance and  
13 related services for which the agency may make payments under  
14 the Medicaid program. For the purposes of determining  
15 third-party liability, the term includes an individual  
16 formerly determined to be eligible for Medicaid, an individual  
17 who has received medical assistance under the Medicaid  
18 program, or an individual on whose behalf Medicaid has become  
19 obligated.

20           Section 184. Subsections (4), (5), (6), (7), (8),  
21 (10), (11), (12), (13), (14), (16), (17), (18), (19), (20),  
22 and (21) of section 409.910, Florida Statutes, 1998  
23 Supplement, are amended to read:

24           409.910 Responsibility for payments on behalf of  
25 Medicaid-eligible persons when other parties are liable.--

26           (4) After the agency ~~department~~ has provided medical  
27 assistance under the Medicaid program, it shall seek recovery  
28 of reimbursement from third-party benefits to the limit of  
29 legal liability and for the full amount of third-party  
30 benefits, but not in excess of the amount of medical  
31 assistance paid by Medicaid, as to:

1           (a) Claims for which the agency ~~department~~ has a  
2 waiver pursuant to federal law; or

3           (b) Situations in which the agency ~~department~~ learns  
4 of the existence of a liable third party or in which  
5 third-party benefits are discovered or become available after  
6 medical assistance has been provided by Medicaid.

7           (5) An applicant, recipient, or legal representative  
8 shall inform the agency ~~department~~ of any rights the applicant  
9 or recipient has to third-party benefits and shall inform the  
10 agency ~~department~~ of the name and address of any person that  
11 is or may be liable to provide third-party benefits. When the  
12 agency ~~department~~ provides, pays for, or becomes liable for  
13 medical services provided by a hospital, the recipient  
14 receiving such medical services or his or her legal  
15 representative shall also provide the information as to  
16 third-party benefits, as defined in this section, to the  
17 hospital, which shall provide notice thereof to the agency  
18 ~~department~~ in a manner specified by the agency ~~department~~.

19           (6) When the agency ~~department~~ provides, pays for, or  
20 becomes liable for medical care under the Medicaid program, it  
21 has the following rights, as to which the agency ~~department~~  
22 may assert independent principles of law, which shall  
23 nevertheless be construed together to provide the greatest  
24 recovery from third-party benefits:

25           (a) The agency ~~department~~ is automatically subrogated  
26 to any rights that an applicant, recipient, or legal  
27 representative has to any third-party benefit for the full  
28 amount of medical assistance provided by Medicaid. Recovery  
29 pursuant to the subrogation rights created hereby shall not be  
30 reduced, prorated, or applied to only a portion of a judgment,  
31 award, or settlement, but is to provide full recovery by the

1 agency department from any and all third-party benefits.  
2 Equities of a recipient, his or her legal representative, a  
3 recipient's creditors, or health care providers shall not  
4 defeat, reduce, or prorate recovery by the agency department  
5 as to its subrogation rights granted under this paragraph.

6 (b) By applying for or accepting medical assistance,  
7 an applicant, recipient, or legal representative automatically  
8 assigns to the agency department any right, title, and  
9 interest such person has to any third-party benefit, excluding  
10 any Medicare benefit to the extent required to be excluded by  
11 federal law.

12 1. The assignment granted under this paragraph is  
13 absolute, and vests legal and equitable title to any such  
14 right in the agency department, but not in excess of the  
15 amount of medical assistance provided by the agency  
16 department.

17 2. The agency department is a bona fide assignee for  
18 value in the assigned right, title, or interest, and takes  
19 vested legal and equitable title free and clear of latent  
20 equities in a third person. Equities of a recipient, the  
21 recipient's legal representative, his or her creditors, or  
22 health care providers shall not defeat or reduce recovery by  
23 the agency department as to the assignment granted under this  
24 paragraph.

25 3. By accepting medical assistance, the recipient  
26 grants to the agency department the limited power of attorney  
27 to act in his or her name, place, and stead to perform  
28 specific acts with regard to third-party benefits, the  
29 recipient's assent being deemed to have been given, including:

30 a. Endorsing any draft, check, money order, or other  
31 negotiable instrument representing third-party benefits that

1 are received on behalf of the recipient as a third-party  
2 benefit.

3 b. Compromising claims to the extent of the rights  
4 assigned, provided that the recipient is not otherwise  
5 represented by an attorney as to the claim.

6 (c) The agency ~~department~~ is entitled to, and has, an  
7 automatic lien for the full amount of medical assistance  
8 provided by Medicaid to or on behalf of the recipient for  
9 medical care furnished as a result of any covered injury or  
10 illness for which a third party is or may be liable, upon the  
11 collateral, as defined in s. 409.901.

12 1. The lien attaches automatically when a recipient  
13 first receives treatment for which the agency ~~department~~ may  
14 be obligated to provide medical assistance under the Medicaid  
15 program. The lien is perfected automatically at the time of  
16 attachment.

17 2. The agency ~~department~~ is authorized to file a  
18 verified claim of lien. The claim of lien shall be signed by  
19 an authorized employee of the agency ~~department~~, and shall be  
20 verified as to the employee's knowledge and belief. The claim  
21 of lien may be filed and recorded with the clerk of the  
22 circuit court in the recipient's last known county of  
23 residence or in any county deemed appropriate by the agency  
24 ~~department~~. The claim of lien, to the extent known by the  
25 agency ~~department~~, shall contain:

26 a. The name and last known address of the person to  
27 whom medical care was furnished.

28 b. The date of injury.

29 c. The period for which medical assistance was  
30 provided.

31

1           d. The amount of medical assistance provided or paid,  
2 or for which Medicaid is otherwise liable.

3           e. The names and addresses of all persons claimed by  
4 the recipient to be liable for the covered injuries or  
5 illness.

6           3. The filing of the claim of lien pursuant to this  
7 section shall be notice thereof to all persons.

8           4. If the claim of lien is filed within 1 year after  
9 the later of the date when the last item of medical care  
10 relative to a specific covered injury or illness was paid, or  
11 the date of discovery by the agency ~~department~~ of the  
12 liability of any third party, or the date of discovery of a  
13 cause of action against a third party brought by a recipient  
14 or his or her legal representative, record notice shall relate  
15 back to the time of attachment of the lien.

16           5. If the claim of lien is filed after 1 year after  
17 the later of the events specified in subparagraph 4., notice  
18 shall be effective as of the date of filing.

19           6. Only one claim of lien need be filed to provide  
20 notice as set forth in this paragraph and shall provide  
21 sufficient notice as to any additional or after-paid amount of  
22 medical assistance provided by Medicaid for any specific  
23 covered injury or illness. The agency ~~department~~ may, in its  
24 discretion, file additional, amended, or substitute claims of  
25 lien at any time after the initial filing, until the agency  
26 ~~department~~ has been repaid the full amount of medical  
27 assistance provided by Medicaid or otherwise has released the  
28 liable parties and recipient.

29           7. No release or satisfaction of any cause of action,  
30 suit, claim, counterclaim, demand, judgment, settlement, or  
31 settlement agreement shall be valid or effectual as against a

1 | lien created under this paragraph, unless the agency  
2 | ~~department~~ joins in the release or satisfaction or executes a  
3 | release of the lien. An acceptance of a release or  
4 | satisfaction of any cause of action, suit, claim,  
5 | counterclaim, demand, or judgment and any settlement of any of  
6 | the foregoing in the absence of a release or satisfaction of a  
7 | lien created under this paragraph shall prima facie constitute  
8 | an impairment of the lien, and the agency ~~department~~ is  
9 | entitled to recover damages on account of such impairment. In  
10 | an action on account of impairment of a lien, the agency  
11 | ~~department~~ may recover from the person accepting the release  
12 | or satisfaction or making the settlement the full amount of  
13 | medical assistance provided by Medicaid. Nothing in this  
14 | section shall be construed as creating a lien or other  
15 | obligation on the part of an insurer which in good faith has  
16 | paid a claim pursuant to its contract without knowledge or  
17 | actual notice that the agency ~~department~~ has provided medical  
18 | assistance for the recipient related to a particular covered  
19 | injury or illness. However, notice or knowledge that an  
20 | insured is, or has been a Medicaid recipient within 1 year  
21 | from the date of service for which a claim is being paid  
22 | creates a duty to inquire on the part of the insurer as to any  
23 | injury or illness for which the insurer intends or is  
24 | otherwise required to pay benefits.

25 |         8. The lack of a properly filed claim of lien shall  
26 | not affect the agency's ~~department's~~ assignment or subrogation  
27 | rights provided in this subsection, nor shall it affect the  
28 | existence of the lien, but only the effective date of notice  
29 | as provided in subparagraph 5.

30 |         9. The lien created by this paragraph is a first lien  
31 | and superior to the liens and charges of any provider, and

1 shall exist for a period of 7 years, if recorded, after the  
2 date of recording; and shall exist for a period of 7 years  
3 after the date of attachment, if not recorded. If recorded,  
4 the lien may be extended for one additional period of 7 years  
5 by rerecording the claim of lien within the 90-day period  
6 preceding the expiration of the lien.

7         10. The clerk of the circuit court for each county in  
8 the state shall endorse on a claim of lien filed under this  
9 paragraph the date and hour of filing and shall record the  
10 claim of lien in the official records of the county as for  
11 other records received for filing. The clerk shall receive as  
12 his or her fee for filing and recording any claim of lien or  
13 release of lien under this paragraph the total sum of \$2. Any  
14 fee required to be paid by the agency ~~department~~ shall not be  
15 required to be paid in advance of filing and recording, but  
16 may be billed to the agency ~~department~~ after filing and  
17 recording of the claim of lien or release of lien.

18         11. After satisfaction of any lien recorded under this  
19 paragraph, the agency ~~department~~ shall, within 60 days after  
20 satisfaction, either file with the appropriate clerk of the  
21 circuit court or mail to any appropriate party, or counsel  
22 representing such party, if represented, a satisfaction of  
23 lien in a form acceptable for filing in Florida.

24         (7) The agency ~~department~~ shall recover the full  
25 amount of all medical assistance provided by Medicaid on  
26 behalf of the recipient to the full extent of third-party  
27 benefits.

28         (a) Recovery of such benefits shall be collected  
29 directly from:

30             1. Any third party;

31



1           2. The recipient or legal representative, if he or she  
2 has received third-party benefits;

3           3. The provider of a recipient's medical services if  
4 third-party benefits have been recovered by the provider;  
5 notwithstanding any provision of this section, to the  
6 contrary, however, no provider shall be required to refund or  
7 pay to the agency ~~department~~ any amount in excess of the  
8 actual third-party benefits received by the provider from a  
9 third-party payor for medical services provided to the  
10 recipient; or

11           4. Any person who has received the third-party  
12 benefits.

13           (b) Upon receipt of any recovery or other collection  
14 pursuant to this section, the agency ~~department~~ shall  
15 distribute the amount collected as follows:

16           1. To itself, an amount equal to the state Medicaid  
17 expenditures for the recipient plus any incentive payment made  
18 in accordance with paragraph (14)(a).

19           2. To the Federal Government, the federal share of the  
20 state Medicaid expenditures minus any incentive payment made  
21 in accordance with paragraph (14)(a) and federal law, and  
22 minus any other amount permitted by federal law to be  
23 deducted.

24           3. To the recipient, after deducting any known amounts  
25 owed to the agency ~~department~~ for any related medical  
26 assistance or to health care providers, any remaining amount.  
27 This amount shall be treated as income or resources in  
28 determining eligibility for Medicaid.

29           (8) The agency ~~department~~ shall require an applicant  
30 or recipient, or the legal representative thereof, to  
31 cooperate in the recovery by the agency ~~department~~ of

1 third-party benefits of a recipient and in establishing  
2 paternity and support of a recipient child born out of  
3 wedlock. As a minimal standard of cooperation, the recipient  
4 or person able to legally assign a recipient's rights shall:

5 (a) Appear at an office designated by the agency  
6 ~~department~~ to provide relevant information or evidence.

7 (b) Appear as a witness at a court or other  
8 proceeding.

9 (c) Provide information, or attest to lack of  
10 information, under penalty of perjury.

11 (d) Pay to the agency ~~department~~ any third-party  
12 benefit received.

13 (e) Take any additional steps to assist in  
14 establishing paternity or securing third-party benefits, or  
15 both.

16 (f) Paragraphs (a)-(e) notwithstanding, the agency  
17 ~~department~~ shall have the discretion to waive, in writing, the  
18 requirement of cooperation for good cause shown and as  
19 required by federal law.

20 (10) An applicant or recipient shall be deemed to have  
21 provided to the agency ~~department~~ the authority to obtain and  
22 release medical information and other records with respect to  
23 such medical care, for the sole purpose of obtaining  
24 reimbursement for medical assistance provided by Medicaid.

25 (11) The agency ~~department~~ may, as a matter of right,  
26 in order to enforce its rights under this section, institute,  
27 intervene in, or join any legal or administrative proceeding  
28 in its own name in one or more of the following capacities:  
29 individually, as subrogee of the recipient, as assignee of the  
30 recipient, or as lienholder of the collateral.

31

1           (a) If either the recipient, or his or her legal  
2 representative, or the agency department brings an action  
3 against a third party, the recipient, or the recipient's legal  
4 representative, or the agency department, or their attorneys,  
5 shall, within 30 days after filing the action, provide to the  
6 other written notice, by personal delivery or registered mail,  
7 of the action, the name of the court in which the case is  
8 brought, the case number of such action, and a copy of the  
9 pleadings. If an action is brought by either the agency  
10 ~~department~~, or the recipient or the recipient's legal  
11 representative, the other may, at any time before trial on the  
12 merits, become a party to, or shall consolidate his or her  
13 action with the other if brought independently. Unless waived  
14 by the other, the recipient, or his or her legal  
15 representative, or the agency department shall provide notice  
16 to the other of the intent to dismiss at least 21 days prior  
17 to voluntary dismissal of an action against a third party.  
18 Notice to the agency department shall be sent to an address  
19 set forth by rule. Notice to the recipient or his or her legal  
20 representative, if represented by an attorney, shall be sent  
21 to the attorney, and, if not represented, then to the last  
22 known address of the recipient or his or her legal  
23 representative.

24           (b) An action by the agency department to recover  
25 damages in tort under this subsection, which action is  
26 derivative of the rights of the recipient or his or her legal  
27 representative, shall not constitute a waiver of sovereign  
28 immunity pursuant to s. 768.14.

29           (c) In the event of judgment, award, or settlement in  
30 a claim or action against a third party, the court shall order  
31 the segregation of an amount sufficient to repay the agency's

1 ~~department's~~ expenditures for medical assistance, plus any  
2 other amounts permitted under this section, and shall order  
3 such amounts paid directly to the agency ~~department~~.

4 (d) No judgment, award, or settlement in any action by  
5 a recipient or his or her legal representative to recover  
6 damages for injuries or other third-party benefits, when the  
7 agency ~~department~~ has an interest, shall be satisfied without  
8 first giving the agency ~~department~~ notice and a reasonable  
9 opportunity to file and satisfy its lien, and satisfy its  
10 assignment and subrogation rights or proceed with any action  
11 as permitted in this section.

12 (e) Except as otherwise provided in this section,  
13 notwithstanding any other provision of law, the entire amount  
14 of any settlement of the recipient's action or claim involving  
15 third-party benefits, with or without suit, is subject to the  
16 agency's ~~department's~~ claims for reimbursement of the amount  
17 of medical assistance provided and any lien pursuant thereto.

18 (f) Notwithstanding any provision in this section to  
19 the contrary, in the event of an action in tort against a  
20 third party in which the recipient or his or her legal  
21 representative is a party which results in a judgment, award,  
22 or settlement from a third party, the amount recovered shall  
23 be distributed as follows:

24 1. After attorney's fees and taxable costs as defined  
25 by the Florida Rules of Civil Procedure, one-half of the  
26 remaining recovery shall be paid to the agency ~~department~~ up  
27 to the total amount of medical assistance provided by  
28 Medicaid.

29 2. The remaining amount of the recovery shall be paid  
30 to the recipient.

31

1           3. For purposes of calculating the agency's  
2 ~~department's~~ recovery of medical assistance benefits paid, the  
3 fee for services of an attorney retained by the recipient or  
4 his or her legal representative shall be calculated at 25  
5 percent of the judgment, award, or settlement.

6           4. Notwithstanding any provision of this section to  
7 the contrary, the agency ~~department~~ shall be entitled to all  
8 medical coverage benefits up to the total amount of medical  
9 assistance provided by Medicaid. For purposes of this  
10 paragraph, "medical coverage" means any benefits under health  
11 insurance, a health maintenance organization, a preferred  
12 provider arrangement, or a prepaid health clinic, and the  
13 portion of benefits designated for medical payments under  
14 coverage for workers' compensation, personal injury  
15 protection, and casualty.

16           (g) In the event that the recipient, his or her legal  
17 representative, or the recipient's estate brings an action  
18 against a third party, notice of institution of legal  
19 proceedings, notice of settlement, and all other notices  
20 required by this section or by rule shall be given to the  
21 agency ~~department~~, in Tallahassee, in a manner set forth by  
22 rule. All such notices shall be given by the attorney retained  
23 to assert the recipient's or legal representative's claim, or,  
24 if no attorney is retained, by the recipient, the recipient's  
25 legal representative, or his or her estate.

26           (h) Except as otherwise provided in this section,  
27 actions to enforce the rights of the agency ~~department~~ under  
28 this section shall be commenced within 5 years after the date  
29 a cause of action accrues, with the period running from the  
30 later of the date of discovery by the agency ~~department~~ of a  
31 case filed by a recipient or his or her legal representative,

1 or of discovery of any judgment, award, or settlement  
2 contemplated in this section, or of discovery of facts giving  
3 rise to a cause of action under this section. Nothing in this  
4 paragraph affects or prevents a proceeding to enforce a lien  
5 during the existence of the lien as set forth in subparagraph  
6 (6)(c)9.

7 (i) Upon the death of a recipient, and within the time  
8 prescribed by ss. 733.702 and 733.710, the agency ~~department~~,  
9 in addition to any other available remedy, may file a claim  
10 against the estate of the recipient for the total amount of  
11 medical assistance provided by Medicaid for the benefit of the  
12 recipient. Claims so filed shall take priority as class 3  
13 claims as provided by s. 733.707(1)(c). The filing of a claim  
14 pursuant to this paragraph shall neither reduce nor diminish  
15 the general claims of the agency ~~department~~ under s. 414.28,  
16 except that the agency ~~department~~ may not receive double  
17 recovery for the same expenditure. Claims under this paragraph  
18 shall be superior to those under s. 414.28. The death of the  
19 recipient shall neither extinguish nor diminish any right of  
20 the agency ~~department~~ to recover third-party benefits from a  
21 third party or provider. Nothing in this paragraph affects or  
22 prevents a proceeding to enforce a lien created pursuant to  
23 this section or a proceeding to set aside a fraudulent  
24 conveyance as defined in subsection (16).

25 (12) No action taken by the agency ~~department~~ shall  
26 operate to deny the recipient's recovery of that portion of  
27 benefits not assigned or subrogated to the agency ~~department~~,  
28 or not secured by the agency's ~~department's~~ lien. The agency's  
29 ~~department's~~ rights of recovery created by this section,  
30 however, shall not be limited to some portion of recovery from  
31 a judgment, award, or settlement. Only the following benefits

1 are not subject to the rights of the agency ~~department~~:  
2 benefits not related in any way to a covered injury or  
3 illness; proceeds of life insurance coverage on the recipient;  
4 proceeds of insurance coverage, such as coverage for property  
5 damage, which by its terms and provisions cannot be construed  
6 to cover personal injury, death, or a covered injury or  
7 illness; proceeds of disability coverage for lost income; and  
8 recovery in excess of the amount of medical benefits provided  
9 by Medicaid after repayment in full to the agency ~~department~~.

10 (13) No action of the recipient shall prejudice the  
11 rights of the agency ~~department~~ under this section. No  
12 settlement, agreement, consent decree, trust agreement,  
13 annuity contract, pledge, security arrangement, or any other  
14 device, hereafter collectively referred to in this subsection  
15 as a "settlement agreement," entered into or consented to by  
16 the recipient or his or her legal representative shall impair  
17 the agency's ~~department's~~ rights. However, in a structured  
18 settlement, no settlement agreement by the parties shall be  
19 effective or binding against the agency ~~department~~ for  
20 benefits accrued without the express written consent of the  
21 agency ~~department~~ or an appropriate order of a court having  
22 personal jurisdiction over the agency ~~department~~.

23 (14) The agency ~~department~~ is authorized to enter into  
24 agreements to enforce or collect medical support and other  
25 third-party benefits.

26 (a) If a cooperative agreement is entered into with  
27 any agency, program, or subdivision of the state, or any  
28 agency, program, or legal entity of or operated by a  
29 subdivision of the state, or with any other state, the agency  
30 ~~department~~ is authorized to make an incentive payment of up to  
31 15 percent of the amount actually collected and reimbursed to

1 the agency ~~department~~, to the extent of medical assistance  
2 paid by Medicaid. Such incentive payment is to be deducted  
3 from the federal share of that amount, to the extent  
4 authorized by federal law. The agency ~~department~~ may pay such  
5 person an additional percentage of the amount actually  
6 collected and reimbursed to the agency ~~department~~ as a result  
7 of the efforts of the person, but no more than a maximum  
8 percentage established by the agency ~~department~~. In no case  
9 shall the percentage exceed the lesser of a percentage  
10 determined to be commercially reasonable or 15 percent, in  
11 addition to the 15-percent incentive payment, of the amount  
12 actually collected and reimbursed to the agency ~~department~~ as  
13 a result of the efforts of the person under contract.

14 (b) If an agreement to enforce or collect third-party  
15 benefits is entered into by the agency ~~department~~ with any  
16 person other than those described in paragraph (a), including  
17 any attorney retained by the agency ~~department~~ who is not an  
18 employee or agent of any person named in paragraph (a), then  
19 the agency ~~department~~ may pay such person a percentage of the  
20 amount actually collected and reimbursed to the agency  
21 ~~department~~ as a result of the efforts of the person, to the  
22 extent of medical assistance paid by Medicaid. In no case  
23 shall the percentage exceed a maximum established by the  
24 agency ~~department~~, which shall not exceed the lesser of a  
25 percentage determined to be commercially reasonable or 30  
26 percent of the amount actually collected and reimbursed to the  
27 agency ~~department~~ as a result of the efforts of the person  
28 under contract.

29 (c) An agreement pursuant to this subsection may  
30 permit reasonable litigation costs or expenses to be paid from  
31



1 the agency's ~~department's~~ recovery to a person under contract  
2 with the agency ~~department~~.

3 (d) Contingency fees and costs incurred in recovery  
4 pursuant to an agreement under this subsection may, for  
5 purposes of determining state and federal share, be deemed to  
6 be administrative expenses of the state. To the extent  
7 permitted by federal law, such administrative expenses shall  
8 be shared with, or fully paid by, the Federal Government.

9 (16) Any transfer or encumbrance of any right, title,  
10 or interest to which the agency ~~department~~ has a right  
11 pursuant to this section, with the intent, likelihood, or  
12 practical effect of defeating, hindering, or reducing recovery  
13 by the agency ~~department~~ for reimbursement of medical  
14 assistance provided by Medicaid, shall be deemed to be a  
15 fraudulent conveyance, and such transfer or encumbrance shall  
16 be void and of no effect against the claim of the agency  
17 ~~department~~, unless the transfer was for adequate consideration  
18 and the proceeds of the transfer are reimbursed in full to the  
19 agency ~~department~~, but not in excess of the amount of medical  
20 assistance provided by Medicaid.

21 (17) A recipient or his or her legal representative or  
22 any person representing, or acting as agent for, a recipient  
23 or the recipient's legal representative, who has notice,  
24 excluding notice charged solely by reason of the recording of  
25 the lien pursuant to paragraph (6)(d), or who has actual  
26 knowledge of the agency's ~~department's~~ rights to third-party  
27 benefits under this section, who receives any third-party  
28 benefit or proceeds therefrom for a covered illness or injury,  
29 is required either to pay the agency ~~department~~, within 60  
30 days after receipt of settlement proceeds, the full amount of  
31 the third-party benefits, but not in excess of the total

1 medical assistance provided by Medicaid, or to place the full  
2 amount of the third-party benefits in a trust account for the  
3 benefit of the agency ~~department~~ pending judicial or  
4 administrative determination of the agency's ~~department's~~  
5 right thereto. Proof that any such person had notice or  
6 knowledge that the recipient had received medical assistance  
7 from Medicaid, and that third-party benefits or proceeds  
8 therefrom were in any way related to a covered illness or  
9 injury for which Medicaid had provided medical assistance, and  
10 that any such person knowingly obtained possession or control  
11 of, or used, third-party benefits or proceeds and failed  
12 either to pay the agency ~~department~~ the full amount required  
13 by this section or to hold the full amount of third-party  
14 benefits or proceeds in trust pending judicial or  
15 administrative determination, unless adequately explained,  
16 gives rise to an inference that such person knowingly failed  
17 to credit the state or its agent for payments received from  
18 social security, insurance, or other sources, pursuant to s.  
19 414.39(4)(b), and acted with the intent set forth in s.  
20 812.014(1).

21 (a) In cases of suspected criminal violations or  
22 fraudulent activity, the agency ~~department~~ may take any civil  
23 action permitted at law or equity to recover the greatest  
24 possible amount, including, without limitation, treble damages  
25 under ss. 772.11 and 812.035(7).

26 (b) The agency ~~department~~ is authorized to investigate  
27 and to request appropriate officers or agencies of the state  
28 to investigate suspected criminal violations or fraudulent  
29 activity related to third-party benefits, including, without  
30 limitation, ss. 414.39 and 812.014. Such requests may be  
31 directed, without limitation, to the Medicaid Fraud Control

1 Unit of the Office of the Attorney General, or to any state  
2 attorney. Pursuant to s. 409.913, the Attorney General has  
3 primary responsibility to investigate and control Medicaid  
4 fraud.

5 (c) In carrying out duties and responsibilities  
6 related to Medicaid fraud control, the agency ~~department~~ may  
7 subpoena witnesses or materials within or outside the state  
8 and, through any duly designated employee, administer oaths  
9 and affirmations and collect evidence for possible use in  
10 either civil or criminal judicial proceedings.

11 (d) All information obtained and documents prepared  
12 pursuant to an investigation of a Medicaid recipient, the  
13 recipient's legal representative, or any other person relating  
14 to an allegation of recipient fraud or theft is confidential  
15 and exempt from s. 119.07(1):

16 1. Until such time as the agency ~~department~~ takes  
17 final agency action;

18 2. Until such time as the Department of Legal Affairs  
19 refers the case for criminal prosecution;

20 3. Until such time as an indictment or criminal  
21 information is filed by a state attorney in a criminal case;  
22 or

23 4. At all times if otherwise protected by law.

24 (18) In recovering any payments in accordance with  
25 this section, the agency ~~department~~ is authorized to make  
26 appropriate settlements.

27 (19) Notwithstanding any provision in this section to  
28 the contrary, the agency ~~department~~ shall not be required to  
29 seek reimbursement from a liable third party on claims for  
30 which the agency ~~department~~ determines that the amount it  
31 reasonably expects to recover will be less than the cost of

1 recovery, or that recovery efforts will otherwise not be  
2 cost-effective.

3 (20) Entities providing health insurance as defined in  
4 s. 624.603, and health maintenance organizations and prepaid  
5 health clinics as defined in chapter 641, shall provide such  
6 records and information as are necessary to accomplish the  
7 purpose of this section, unless such requirement results in an  
8 unreasonable burden.

9 (a) The director ~~secretary~~ of the agency ~~department~~  
10 and the Insurance Commissioner shall enter into a cooperative  
11 agreement for requesting and obtaining information necessary  
12 to effect the purpose and objective of this section.

13 1. The agency ~~department~~ shall request only that  
14 information necessary to determine whether health insurance as  
15 defined pursuant to s. 624.603, or those health services  
16 provided pursuant to chapter 641, could be, should be, or have  
17 been claimed and paid with respect to items of medical care  
18 and services furnished to any person eligible for services  
19 under this section.

20 2. All information obtained pursuant to subparagraph  
21 1. is confidential and exempt from s. 119.07(1).

22 3. The cooperative agreement or rules adopted under  
23 this subsection may include financial arrangements to  
24 reimburse the reporting entities for reasonable costs or a  
25 portion thereof incurred in furnishing the requested  
26 information. Neither the cooperative agreement nor the rules  
27 shall require the automation of manual processes to provide  
28 the requested information.

29 (b) The agency ~~department~~ and the Department of  
30 Insurance jointly shall adopt rules for the development and  
31

1 administration of the cooperative agreement. The rules shall  
2 include the following:

3 1. A method for identifying those entities subject to  
4 furnishing information under the cooperative agreement.

5 2. A method for furnishing requested information.

6 3. Procedures for requesting exemption from the  
7 cooperative agreement based on an unreasonable burden to the  
8 reporting entity.

9 (21) The agency ~~department~~ is authorized to adopt  
10 rules to implement the provisions of this section and federal  
11 requirements.

12 Section 185. Section 409.911, Florida Statutes, is  
13 amended to read:

14 409.911 Disproportionate share program.--Subject to  
15 specific allocations established within the General  
16 Appropriations Act and any limitations established pursuant to  
17 chapter 216, the agency ~~department~~ shall distribute, pursuant  
18 to this section, moneys to hospitals providing a  
19 disproportionate share of Medicaid or charity care services by  
20 making quarterly Medicaid payments as required.

21 Notwithstanding the provisions of s. 409.915, counties are  
22 exempt from contributing toward the cost of this special  
23 reimbursement for hospitals serving a disproportionate share  
24 of low-income patients.

25 (1) Definitions.--As used in this section and s.  
26 409.9112:

27 (a) "Adjusted patient days" means the sum of acute  
28 care patient days and intensive care patient days as reported  
29 to the Agency for Health Care Administration ~~Department of~~  
30 ~~Health and Rehabilitative Services~~, divided by the ratio of  
31

1 inpatient revenues generated from acute, intensive,  
2 ambulatory, and ancillary patient services to gross revenues.

3 (b) "Actual audited data" or "actual audited  
4 experience" means data reported to the Agency for Health Care  
5 Administration ~~Department of Health and Rehabilitative~~  
6 ~~Services~~ which has been audited in accordance with generally  
7 accepted auditing standards by the agency department or  
8 representatives under contract with the agency department.

9 (c) "Base Medicaid per diem" means the hospital's  
10 Medicaid per diem rate initially established by the Agency for  
11 Health Care Administration ~~Department of Health and~~  
12 ~~Rehabilitative Services~~ on January 1, prior to the beginning  
13 of each state fiscal year. The base Medicaid per diem rate  
14 shall not include any additional per diem increases received  
15 as a result of the disproportionate share distribution.

16 (d) "Charity care" or "uncompensated charity care"  
17 means that portion of hospital charges reported to the Agency  
18 for Health Care Administration ~~Department of Health and~~  
19 ~~Rehabilitative Services~~ for which there is no compensation for  
20 care provided to a patient whose family income for the 12  
21 months preceding the determination is less than or equal to  
22 150 percent of the federal poverty level, unless the amount of  
23 hospital charges due from the patient exceeds 25 percent of  
24 the annual family income. However, in no case shall the  
25 hospital charges for a patient whose family income exceeds  
26 four times the federal poverty level for a family of four be  
27 considered charity.

28 (e) "Charity care days" means the sum of the  
29 deductions from revenues for charity care minus 50 percent of  
30 restricted and unrestricted revenues provided to a hospital by  
31

1 local governments or tax districts, divided by gross revenues  
2 per adjusted patient day.

3 (f) "Disproportionate share percentage" means a rate  
4 of increase in the Medicaid per diem rate as calculated under  
5 this section.

6 (g) "Hospital" means a health care institution  
7 licensed as a hospital pursuant to chapter 395, but does not  
8 include ambulatory surgical centers.

9 (h) "Medicaid days" means the number of actual days  
10 attributable to Medicaid patients as determined by the Agency  
11 for Health Care Administration ~~Department of Health and~~  
12 ~~Rehabilitative Services~~.

13 (2) The Agency for Health Care Administration  
14 ~~Department of Health and Rehabilitative Services~~ shall utilize  
15 the following criteria to determine if a hospital qualifies  
16 for a disproportionate share payment:

17 (a) A hospital's total Medicaid days when combined  
18 with its total charity care days must equal or exceed 7  
19 percent of its total adjusted patient days.

20 (b) A hospital's total charity care days weighted by a  
21 factor of 4.5, plus its total Medicaid days weighted by a  
22 factor of 1, shall be equal to or greater than 10 percent of  
23 its total adjusted patient days.

24 (c) Additionally, in accordance with the seventh  
25 federal Omnibus Budget Reconciliation Act, a hospital with a  
26 Medicaid inpatient utilization rate greater than one standard  
27 deviation above the statewide mean or a hospital with a  
28 low-income utilization rate of 25 percent or greater shall  
29 qualify for reimbursement.

30 (3) In computing the disproportionate share rate:  
31

1 (a) Per diem increases earned from disproportionate  
2 share shall be applied to each hospital's base Medicaid per  
3 diem rate and shall be capped at 170 percent.

4 (b) The agency ~~department~~ shall use the most recent  
5 calendar year audited data available at the beginning of each  
6 state fiscal year for the calculation of disproportionate  
7 share payments under this section.

8 (c) If the total amount earned by all hospitals under  
9 this section exceeds the amount appropriated, each hospital's  
10 share shall be reduced on a pro rata basis so that the total  
11 dollars distributed from the trust fund do not exceed the  
12 total amount appropriated.

13 (d) The total amount calculated to be distributed  
14 under this section shall be made in quarterly payments  
15 subsequent to each quarter during the fiscal year.

16 (4) Hospitals that qualify for a disproportionate  
17 share payment solely under paragraph (2)(c) shall have their  
18 payment calculated in accordance with the following formulas:

$$TAA = TA \times (1/5.5)$$

$$DSHP = (HMD/TSMD) \times TAA$$

19  
20  
21  
22  
23 Where:

24 TAA = total amount available.

25 TA = total appropriation.

26 DSHP = disproportionate share hospital payment.

27 HMD = hospital Medicaid days.

28 TSMD = total state Medicaid days.

29  
30 (5) The following formula shall be utilized by the  
31 agency ~~department~~ to determine the maximum disproportionate



1 share rate to be used to increase the Medicaid per diem rate  
2 for hospitals that qualify pursuant to paragraphs (2)(a) and  
3 (b):

4

5

6

7

8

9

Where:

10

APD = adjusted patient days.

11

CCD = charity care days.

12

DSR = disproportionate share rate.

13

MD = Medicaid days.

14

15

16

17

18

19

20

21

22

23

24

(6)(a) To calculate the total amount earned by all  
hospitals under this section, hospitals with a  
disproportionate share rate less than 50 percent shall divide  
their Medicaid days by four, and hospitals with a  
disproportionate share rate greater than or equal to 50  
percent and with greater than 40,000 Medicaid days shall  
multiply their Medicaid days by 1.5, and the following formula  
shall be used by the agency ~~department~~ to calculate the total  
amount earned by all hospitals under this section:

25

$$TAE = BMPD \times MD \times DSP$$

26

27

Where:

28

TAE = total amount earned.

29

BMPD = base Medicaid per diem.

30

MD = Medicaid days.

31

DSP = disproportionate share percentage.

1  
2           (b) In no case shall total payments to a hospital  
3 under this section, with the exception of state facilities,  
4 exceed the total amount of uncompensated charity care of the  
5 hospital, as determined by the agency ~~department~~ according to  
6 the most recent calendar year audited data available at the  
7 beginning of each state fiscal year.

8           (7) For fiscal year 1991-1992 and all years other than  
9 1992-1993, the following criteria shall be used in determining  
10 the disproportionate share percentage:

11           (a) If the disproportionate share rate is less than 10  
12 percent, the disproportionate share percentage is zero and  
13 there is no additional payment.

14           (b) If the disproportionate share rate is greater than  
15 or equal to 10 percent, but less than 20 percent, then the  
16 disproportionate share percentage is 2.1544347.

17           (c) If the disproportionate share rate is greater than  
18 or equal to 20 percent, but less than 30 percent, then the  
19 disproportionate share percentage is 4.6415888766.

20           (d) If the disproportionate share rate is greater than  
21 or equal to 30 percent, but less than 40 percent, then the  
22 disproportionate share percentage is 10.0000001388.

23           (e) If the disproportionate share rate is greater than  
24 or equal to 40 percent, but less than 50 percent, then the  
25 disproportionate share percentage is 21.544347299.

26           (f) If the disproportionate share rate is greater than  
27 or equal to 50 percent, but less than 60 percent, then the  
28 disproportionate share percentage is 46.41588941.

29           (g) If the disproportionate share rate is greater than  
30 or equal to 60 percent, then the disproportionate share  
31 percentage is 100.

1           (8) The following formula shall be used by the agency  
2 ~~department~~ to calculate the total amount earned by all  
3 hospitals under this section:

$$4 \qquad \qquad \qquad \text{TAE} = \text{BMPD} \times \text{MD} \times \text{DSP}$$

5  
6  
7 Where:

8           TAE = total amount earned.

9           BMPD = base Medicaid per diem.

10          MD = Medicaid days.

11          DSP = disproportionate share percentage.

12  
13          (9) The agency ~~department~~ is authorized to receive  
14 funds from local governments and other local political  
15 subdivisions for the purpose of making payments, including  
16 federal matching funds, through the Medicaid disproportionate  
17 share program. Funds received from local governments for this  
18 purpose shall be separately accounted for and shall not be  
19 commingled with other state or local funds in any manner.

20          (10) Payments made by the agency ~~department~~ to  
21 hospitals eligible to participate in this program shall be  
22 made in accordance with federal rules and regulations.

23          (a) If the Federal Government prohibits, restricts, or  
24 changes in any manner the methods by which funds are  
25 distributed for this program, the agency ~~department~~ shall not  
26 distribute any additional funds and shall return all funds to  
27 the local government from which the funds were received,  
28 except as provided in paragraph (b).

29          (b) If the Federal Government imposes a restriction  
30 that still permits a partial or different distribution, the  
31 agency ~~department~~ may continue to disburse funds to hospitals

1 participating in the disproportionate share program in a  
2 federally approved manner, provided:

3 1. Each local government which contributes to the  
4 disproportionate share program agrees to the new manner of  
5 distribution as shown by a written document signed by the  
6 governing authority of each local government; and

7 2. The Executive Office of the Governor, the Office of  
8 Planning and Budgeting, the House of Representatives, and the  
9 Senate are provided at least 7 days' prior notice of the  
10 proposed change in the distribution, and do not disapprove  
11 such change.

12 (c) No distribution shall be made under the  
13 alternative method specified in paragraph (b) unless all  
14 parties agree or unless all funds of those parties that  
15 disagree which are not yet disbursed have been returned to  
16 those parties.

17 (11) Notwithstanding the provisions of chapter 216,  
18 the Executive Office of the Governor is hereby authorized to  
19 establish sufficient trust fund authority to implement the  
20 disproportionate share program.

21 Section 186. Section 409.9112, Florida Statutes, is  
22 amended to read:

23 409.9112 Disproportionate share program for regional  
24 perinatal intensive care centers.--In addition to the payments  
25 made under s. 409.911, the Agency for Health Care  
26 Administration ~~Department of Health and Rehabilitative~~  
27 ~~Services~~ shall design and implement a system of making  
28 disproportionate share payments to those hospitals that  
29 participate in the regional perinatal intensive care center  
30 program established pursuant to chapter 383. This system of  
31 payments shall conform with federal requirements and shall

1 distribute funds in each fiscal year for which an  
2 appropriation is made by making quarterly Medicaid payments.  
3 Notwithstanding the provisions of s. 409.915, counties are  
4 exempt from contributing toward the cost of this special  
5 reimbursement for hospitals serving a disproportionate share  
6 of low-income patients.

7 (1) The following formula shall be used by the agency  
8 ~~department~~ to calculate the total amount earned for hospitals  
9 that participate in the regional perinatal intensive care  
10 center program:

11  
12 
$$\text{TAE} = \text{DSR} \times \text{BMPD} \times \text{MD}$$

13  
14 Where:

15 TAE = total amount earned by a regional perinatal  
16 intensive care center.

17 DSR = disproportionate share rate.

18 BMPD = base Medicaid per diem.

19 MD = Medicaid days.

20  
21 (2) The total additional payment for hospitals that  
22 participate in the regional perinatal intensive care center  
23 program shall be calculated by the agency ~~department~~ as  
24 follows:

25  
26  
27 
$$\text{TAP} = \frac{\text{TAE} \times \text{TA}}{\text{STAE}}$$

28  
29  
30  
31 Where:

1 TAP = total additional payment for a regional perinatal  
2 intensive care center.

3 TAE = total amount earned by a regional perinatal  
4 intensive care center.

5 STAE = sum of total amount earned by each hospital that  
6 participates in the regional perinatal intensive care center  
7 program.

8 TA = total appropriation for the regional perinatal  
9 intensive care disproportionate share program.

10

11 (3) In order to receive payments under this section, a  
12 hospital must be participating in the regional perinatal  
13 intensive care center program pursuant to chapter 383 and must  
14 meet the following additional requirements:

15 (a) Agree to conform to all departmental and agency  
16 requirements to ensure high quality in the provision of  
17 services, including criteria adopted by departmental and  
18 agency rule concerning staffing ratios, medical records,  
19 standards of care, equipment, space, and such other standards  
20 and criteria as the department and agency deem ~~deems~~  
21 appropriate as specified by rule.

22 (b) Agree to provide information to the department and  
23 agency, in a form and manner to be prescribed by rule of the  
24 department and agency, concerning the care provided to all  
25 patients in neonatal intensive care centers and high-risk  
26 maternity care.

27 (c) Agree to accept all patients for neonatal  
28 intensive care and high-risk maternity care, regardless of  
29 ability to pay, on a functional space-available basis.

30 (d) Agree to develop arrangements with other maternity  
31 and neonatal care providers in the hospital's region for the

1 appropriate receipt and transfer of patients in need of  
2 specialized maternity and neonatal intensive care services.

3 (e) Agree to establish and provide a developmental  
4 evaluation and services program for certain high-risk  
5 neonates, as prescribed and defined by rule of the department.

6 (f) Agree to sponsor a program of continuing education  
7 in perinatal care for health care professionals within the  
8 region of the hospital, as specified by rule.

9 (g) Agree to provide backup and referral services to  
10 the department's county health departments and other  
11 low-income perinatal providers within the hospital's region,  
12 including the development of written agreements between these  
13 organizations and the hospital.

14 (h) Agree to arrange for transportation for high-risk  
15 obstetrical patients and neonates in need of transfer from the  
16 community to the hospital or from the hospital to another more  
17 appropriate facility.

18 (4) Hospitals which fail to comply with any of the  
19 conditions in subsection (3) or the applicable rules of the  
20 department and agency shall not receive any payments under  
21 this section until full compliance is achieved. A hospital  
22 which is not in compliance in two or more consecutive quarters  
23 shall not receive its share of the funds. Any forfeited funds  
24 shall be distributed by the remaining participating regional  
25 perinatal intensive care center program hospitals.

26 Section 187. Section 409.91151, Florida Statutes, 1998  
27 Supplement, is amended to read:

28 409.91151 Expenditure of funds generated through  
29 mental health disproportionate share program.--Funding  
30 generated through the mental health disproportionate share  
31 program shall be expended in accordance with legislatively

1 authorized appropriations. If such funding is not addressed in  
2 legislatively authorized appropriations, the Agency for Health  
3 Care Administration ~~Department of Health and Rehabilitative~~  
4 ~~Services~~ shall prepare a plan and submit a request for  
5 spending authority in accordance with the applicable  
6 provisions of chapter 216.

7 Section 188. Paragraph (b) of subsection (4),  
8 paragraph (a) of subsection (5), and subsection (26) of  
9 section 409.912, Florida Statutes, 1998 Supplement, are  
10 amended to read:

11 409.912 Cost-effective purchasing of health care.--The  
12 agency shall purchase goods and services for Medicaid  
13 recipients in the most cost-effective manner consistent with  
14 the delivery of quality medical care. The agency shall  
15 maximize the use of prepaid per capita and prepaid aggregate  
16 fixed-sum basis services when appropriate and other  
17 alternative service delivery and reimbursement methodologies,  
18 including competitive bidding pursuant to s. 287.057, designed  
19 to facilitate the cost-effective purchase of a case-managed  
20 continuum of care. The agency shall also require providers to  
21 minimize the exposure of recipients to the need for acute  
22 inpatient, custodial, and other institutional care and the  
23 inappropriate or unnecessary use of high-cost services.

24 (4) The agency may contract with any public or private  
25 entity otherwise authorized by this section on a prepaid or  
26 fixed-sum basis for the provision of health care services to  
27 recipients.

28 (b) Entities that provide no prepaid health care  
29 services other than Medicaid services under contract with the  
30 agency ~~department~~ are exempt from the provisions of part I of  
31 chapter 641.



1           (5) The agency may contract on a prepaid or fixed-sum  
2 basis with any health insurer that:

3           (a) Pays for health care services provided to enrolled  
4 Medicaid recipients in exchange for a premium payment paid by  
5 the agency ~~department~~;

6           (26) Beginning July 1, 1996, the agency shall perform  
7 choice counseling, enrollments, and disenrollments for  
8 Medicaid recipients who are eligible for MediPass or managed  
9 care plans. Notwithstanding the prohibition contained in  
10 paragraph (18)(f), managed care plans may perform  
11 preenrollments of Medicaid recipients under the supervision of  
12 the agency or its agents. For the purposes of this section,  
13 "preenrollment" means the provision of marketing and  
14 educational materials to a Medicaid recipient and assistance  
15 in completing the application forms, but shall not include  
16 actual enrollment into a managed care plan. An application  
17 for enrollment shall not be deemed complete until the agency  
18 or its agent verifies that the recipient made an informed,  
19 voluntary choice. The agency, in cooperation with the  
20 Department of Children and Family ~~Health and Rehabilitative~~  
21 Services, may test new marketing initiatives to inform  
22 Medicaid recipients about their managed care options at  
23 selected sites. The agency shall report to the Legislature on  
24 the effectiveness of such initiatives. The agency may  
25 contract with a third party to perform managed care plan and  
26 MediPass choice-counseling, enrollment, and disenrollment  
27 services for Medicaid recipients and is authorized to adopt  
28 rules to implement such services. Until October 1, 1996, or  
29 the receipt of necessary federal waivers, whichever is  
30 earlier, the agency shall adjust the capitation rate to cover  
31 any implementation, staff, or other costs associated with

1 enrollment, disenrollment, and choice-counseling activities.  
2 Thereafter, the agency may adjust the capitation rate only to  
3 cover the costs of a third-party choice-counseling,  
4 enrollment, and disenrollment contract, and for agency  
5 supervision and management of the managed care plan  
6 choice-counseling, enrollment, and disenrollment contract.

7 Section 189. Subsection (1) of section 409.914,  
8 Florida Statutes, is amended to read:

9 409.914 Assistance for the uninsured.--

10 (1) The agency shall use the claims payment systems,  
11 utilization control systems, cost control systems, case  
12 management systems, and other systems and controls that it has  
13 developed for the management and control of the Medicaid  
14 program to assist other agencies and entities, if appropriate,  
15 in paying claims and performing other activities necessary for  
16 the conduct of programs of state government, or for working  
17 with other public and private agencies to solve problems of  
18 lack of insurance, underinsurance, or uninsurability. When  
19 conducting these services, the agency ~~department~~ shall ensure:

20 (a) That full payment is received for services  
21 provided.

22 (b) That costs of providing these services are clearly  
23 segregated from costs necessary for the conduct of the  
24 Medicaid program.

25 (c) That the program conducted serves the interests of  
26 the state in ensuring that effective and quality health care  
27 at a reasonable cost is provided to the citizens of the state.

28 Section 190. Subsection (4) of section 409.915,  
29 Florida Statutes, is amended to read:

30 409.915 County contributions to Medicaid.--Although  
31 the state is responsible for the full portion of the state

1 share of the matching funds required for the Medicaid program,  
2 in order to acquire a certain portion of these funds, the  
3 state shall charge the counties for certain items of care and  
4 service as provided in this section.

5 (4) Each county shall pay into the General Revenue  
6 Fund, unallocated, its pro rata share of the total county  
7 participation based upon statements rendered by the agency  
8 ~~department~~ in consultation with the counties.

9 Section 191. Subsection (1) of section 409.916,  
10 Florida Statutes, is amended to read:

11 409.916 Grants and Donations Trust Fund.--

12 (1) The agency shall deposit any funds received from  
13 pharmaceutical manufacturers and all other funds received by  
14 the agency ~~department~~ from any other person as the result of a  
15 Medicaid cost containment strategy, in the nature of a rebate,  
16 grant, or other similar mechanism into the Grants and  
17 Donations Trust Fund.

18 Section 192. Section 409.919, Florida Statutes, is  
19 amended to read:

20 409.919 Rules.--The agency ~~department~~ shall adopt any  
21 rules necessary to comply with or administer ss.  
22 409.901-409.920 and all rules necessary to comply with federal  
23 requirements.

24 Section 193. Subsection (1) of section 409.942,  
25 Florida Statutes, is amended to read:

26 409.942 Electronic benefit transfer program.--

27 (1) The Department of Children and Family Health and  
28 ~~Rehabilitative~~ Services shall establish an electronic benefit  
29 transfer program for the dissemination of food stamp benefits  
30 and temporary assistance payments, including refugee cash  
31 assistance payments, asylum applicant payments, and child

1 support disregard payments. If the Federal Government does  
2 not enact legislation or regulations providing for  
3 dissemination of supplemental security income by electronic  
4 benefit transfer, the state may include supplemental security  
5 income in the electronic benefit transfer program.

6 Section 194. Subsection (2) of section 410.0245,  
7 Florida Statutes, is amended to read:

8 410.0245 Study of service needs; report; multiyear  
9 plan.--

10 (2) Based on the findings of the study, the ~~Aging and~~  
11 ~~Adult Services Program Office~~ of the Department of Children  
12 and Family Health and Rehabilitative Services shall develop a  
13 multiyear plan which shall provide for the needs of disabled  
14 adults in this state and shall provide strategies for  
15 statewide coordination of all services for disabled adults.  
16 The multiyear plan shall include an inventory of existing  
17 services and an analysis of costs associated with existing and  
18 projected services. The multiyear plan shall be presented to  
19 the Governor, the President of the Senate, and the Speaker of  
20 the House of Representatives every 3 years on or before March  
21 1, beginning in 1992. On or before March 1 of each  
22 intervening year, the department shall submit an analysis of  
23 the status of the implementation of each element of the  
24 multiyear plan, any continued unmet need, and the relationship  
25 between that need and the department's budget request for that  
26 year.

27 Section 195. Section 410.502, Florida Statutes, is  
28 amended to read:

29 410.502 Housing and living arrangements; special needs  
30 of the elderly; services.--The Department of Elderly Affairs  
31 ~~Health and Rehabilitative Services~~ shall provide services

1 related to housing and living arrangements which meet the  
2 special needs of the elderly. Such services shall include,  
3 but not be limited to:

4 (1) Providing counseling concerning housing problems  
5 and alternate living arrangements when appropriate to the  
6 individual's needs.

7 (2) Coordinating with the Department of Community  
8 Affairs to gather and maintain data on living arrangements  
9 which meet the special needs of the elderly and to disseminate  
10 such information to the public. Such information shall  
11 include types of facilities, cost of care, services provided,  
12 and possible sources of help in meeting the cost of care for  
13 indigent individuals.

14 (3) Promoting, through the Department of Elderly  
15 Affairs ~~Health and Rehabilitative Services~~ staff activities  
16 and area agencies on aging, the development of a variety of  
17 living arrangements through public and private auspices to  
18 meet the various needs and desires of the elderly, including,  
19 but not limited to:

20 (a) Foster homes.

21 (b) Assisted living facilities.

22 (c) Homes for special services.

23 (d) Shared housing or other such group living  
24 arrangements for independent living.

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

28 (f) Retirement communities for independent communal  
29 living, to be developed in conjunction with the Department of  
30 Community Affairs.

31 (g) Other innovative living arrangements.

1  
2 Demonstration projects must be used advisedly to test the  
3 extent to which these and other innovative housing and living  
4 arrangements do meet the basic and special needs of the  
5 elderly.

6 Section 196. Section 411.224, Florida Statutes, is  
7 amended to read:

8 411.224 Family support planning process.--The  
9 Legislature establishes a family support planning process to  
10 be used by the Department of Children and Family Health and  
11 ~~Rehabilitative~~ Services as the service planning process for  
12 targeted individuals, children, and families under its  
13 purview.

14 (1) The Department of Education shall take all  
15 appropriate and necessary steps to encourage and facilitate  
16 the implementation of the family support planning process for  
17 individuals, children, and families within its purview.

18 (2) To the extent possible within existing resources,  
19 the following populations must be included in the family  
20 support planning process:

21 (a) Children from birth to age 5 who are served by the  
22 clinic and programs of the Division of Children's Medical  
23 Services ~~Program Office~~ of the Department of Health ~~and~~  
24 ~~Rehabilitative Services~~.

25 (b) Children participating in the developmental  
26 evaluation and intervention program of the Division of  
27 Children's Medical Services ~~Program Office~~ of the Department  
28 of Health ~~and Rehabilitative Services~~.

29 (c) Children from birth through age 5 who are served  
30 by the Developmental Services Program Office of the Department  
31 of Children and Family Health and Rehabilitative Services.

1           (d) Children from birth through age 5 who are served  
2 by the Alcohol, Drug Abuse, and Mental Health Program Office  
3 of the Department of Children and Family ~~Health and~~  
4 ~~Rehabilitative~~ Services.

5           (e) Participants who are served by the Children's  
6 Early Investment Program established in s. 411.232.

7           (f) Healthy Start participants in need of ongoing  
8 service coordination.

9           (g) Children from birth through age 5 who are served  
10 by the voluntary family services, protective supervision,  
11 foster care, or adoption and related services programs of the  
12 Children and Families ~~Family Services~~ Program Office of the  
13 Department of Children and Family ~~Health and Rehabilitative~~  
14 Services, and who are eligible for ongoing services from one  
15 or more other programs or agencies that participate in family  
16 support planning; however, children served by the voluntary  
17 family services program, where the planned length of  
18 intervention is 30 days or less, are excluded from this  
19 population.

20           (3) When individuals included in the target population  
21 are served by Head Start, local education agencies, or other  
22 prevention and early intervention programs, providers must be  
23 notified and efforts made to facilitate the concerned agency's  
24 participation in family support planning.

25           (4) Local education agencies are encouraged to use a  
26 family support planning process for children from birth  
27 through 5 years of age who are served by the prekindergarten  
28 program for children with disabilities, in lieu of the  
29 Individual Education Plan.

30           (5) There must be only a single-family support plan to  
31 address the problems of the various family members unless the

1 family requests that an individual family support plan be  
2 developed for different members of that family. The family  
3 support plan must replace individual habilitation plans for  
4 children from birth through 5 years old who are served by the  
5 Developmental Services Program Office of the Department of  
6 Children and Family ~~Health and Rehabilitative~~ Services. To  
7 the extent possible, the family support plan must replace  
8 other case-planning forms used by the Department of Children  
9 and Family ~~Health and Rehabilitative~~ Services.

10 (6) The family support plan at a minimum must include  
11 the following information:

12 (a) The family's statement of family concerns,  
13 priorities, and resources.

14 (b) Information related to the health, educational,  
15 economic and social needs, and overall development of the  
16 individual and the family.

17 (c) The outcomes that the plan is intended to achieve.

18 (d) Identification of the resources and services to  
19 achieve each outcome projected in the plan. These resources  
20 and services are to be provided based on availability and  
21 funding.

22 (7) A family support plan meeting must be held with  
23 the family to initially develop the family support plan and  
24 annually thereafter to update the plan as necessary. The  
25 family includes anyone who has an integral role in the life of  
26 the individual or child as identified by the individual or  
27 family. The family support plan must be reviewed periodically  
28 during the year, at least at 6-month intervals, to modify and  
29 update the plan as needed. Such periodic reviews do not  
30 require a family support plan team meeting but may be

31



1 accomplished through other means such as a case file review  
2 and telephone conference with the family.

3 (8) The initial family support plan must be developed  
4 within a 90-day period. If exceptional circumstances make it  
5 impossible to complete the evaluation activities and to hold  
6 the initial family support plan team meeting within a  
7 reasonable time period, these circumstances must be  
8 documented, and the individual or family must be notified of  
9 the reason for the delay. With the agreement of the family  
10 and the provider, services for which either the individual or  
11 the family is eligible may be initiated before the completion  
12 of the evaluation activities and the family support plan.

13 (9) The Department of Children and Family Health and  
14 ~~Rehabilitative~~ Services, the Department of Health, and the  
15 Department of Education, to the extent that funds are  
16 available, must offer technical assistance to communities to  
17 facilitate the implementation of the family support plan.

18 (10) The Department of Children and Family Health and  
19 ~~Rehabilitative~~ Services and the Department of Health must  
20 implement the family support planning process for all  
21 individuals, children, and their families in the target  
22 population no later than September 30, 1995.

23 (11) The Department of Children and Family Health and  
24 ~~Rehabilitative~~ Services, the Department of Health, and the  
25 Department of Education shall adopt rules necessary to  
26 implement this act.

27 Section 197. Subsection (1) of section 411.242,  
28 Florida Statutes, is amended to read:

29 411.242 Florida Education Now and Babies Later (ENABL)  
30 program.--

31

1           (1) CREATION.--There is hereby created the Florida  
2 Education Now and Babies Later (ENABL) program for children  
3 and their families, with the goal of reducing the incidence of  
4 childhood pregnancies in this state by encouraging children to  
5 abstain from sexual activities. This program must provide a  
6 multifaceted, primary prevention, community health promotion  
7 approach to educating and supporting children in the decision  
8 to abstain from sexual involvement. The Department of Health  
9 ~~and Rehabilitative Services~~, in consultation with the  
10 Department of Education, Florida State University, and other  
11 appropriate agencies or associations, shall develop,  
12 implement, and administer the ENABL program.

13           Section 198. Section 411.243, Florida Statutes, is  
14 amended to read:

15           411.243 Teen Pregnancy Prevention Community  
16 Initiative.--Subject to the availability of funds, the  
17 Department of Health ~~and Rehabilitative Services~~ shall create  
18 a Teen Pregnancy Prevention Community Initiative. The purpose  
19 of this initiative is to create collaborative community  
20 partnerships to reduce teen pregnancy. Participating  
21 communities shall examine their needs and resources relative  
22 to teen pregnancy prevention and develop plans which provide  
23 for a collaborative approach to how existing, enhanced, and  
24 new initiatives together will reduce teen pregnancy in a  
25 community. Community incentive grants shall provide funds for  
26 communities to implement plans which provide for a  
27 collaborative, comprehensive, outcome-focused approach to  
28 reducing teen pregnancy.

29           (1) The requirements of the community incentive grants  
30 are as follows:

31

1           (a) The goal required of all grants is to reduce the  
2 incidence of teen pregnancy. All grants must be designed and  
3 required to maintain the data to substantiate reducing the  
4 incidence of teen pregnancy in the targeted area in their  
5 community.

6           (b) The target population is teens through 19 years of  
7 age, including both males and females and mothers and fathers.

8           (c) Grants must target a specified geographic area or  
9 region, for which data can be maintained to substantiate the  
10 teen pregnancy rate.

11           (d) In order to receive funding, communities must  
12 demonstrate collaboration in the provision of existing and new  
13 teen pregnancy prevention initiatives. This collaboration  
14 shall include developing linkages to the health care, social  
15 services, and education systems.

16           (e) Plans must be developed for how a community will  
17 reduce the incidence of teen pregnancy in a specified  
18 geographic area or region. These plans must include:

19           1. Provision for collaboration between existing and  
20 new initiatives for a comprehensive, well-planned,  
21 outcome-focused approach. All organizations involved in teen  
22 pregnancy prevention in the community must be involved in the  
23 planning and implementation of the community incentive grant  
24 initiative.

25           2. Provision in the targeted area or region for all of  
26 the components identified below. These components may be  
27 addressed through a collaboration of existing initiatives,  
28 enhancements, or new initiatives. Community incentive grant  
29 funds must address current gaps in the comprehensive teen  
30 pregnancy prevention plan for communities.

31           a. Primary prevention components are:

- 1 (I) Prevention strategies targeting males.  
2 (II) Role modeling and monitoring.  
3 (III) Intervention strategies targeting abused or  
4 neglected children.  
5 (IV) Human sexuality education.  
6 (V) Sexual advances protection education.  
7 (VI) Reproductive health care.  
8 (VII) Intervention strategies targeting younger  
9 siblings of teen mothers.  
10 (VIII) Community and public awareness.  
11 (IX) Innovative programs to facilitate prosecutions  
12 under s. 794.011, s. 794.05, or s. 800.04.  
13 b. Secondary prevention components are:  
14 (I) Home visiting.  
15 (II) Parent education, skill building, and supports.  
16 (III) Care coordination and case management.  
17 (IV) Career development.  
18 (V) Goal setting and achievement.  
19  
20 Community plans must provide for initiatives which are  
21 culturally competent and relevant to the families' values.  
22 (2) The state shall conduct an independent process and  
23 outcome evaluation of all the community incentive grant  
24 initiatives. The evaluation shall be conducted in three  
25 phases: The first phase shall focus on process, including  
26 implementation and operation, to be reported on after the  
27 first year of operation; the second phase shall be an interim  
28 evaluation of the outcome, to be completed after the third  
29 year of operation; the third phase shall be a final evaluation  
30 of process, outcome, and achievement of the overall goal of  
31

1 reducing the incidence of teen pregnancy, to be completed at  
2 the end of the fifth year of operation.

3 (3) The state shall provide technical assistance,  
4 training, and quality assurance to assist the initiative in  
5 achieving its goals.

6 Section 199. Paragraph (a) of subsection (1) and  
7 subsection (3) of section 413.031, Florida Statutes, are  
8 amended to read:

9 413.031 Products, purchase by state agencies and  
10 institutions.--

11 (1) DEFINITIONS.--When used in this section:

12 (a) "Accredited nonprofit workshop" means a Florida  
13 workshop which has been certified by either the Division of  
14 Blind Services, for workshops concerned with blind persons, or  
15 the Department of Children and Family Health and  
16 ~~Rehabilitative~~ Services, when other handicapped persons are  
17 concerned, and such "workshop" means a place where any article  
18 is manufactured or handwork is carried on and which is  
19 operated for the primary purpose of providing employment to  
20 severely handicapped individuals, including the blind, who  
21 cannot be readily absorbed in the competitive labor market.

22 (3) When convenience or emergency requires it, the  
23 Department of Children and Family Health and ~~Rehabilitative~~  
24 Services may upon request of the purchasing officer of any  
25 institution or agency relieve her or him from the obligation  
26 of this section.

27 Section 200. Subsection (2) of section 415.104,  
28 Florida Statutes, is amended to read:

29 415.104 Protective services investigations of cases of  
30 abuse, neglect, or exploitation of aged persons or disabled  
31 adults; transmittal of records to state attorney.--

1           (2) No later than 30 days after receiving the initial  
2 report, the designated ~~aging and~~ adult services staff of the  
3 department shall complete its investigation and classify the  
4 report as proposed confirmed or unfounded or close the report  
5 without classification and notify the guardian of the aged  
6 person or disabled adult, the aged person or disabled adult,  
7 and the alleged perpetrator. These findings must be reported  
8 to the department's central abuse registry and tracking  
9 system. For proposed confirmed reports, after receiving the  
10 final administrative order rendered in a hearing requested  
11 pursuant to s. 415.103(3)(d) or after the 30-day period during  
12 which an alleged perpetrator may request such a hearing has  
13 expired, the department shall classify the report of abuse,  
14 neglect, or exploitation as confirmed or unfounded and shall  
15 report its findings to the department's central abuse registry  
16 and tracking system, and must do so in accordance with the  
17 final order if a hearing was held.

18           Section 201. Subsection (8) of section 415.1113,  
19 Florida Statutes, 1998 Supplement, is amended to read:

20           415.1113 Administrative fines for false report of  
21 abuse, neglect, or exploitation of a disabled adult or an  
22 elderly person.--

23           (8) All amounts collected under this section must be  
24 deposited into the Operations and Maintenance Trust Fund  
25 within the ~~Aging and~~ Adult Services Program ~~Office~~ of the  
26 department.

27           Section 202. Subsections (2), (3), and (7) of section  
28 420.621, Florida Statutes, are amended to read:

29           420.621 Definitions.--As used in ss. 420.621-420.627,  
30 the following terms shall have the following meanings, unless  
31 the context otherwise requires:

1           (2) "Department" means the Department of Children and  
2 Family Health and Rehabilitative Services.

3           (3) "District" means a service district of the  
4 Department of Children and Family Health and Rehabilitative  
5 Services, as set forth in s. 20.19.

6           (7) "Secretary" means the secretary of the Department  
7 of Children and Family Health and Rehabilitative Services.

8           Section 203. Paragraph (d) of subsection (1) of  
9 section 421.10, Florida Statutes, is amended to read:

10           421.10 Rentals and tenant selection.--

11           (1) In the operation or management of housing projects  
12 an authority shall at all times observe the following duties  
13 with respect to rentals and tenants selection:

14           (d) The Department of Children and Family Health and  
15 Rehabilitative Services, pursuant to 45 C.F.R. s.  
16 233.20(a)(3)(vii)(c), may not consider as income for  
17 participants in the WAGES Program assistance received by  
18 recipients from other agencies or organizations such as public  
19 housing authorities.

20           Section 204. Paragraph (b) of subsection (1) of  
21 section 427.012, Florida Statutes, is amended to read:

22           427.012 The Commission for the Transportation  
23 Disadvantaged.--There is created the Commission for the  
24 Transportation Disadvantaged in the Department of  
25 Transportation.

26           (1) The commission shall consist of the following  
27 members:

28           (b) The secretary of the Department of Children and  
29 Family Health and Rehabilitative Services or the secretary's  
30 designee.

31

1           Section 205. Section 430.015, Florida Statutes, is  
2 amended to read:

3           430.015 Legislative findings.--The Legislature finds  
4 that it is a public necessity that identifying information  
5 contained in the records of elderly persons collected and held  
6 by the Department of Elderly Affairs, by volunteers, or by  
7 persons under contract with area agencies on aging be held  
8 confidential and exempt from public disclosure. Similar  
9 information held by the Department of Children and Family  
10 ~~Health and Rehabilitative~~ Services is confidential. If such  
11 information were not held confidential and exempt, elderly  
12 persons could fall prey to those seeking to capitalize on  
13 their weaknesses. Also, if their addresses were available, and  
14 their disabilities known, criminals could more readily attack  
15 these elderly citizens. Accordingly, it is necessary to  
16 protect the health, safety, and welfare of our elderly  
17 citizens, that identifying information regarding them be kept  
18 confidential.

19           Section 206. Subsection (3) of section 430.04, Florida  
20 Statutes, 1998 Supplement, is amended to read:

21           430.04 Duties and responsibilities of the Department  
22 of Elderly Affairs.--The Department of Elderly Affairs shall:

23           (3) Prepare and submit to the Governor, each Cabinet  
24 member, the President of the Senate, the Speaker of the House  
25 of Representatives, the minority leaders of the House and  
26 Senate, and chairpersons of appropriate House and Senate  
27 committees a master plan for policies and programs in the  
28 state related to aging. The plan must identify and assess the  
29 needs of the elderly population in the areas of housing,  
30 employment, education and training, medical care, long-term  
31 care, preventive care, protective services, social services,



1 mental health, transportation, and long-term care insurance,  
2 and other areas considered appropriate by the department. The  
3 plan must assess the needs of particular subgroups of the  
4 population and evaluate the capacity of existing programs,  
5 both public and private and in state and local agencies, to  
6 respond effectively to identified needs. If the plan  
7 recommends the transfer of any program or service from the  
8 Department of Children and Family ~~Health and Rehabilitative~~  
9 Services to another state department, the plan must also  
10 include recommendations that provide for an independent  
11 third-party mechanism, as currently exists in the human rights  
12 advocacy committees established in ss. 402.165 and 402.166,  
13 for protecting the constitutional and human rights of  
14 recipients of departmental services. The plan must include  
15 policy goals and program strategies designed to respond  
16 efficiently to current and projected needs. The plan must also  
17 include policy goals and program strategies to promote  
18 intergenerational relationships and activities. Public  
19 hearings and other appropriate processes shall be utilized by  
20 the department to solicit input for the development and  
21 updating of the master plan from parties including, but not  
22 limited to, the following:

23 (a) Elderly citizens and their families and  
24 caregivers.

25 (b) Local-level public and private service providers,  
26 advocacy organizations, and other organizations relating to  
27 the elderly.

28 (c) Local governments.

29 (d) All state agencies that provide services to the  
30 elderly.

31 (e) University centers on aging.

1 (f) Area agency on aging and community care for the  
2 elderly lead agencies.

3 Section 207. Subsection (3) of section 435.02, Florida  
4 Statutes, is amended to read:

5 435.02 Definitions.--For the purposes of this chapter:

6 (3) "Licensing agency" means any state or county  
7 agency which grants licenses or registration permitting the  
8 operation of an employer or is itself an employer. When there  
9 is no state licensing agency or the county licensing agency  
10 chooses not to conduct employment screening, "licensing  
11 agency" means the Department of Children and Family Health and  
12 ~~Rehabilitative~~ Services.

13 Section 208. Paragraphs (b) and (c) of subsection (1)  
14 of section 435.05, Florida Statutes, are amended to read:

15 435.05 Requirements for covered employees.--Except as  
16 otherwise provided by law, the following requirements shall  
17 apply to covered employees:

18 (1)

19 (b) For level 1 screening, the employer must submit  
20 the information necessary for screening to the Florida  
21 Department of Law Enforcement within 5 working days after  
22 receiving it. When required, the employer must at the same  
23 time submit sufficient information to the Department of  
24 Children and Family Health and Rehabilitative Services to  
25 complete a check of its records relating to the abuse,  
26 neglect, and exploitation of vulnerable adults. The Florida  
27 Department of Law Enforcement and the Department of Children  
28 and Family Health and Rehabilitative Services will conduct  
29 searches of their records and will respond to the employer  
30 agency. The employer will inform the employee whether  
31 screening has revealed any disqualifying information.

1           (c) For level 2 screening, the employer or licensing  
2 agency must submit the information necessary for screening to  
3 the Florida Department of Law Enforcement within 5 working  
4 days after receiving it. When required, the employer or  
5 licensing agency must also submit sufficient information to  
6 the Department of Children and Family Health and  
7 ~~Rehabilitative~~ Services to complete a check of its records.  
8 The Florida Department of Law Enforcement will conduct a  
9 search of its criminal and juvenile records and will request  
10 that the Federal Bureau of Investigation conduct a search of  
11 its records for each employee for whom the request is made.  
12 The Florida Department of Law Enforcement and the Department  
13 of Children and Family Health and Rehabilitative Services will  
14 respond to the employer or licensing agency, and the employer  
15 or licensing agency will inform the employee whether screening  
16 has revealed disqualifying information.

17           Section 209. Section 435.08, Florida Statutes, is  
18 amended to read:

19           435.08 Payment for processing of fingerprints, state  
20 criminal records checks, and abuse hotline checks.--Either the  
21 employer or the employee is responsible for paying the costs  
22 of screening. Payment shall be submitted to the Florida  
23 Department of Law Enforcement with the request for screening.  
24 When a search of the central abuse hotline is required,  
25 payment shall be submitted by separate check to the Department  
26 of Children and Family Health and Rehabilitative Services with  
27 the request for screening.

28           Section 210. Paragraph (f) of subsection (1) of  
29 section 440.151, Florida Statutes, is amended to read:

30           440.151 Occupational diseases.--

31           (1)

1 (f) No compensation shall be payable for disability or  
2 death resulting from tuberculosis arising out of and in the  
3 course of employment by the Department ~~Division~~ of Health of  
4 ~~the Department of Health and Rehabilitative Services~~ at a  
5 state tuberculosis hospital, or aggravated by such employment,  
6 when the employee had suffered from said disease at any time  
7 prior to the commencement of such employment.

8 Section 211. Section 442.005, Florida Statutes, is  
9 amended to read:

10 442.005 Division to make study of occupational  
11 diseases, etc.--The division shall make a continuous study of  
12 occupational diseases and the ways and means for their control  
13 and prevention and shall make and enforce necessary  
14 regulations for such control. For this purpose, the division  
15 is authorized to cooperate with employers, employees, and  
16 carriers and with the Department of Health ~~and Rehabilitative~~  
17 ~~Services~~.

18 Section 212. Subsection (25) of section 443.036,  
19 Florida Statutes, 1998 Supplement, is amended to read:

20 443.036 Definitions.--As used in this chapter, unless  
21 the context clearly requires otherwise:

22 (25) HOSPITAL.--"Hospital" means an institution which  
23 has been licensed, certified, or approved by the Agency for  
24 Health Care Administration ~~Department of Health and~~  
25 ~~Rehabilitative Services~~ as a hospital.

26 Section 213. Subsection (3) of section 446.205,  
27 Florida Statutes, is amended to read:

28 446.205 Job Training Partnership Act family dropout  
29 prevention program.--

30 (3) Local school boards and district Department of  
31 Children and Family ~~Health and Rehabilitative~~ Services'

1 offices shall coordinate with the local private industry  
2 council in the development and implementation of a dropout  
3 prevention program. Moneys may be allocated to this program  
4 from the funds received by each local private industry  
5 council.

6 Section 214. Subsection (3) of section 446.23, Florida  
7 Statutes, is amended to read:

8 446.23 Obligations of a mentor.--It shall be the duty  
9 of each mentor, pursuant to a written agreement with the youth  
10 participant, the contracting entity, and the local service  
11 delivery area, to:

12 (3) Identify and support needed social, health care,  
13 and transportation services for the youth participant through  
14 the appropriate local program offices of the Department of  
15 Children and Family ~~Health and Rehabilitative~~ Services, the  
16 Department of Health, the local vocational rehabilitation  
17 agency, or other appropriate agency.

18 Section 215. Subsection (2) of section 446.25, Florida  
19 Statutes, is amended to read:

20 446.25 Implementation.--

21 (2) Primary responsibility for the development and  
22 coordination of the program shall rest with the Department of  
23 Labor and Employment Security, which shall promulgate rules to  
24 establish program guidelines. The service delivery areas  
25 shall coordinate services such as basic skills training,  
26 medical and social services, and transportation for the  
27 disadvantaged with the Department of Education, State Board of  
28 Community Colleges, Department of Children and Family ~~Health~~  
29 ~~and Rehabilitative~~ Services, Department of Health, Commission  
30 for the Transportation Disadvantaged of the Department of  
31 Transportation, and other agencies as needed.

1           Section 216. Subsections (2), (3), (6), and (10) of  
2 section 446.603, Florida Statutes, are amended to read:

3           446.603 Untried Worker Placement and Employment  
4 Incentive Act.--

5           (2) For purposes of this section, the term "untried  
6 worker" means a person who is a hard-to-place participant in  
7 the welfare-to-work programs of the Department of Labor and  
8 Employment Security or the Department of Children and Family  
9 ~~Health and Rehabilitative~~ Services because they have  
10 limitations associated with the long-term receipt of welfare  
11 and difficulty in sustaining employment.

12           (3) The Department of Labor and Employment Security  
13 and the Department of Children and Family ~~Health and~~  
14 ~~Rehabilitative~~ Services, working with the Enterprise Florida  
15 Jobs and Education Partnership, shall develop five Untried  
16 Worker Placement and Employment Incentive pilot projects in at  
17 least five different counties.

18           (6) The Department of Labor and Employment Security  
19 and the Department of Children and Family ~~Health and~~  
20 ~~Rehabilitative~~ Services, working with the Enterprise Florida  
21 Jobs and Education Partnership, shall develop an incentive  
22 schedule that costs the state less per placement than the  
23 state's 12-month expenditure on a welfare recipient.

24           (10) The Department of Labor and Employment Security  
25 and the Department of Children and Family ~~Health and~~  
26 ~~Rehabilitative~~ Services, working with the Enterprise Florida  
27 Jobs and Education Partnership, may offer to any employer that  
28 chooses to employ untried workers such incentives and benefits  
29 that are available and provided in law, as long as the  
30 long-term, cost savings can be quantified with each such  
31 additional inducement.

1           Section 217. Subsection (1) of section 446.604,  
2 Florida Statutes, is amended to read:

3           446.604 One-Stop Career Centers.--

4           (1) The Department of Management Services shall  
5 coordinate among the agencies a plan for a One-Stop Career  
6 Center Electronic Network made up of One-Stop Career Centers  
7 that are operated by the Department of Labor and Employment  
8 Security, the Department of Children and Family ~~Health and~~  
9 ~~Rehabilitative~~ Services, the Department of Education, and  
10 other authorized public or private for-profit or  
11 not-for-profit agents. The plan shall identify resources  
12 within existing revenues to establish and support such  
13 electronic network for service delivery that includes the  
14 Florida Communities Network.

15           Section 218. Paragraphs (b) and (h) of subsection (1)  
16 and subsection (2) of section 450.191, Florida Statutes, are  
17 amended to read:

18           450.191 Executive Office of the Governor; powers and  
19 duties.--

20           (1) The Executive Office of the Governor is authorized  
21 and directed to:

22           (b) Cooperate with the Department of Health ~~and~~  
23 ~~Rehabilitative Services~~ in establishing minimum standards of  
24 preventive and curative health and of housing and sanitation  
25 in migrant labor camps and in making surveys to determine the  
26 adequacy of preventive and curative health services available  
27 to occupants of migrant labor camps;

28           (h) Cooperate with the Department of Children and  
29 Family ~~Health and Rehabilitative~~ Services in coordinating all  
30 public assistance programs as they may apply to migrant  
31 laborers;

1           (2) The office shall arrange, through the Department  
2 of Health ~~and Rehabilitative Services~~, for the provision of  
3 the supplementary services set forth in paragraph (1)(b) to  
4 the extent of available appropriations. Such services may be  
5 provided through the use of one or more traveling  
6 dispensaries, or by contract with physicians, dentists,  
7 hospitals, or clinics, or in such manner as may be recommended  
8 by the Department of Health ~~and Rehabilitative Services~~.

9           Section 219. Subsection (2) of section 450.211,  
10 Florida Statutes, is amended to read:

11           450.211 Advisory committee; membership.--The  
12 Legislative Commission on Migrant Labor is authorized and  
13 directed to establish an advisory committee, which shall  
14 contain the following membership:

15           (2) One member representing the Department of Health  
16 ~~and Rehabilitative Services~~;

17           Section 220. Subsection (1) of section 455.674,  
18 Florida Statutes, is amended to read:

19           455.674 Practitioner disclosure of confidential  
20 information; immunity from civil or criminal liability.--

21           (1) A practitioner regulated through the Division of  
22 Medical Quality Assurance of the department shall not be  
23 civilly or criminally liable for the disclosure of otherwise  
24 confidential information to a sexual partner or a  
25 needle-sharing partner under the following circumstances:

26           (a) If a patient of the practitioner who has tested  
27 positive for human immunodeficiency virus discloses to the  
28 practitioner the identity of a sexual partner or a  
29 needle-sharing partner;

30           (b) The practitioner recommends the patient notify the  
31 sexual partner or the needle-sharing partner of the positive



1 test and refrain from engaging in sexual or drug activity in a  
2 manner likely to transmit the virus and the patient refuses,  
3 and the practitioner informs the patient of his or her intent  
4 to inform the sexual partner or needle-sharing partner; and

5 (c) If pursuant to a perceived civil duty or the  
6 ethical guidelines of the profession, the practitioner  
7 reasonably and in good faith advises the sexual partner or the  
8 needle-sharing partner of the patient of the positive test and  
9 facts concerning the transmission of the virus.

10

11 However, any notification of a sexual partner or a  
12 needle-sharing partner pursuant to this section shall be done  
13 in accordance with protocols developed pursuant to rule of the  
14 Department of Health ~~and Rehabilitative Services~~.

15 Section 221. Paragraph (b) of subsection (1) of  
16 section 458.3165, Florida Statutes, is amended to read:

17 458.3165 Public psychiatry certificate.--The board  
18 shall issue a public psychiatry certificate to an individual  
19 who remits an application fee not to exceed \$300, as set by  
20 the board, who is a board-certified psychiatrist, who is  
21 licensed to practice medicine without restriction in another  
22 state, and who meets the requirements in s. 458.311(1)(a)-(g)  
23 and (5).

24 (1) Such certificate shall:

25 (b) Be issued and renewable biennially if the  
26 secretary of the Department of Health ~~and Rehabilitative~~  
27 ~~Services~~ and the chair of the department of psychiatry at one  
28 of the public medical schools or the chair of the department  
29 of psychiatry at the accredited medical school at the  
30 University of Miami recommend in writing that the certificate  
31 be issued or renewed.

1           Section 222. Subsection (7) of section 458.331,  
2 Florida Statutes, 1998 Supplement, is amended to read:

3           458.331 Grounds for disciplinary action; action by the  
4 board and department.--

5           (7) Upon the department's receipt from the Agency for  
6 Health Care Administration ~~Department of Health and~~  
7 ~~Rehabilitative Services~~ pursuant to s. 395.0197 of the name of  
8 a physician whose conduct may constitute grounds for  
9 disciplinary action by the department, the department shall  
10 investigate the occurrences upon which the report was based  
11 and determine if action by the department against the  
12 physician is warranted.

13           Section 223. Subsection (7) of section 459.015,  
14 Florida Statutes, 1998 Supplement, is amended to read:

15           459.015 Grounds for disciplinary action by the  
16 board.--

17           (7) Upon the department's receipt from the Agency for  
18 Health Care Administration ~~Department of Health and~~  
19 ~~Rehabilitative Services~~ pursuant to s. 395.0197 of the name of  
20 an osteopathic physician whose conduct may constitute grounds  
21 for disciplinary action by the department, the department  
22 shall investigate the occurrences upon which the report was  
23 based and determine if action by the department against the  
24 osteopathic physician is warranted.

25           Section 224. Paragraph (b) of subsection (5) of  
26 section 461.013, Florida Statutes, 1998 Supplement, is amended  
27 to read:

28           461.013 Grounds for disciplinary action; action by the  
29 board; investigations by department.--

30           (5)

31

1           (b) Upon the department's receipt from the Agency for  
2 Health Care Administration ~~Department of Health and~~  
3 ~~Rehabilitative Services~~ pursuant to s. 395.0197 of the name of  
4 the podiatric physician whose conduct may constitute grounds  
5 for disciplinary action by the department, the department  
6 shall investigate the occurrences upon which the report was  
7 based and determine if action by the department against the  
8 podiatric physician is warranted.

9           Section 225. Paragraph (b) of subsection (2) and  
10 subsection (4) of section 466.023, Florida Statutes, are  
11 amended to read:

12           466.023 Dental hygienists; scope and area of  
13 practice.--

14           (2) Dental hygienists may perform their duties:

15           (b) In public health programs and institutions of the  
16 Department of Children and Family Health and Rehabilitative  
17 Services, Department of Health, and Department of Juvenile  
18 Justice under the general supervision of a licensed dentist;  
19 or

20           (4) The board by rule may limit the number of dental  
21 hygienists or dental assistants to be supervised by a dentist  
22 if they perform expanded duties requiring direct or indirect  
23 supervision pursuant to the provisions of this chapter. The  
24 purpose of the limitation shall be to protect the health and  
25 safety of patients and to ensure that procedures which require  
26 more than general supervision be adequately supervised.

27 However, the Department of Children and Family Health and  
28 Rehabilitative Services, Department of Health, Department of  
29 Juvenile Justice, and public institutions approved by the  
30 board shall not be so limited as to the number of dental  
31

1 | hygienists or dental assistants working under the supervision  
2 | of a licensed dentist.

3 |           Section 226. Subsection (6) of section 467.009,  
4 | Florida Statutes, 1998 Supplement, is amended to read:

5 |           467.009 Midwifery programs; education and training  
6 | requirements.--

7 |           (6) The training required under this section shall  
8 | include training in either hospitals or alternative birth  
9 | settings, or both, with particular emphasis on learning the  
10 | ability to differentiate between low-risk pregnancies and  
11 | high-risk pregnancies. A hospital or birthing center  
12 | receiving public funds shall be required to provide student  
13 | midwives access to observe labor, delivery, and postpartal  
14 | procedures, provided the woman in labor has given informed  
15 | consent. The Department of Health ~~and Rehabilitative Services~~  
16 | shall assist in facilitating access to hospital training for  
17 | approved midwifery programs.

18 |           Section 227. Paragraph (a) of subsection (2) of  
19 | section 467.0125, Florida Statutes, is amended to read:

20 |           467.0125 Licensure by endorsement.--

21 |           (2) The department may issue a temporary certificate  
22 | to practice in areas of critical need to any midwife who is  
23 | qualifying for licensure by endorsement under subsection (1),  
24 | with the following restrictions:

25 |           (a) The Department of Health ~~and Rehabilitative~~  
26 | ~~Services~~ shall determine the areas of critical need, and the  
27 | midwife so certified shall practice only in those specific  
28 | areas, under the auspices of a physician licensed pursuant to  
29 | chapter 458 or chapter 459, a certified nurse midwife licensed  
30 | pursuant to chapter 464, or a midwife licensed under this  
31 | chapter, who has a minimum of 3 years' professional

1 experience. Such areas shall include, but not be limited to,  
2 health professional shortage areas designated by the United  
3 States Department of Health and Human Services.

4 Section 228. Subsection (8) of section 468.1685,  
5 Florida Statutes, 1998 Supplement, is amended to read:

6 468.1685 Powers and duties of board and  
7 department.--It is the function and duty of the board,  
8 together with the department, to:

9 (8) Set up procedures by rule for advising and acting  
10 together with the Department of Health ~~and Rehabilitative~~  
11 ~~Services~~ and other boards of other health professions in  
12 matters affecting procedures and methods for effectively  
13 enforcing the purpose of this part and the administration of  
14 chapter 400.

15 Section 229. Paragraph (a) of subsection (5) of  
16 section 470.021, Florida Statutes, is amended to read:

17 470.021 Direct disposal establishment; standards and  
18 location; registration.--

19 (5)(a) Each direct disposal establishment shall at all  
20 times be subject to the inspection of all its buildings,  
21 grounds, and vehicles used in the conduct of its business, by  
22 the department, the Department of Health ~~and Rehabilitative~~  
23 ~~Services~~, and local government inspectors and by their agents.  
24 The board shall adopt rules which establish such inspection  
25 requirements.

26 Section 230. Subsection (2) and paragraph (a) of  
27 subsection (7) of section 470.025, Florida Statutes, are  
28 amended to read:

29 470.025 Cinerator facility; licensure.--

30 (2) Application for licensure of cinerator facilities  
31 shall be on a form furnished and prescribed by the department

1 and shall be accompanied by a nonrefundable license fee of up  
2 to \$300 as set by board rule. No license may be issued unless  
3 the cinerator facility has been inspected and approved as  
4 meeting all requirements as set forth by the department, the  
5 Department of Health ~~and Rehabilitative Services~~, the  
6 Department of Environmental Protection, or any local ordinance  
7 regulating the same. The board shall establish by rule  
8 standards for cinerator facilities, including, but not limited  
9 to, requirements for refrigeration and storage of dead human  
10 bodies, use of forms and contracts, and record retention.

11 (7)(a) Each cinerator facility shall at all times be  
12 subject to the inspection of all its buildings, grounds, and  
13 vehicles used in the conduct of its business, by the  
14 department, the Department of Environmental Protection, the  
15 Department of Health ~~and Rehabilitative Services~~, and local  
16 government inspectors and by their agents. The board shall  
17 adopt rules which establish such inspection requirements.

18 Section 231. Paragraph (e) of subsection (1) of  
19 section 470.0301, Florida Statutes, 1998 Supplement, is  
20 amended to read:

21 470.0301 Removal services; refrigeration facilities;  
22 centralized embalming facilities.--In order to ensure that the  
23 removal, refrigeration, and embalming of all dead human bodies  
24 is conducted in a manner that properly protects the public's  
25 health and safety, the board shall adopt rules to provide for  
26 the registration of removal services, refrigeration  
27 facilities, and centralized embalming facilities operated  
28 independently of funeral establishments, direct disposal  
29 establishments, and cinerator facilities.

30 (1) REMOVAL SERVICES AND REFRIGERATION SERVICES.--

31

1           (e) Every registrant under this section shall at all  
2 times be subject to the inspection of all its buildings,  
3 grounds, and vehicles used in the conduct of its business, by  
4 the department or any of its designated representatives or  
5 agents, or local or Department of Health ~~and Rehabilitative~~  
6 ~~Services~~ inspectors. The board shall by rule establish  
7 requirements for inspection of removal services and  
8 refrigeration services.

9           Section 232. Paragraph (b) of subsection (1) of  
10 section 487.0615, Florida Statutes, is amended to read:

11           487.0615 Pesticide Review Council.--

12           (1)

13           (b) The council shall consist of 11 scientific members  
14 as follows: a scientific representative from the Department of  
15 Agriculture and Consumer Services, a scientific representative  
16 from the Department of Environmental Protection, a scientific  
17 representative from the Department of Health ~~and~~  
18 ~~Rehabilitative Services~~, and a scientific representative from  
19 the Game and Fresh Water Fish Commission, each to be appointed  
20 by the respective agency; the dean of research of the  
21 Institute of Food and Agricultural Sciences of the University  
22 of Florida; and six members to be appointed by the Governor.  
23 The six members to be appointed by the Governor must be a  
24 pesticide industry representative, a representative of an  
25 environmental group, a hydrologist, a toxicologist, a  
26 scientific representative from one of the five water  
27 management districts rotated among the five districts, and a  
28 grower representative from a list of three persons nominated  
29 by the statewide grower associations. Each member shall be  
30 appointed for a term of 4 years and shall serve until a  
31

1 successor is appointed. A vacancy shall be filled for the  
2 remainder of the unexpired term.

3 Section 233. Paragraph (c) of subsection (15) and  
4 subsection (16) of section 489.503, Florida Statutes, 1998  
5 Supplement, are amended to read:

6 489.503 Exemptions.--This part does not apply to:

7 (15) The provision, installation, testing, routine  
8 maintenance, factory-servicing, or monitoring of a personal  
9 emergency response system, as defined in s. 489.505, by an  
10 authorized person who:

11 (c) Performs services for the Department of Children  
12 and Family ~~Health and Rehabilitative~~ Services under chapter  
13 410; or

14 (16) The monitoring of a personal emergency response  
15 system, as defined in s. 489.505, by a charitable,  
16 not-for-profit corporation acting in accordance with a  
17 contractual agreement with the Agency for Health Care  
18 Administration or one of its licensed health care facilities,  
19 the Department of Elderly Affairs, or the Department of  
20 Children and Family ~~Health and Rehabilitative~~ Services,  
21 providing that the organization does not perform any other  
22 service requiring certification or registration under this  
23 part. Nothing in this subsection shall be construed to provide  
24 any of the agencies mentioned in this subsection the authority  
25 to develop rules, criteria, or policy pursuant to this  
26 subsection.

27 Section 234. Subsection (1) of section 489.551,  
28 Florida Statutes, 1998 Supplement, is amended to read:

29 489.551 Definitions.--As used in this part:

30 (1) "Department" means the Department of Health ~~and~~  
31 ~~Rehabilitative Services~~.



1           Section 235. Subsection (9) of section 499.003,  
2 Florida Statutes, is amended to read:

3           499.003 Definitions of terms used in ss.  
4 499.001-499.081.--As used in ss. 499.001-499.081, the term:

5           (9) "Department" means the Department of Health ~~and~~  
6 ~~Rehabilitative Services~~.

7           Section 236. Section 499.004, Florida Statutes, is  
8 amended to read:

9           499.004 Administration and enforcement by  
10 department.--The Department of Health ~~and Rehabilitative~~  
11 ~~Services~~ shall administer and enforce ss. 499.001-499.081 to  
12 prevent fraud, adulteration, misbranding, or false advertising  
13 in the preparation, manufacture, repackaging, or distribution  
14 of drugs, devices, and cosmetics.

15           Section 237. Subsections (1), (3), and (4) of section  
16 499.02, Florida Statutes, are amended to read:

17           499.02 Florida Drug Technical Review Panel; purpose;  
18 membership; meetings; records; expenses.--

19           (1) The Florida Drug Technical Review Panel,  
20 hereinafter referred to as the "technical panel," is  
21 established within the department and shall consist of five  
22 members appointed by the Secretary of Health ~~and~~  
23 ~~Rehabilitative Services~~. The technical panel shall provide  
24 assistance to the department and make recommendations on  
25 applications for investigational drugs not involved in  
26 interstate commerce.

27           (3) A vacancy in membership occurring before the  
28 expiration of a term shall be filled by a member appointed by  
29 the Secretary of Health ~~and Rehabilitative Services~~ for the  
30 remainder of that term.

31

1           (4) As the terms of members naturally expire, the  
2 Secretary of Health ~~and Rehabilitative Services~~ shall appoint  
3 successors for terms of 4 years each. Members of the  
4 technical panel may be reappointed.

5           Section 238. Subsection (1) of section 499.022,  
6 Florida Statutes, is amended to read:

7           499.022 Technical review; approvals and denials.--

8           (1) The technical panel shall review each  
9 investigational drug application and, based on the information  
10 provided by the applicant under s. 499.018, shall recommend  
11 approval or denial to the Secretary of Health ~~and~~  
12 ~~Rehabilitative Services~~.

13           Section 239. Subsection (3) of section 499.039,  
14 Florida Statutes, is amended to read:

15           499.039 Sale, distribution, or transfer of harmful  
16 chemical substances; penalties; authority for enforcement.--It  
17 is unlawful for a person to sell, deliver, or give to a person  
18 under the age of 18 years any compound, liquid, or chemical  
19 containing toluol, hexane, trichloroethylene, acetone,  
20 toluene, ethyl acetate, methyl ethyl ketone, trichloroethane,  
21 isopropanol, methyl isobutyl ketone, ethylene glycol  
22 monomethyl ether acetate, cyclohexanone, nitrous oxide,  
23 diethyl ether, alkyl nitrites (butyl nitrite), or any similar  
24 substance for the purpose of inducing by breathing, inhaling,  
25 or ingesting a condition of intoxication or which is intended  
26 to distort or disturb the auditory, visual, or other physical  
27 or mental processes.

28           (3) The Department of Health ~~and Rehabilitative~~  
29 ~~Services~~ shall adopt rules to implement this section.

30           Section 240. Subsections (1) and (2) of section  
31 499.051, Florida Statutes, are amended to read:

1           499.051 Inspections and investigations.--

2           (1) The agents of the Department of Health ~~and~~  
3 ~~Rehabilitative Services~~ and of the Department of Law  
4 Enforcement, after they present proper identification, may  
5 inspect, monitor, and investigate any establishment permitted  
6 pursuant to ss. 499.001-499.081 during business hours for the  
7 purpose of enforcing ss. 499.001-499.081, chapters 465, 501,  
8 and 893, and the rules of the department that protect the  
9 public health, safety, and welfare.

10           (2) In addition to the authority set forth in  
11 subsection (1), the department and any duly designated officer  
12 or employee of the department may enter and inspect any other  
13 establishment for the purpose of determining compliance with  
14 ss. 499.001-499.081 and rules adopted under those sections  
15 regarding any drug, device, or cosmetic product. The authority  
16 to enter and inspect does not extend to the practice of the  
17 profession of pharmacy, as defined in chapter 465 and the  
18 rules adopted under that chapter, in a pharmacy permitted  
19 under chapter 465. The Department of Business and Professional  
20 Regulation shall conduct routine inspections of retail  
21 pharmacy wholesalers at the time of the regular pharmacy  
22 permit inspection and shall send the inspection report  
23 regarding drug wholesale activity to the Department of Health  
24 ~~and Rehabilitative Services~~.

25           Section 241. Subsection (2) of section 499.601,  
26 Florida Statutes, is amended to read:

27           499.601 Legislative intent; construction.--

28           (2) The provisions of this part are cumulative and  
29 shall not be construed as repealing or affecting any powers,  
30 duties, or authority of the Department of Health ~~and~~  
31 ~~Rehabilitative Services~~ under any other law of this state;

1 except that, with respect to the regulation of ether as herein  
2 provided, in instances in which the provisions of this part  
3 may conflict with any other such law, the provisions of this  
4 part shall control.

5 Section 242. Subsection (2) of section 499.61, Florida  
6 Statutes, is amended to read:

7 499.61 Definitions.--As used in this part:

8 (2) "Department" means the Department of Health ~~and~~  
9 ~~Rehabilitative Services.~~

10 Section 243. Paragraph (b) of subsection (5) of  
11 section 500.12, Florida Statutes, is amended to read:

12 500.12 Food permits; building permits.--

13 (5) It is the intent of the Legislature to eliminate  
14 duplication of regulatory inspections of food. Regulatory and  
15 permitting authority over any food establishment is preempted  
16 to the department, except as provided in chapters 370 and 372.

17 (b) Food service establishments, as defined in s.  
18 381.0072, that have ancillary, prepackaged retail food sales  
19 shall be regulated by the Department of Health ~~and~~  
20 ~~Rehabilitative Services.~~

21 Section 244. Paragraph (b) of subsection (3) of  
22 section 501.001, Florida Statutes, is amended to read:

23 501.001 Florida Anti-Tampering Act.--

24 (3)

25 (b) In addition to any other agency which has  
26 authority to investigate and prosecute violations of this  
27 section, the Department of Health ~~and Rehabilitative Services,~~  
28 under chapter 499, shall initiate actions necessary to  
29 safeguard the public welfare by identifying and removing  
30 suspect drugs, devices, or cosmetics from consumer channels if

31

1 drug, device, or cosmetic tampering is identified, alleged, or  
2 suspected.

3 Section 245. Paragraph (b) of subsection (4) of  
4 section 509.013, Florida Statutes, is amended to read:

5 509.013 Definitions.--As used in this chapter, the  
6 term:

7 (4)

8 (b) The following are excluded from the definition in  
9 paragraph (a):

10 1. Any dormitory or other living or sleeping facility  
11 maintained by a public or private school, college, or  
12 university for the use of students, faculty, or visitors;

13 2. Any hospital, nursing home, sanitarium, assisted  
14 living facility, or other similar place;

15 3. Any place renting four rental units or less, unless  
16 the rental units are advertised or held out to the public to  
17 be places that are regularly rented to transients;

18 4. Any unit or group of units in a condominium,  
19 cooperative, or timeshare plan and any individually or  
20 collectively owned one-family, two-family, three-family, or  
21 four-family dwelling house or dwelling unit that is rented for  
22 periods of at least 30 days or 1 calendar month, whichever is  
23 less, and that is not advertised or held out to the public as  
24 a place regularly rented for periods of less than 1 calendar  
25 month, provided that no more than four rental units within a  
26 single complex of buildings are available for rent;

27 5. Any migrant labor camp or residential migrant  
28 housing permitted by the Department of Health ~~and~~  
29 ~~Rehabilitative Services~~; under ss. 381.008-381.00895; and

30  
31

1           6. Any establishment inspected by the Department of  
2 Health ~~and Rehabilitative Services~~ and regulated by chapter  
3 513.

4           Section 246. Paragraphs (a) and (d) of subsection (2)  
5 of section 509.032, Florida Statutes, 1998 Supplement, are  
6 amended to read:

7           509.032 Duties.--

8           (2) INSPECTION OF PREMISES.--

9           (a) The division has responsibility and jurisdiction  
10 for all inspections required by this chapter. The division  
11 has responsibility for quality assurance. Each licensed  
12 establishment shall be inspected at least biannually and at  
13 such other times as the division determines is necessary to  
14 ensure the public's health, safety, and welfare. The division  
15 shall establish a system to determine inspection frequency.  
16 Public lodging units classified as resort condominiums or  
17 resort dwellings are not subject to this requirement, but  
18 shall be made available to the division upon request. If,  
19 during the inspection of a public lodging establishment  
20 classified for renting to transient or nontransient tenants,  
21 an inspector identifies disabled adults or elderly persons who  
22 appear to be victims of neglect, as defined in s. 415.102, or,  
23 in the case of a building that is not equipped with automatic  
24 sprinkler systems, tenants or clients who may be unable to  
25 self-preserve in an emergency, the division shall convene  
26 meetings with the following agencies as appropriate to the  
27 individual situation: the Department of Health ~~and~~  
28 ~~Rehabilitative Services~~, the Department of Elderly Affairs,  
29 the area agency on aging, the local fire marshal, the landlord  
30 and affected tenants and clients, and other relevant  
31 organizations, to develop a plan which improves the prospects

1 for safety of affected residents and, if necessary, identifies  
2 alternative living arrangements such as facilities licensed  
3 under part II or part III of chapter 400.

4 (d) The division shall adopt and enforce sanitation  
5 rules consistent with law to ensure the protection of the  
6 public from food-borne illness in those establishments  
7 licensed under this chapter. These rules shall provide the  
8 standards and requirements for obtaining, storing, preparing,  
9 processing, serving, or displaying food in public food service  
10 establishments, approving public food service establishment  
11 facility plans, conducting necessary public food service  
12 establishment inspections, cooperating and coordinating with  
13 the Department of Health ~~and Rehabilitative Services~~ in  
14 epidemiological investigations, and initiating enforcement  
15 actions, and for other such responsibilities deemed necessary  
16 by the division.

17 Section 247. Subsection (4) of section 509.251,  
18 Florida Statutes, is amended to read:

19 509.251 License fees.--

20 (4) The actual costs associated with each  
21 epidemiological investigation conducted by the Department of  
22 Health ~~and Rehabilitative Services~~ in public food service  
23 establishments licensed pursuant to this chapter shall be  
24 accounted for and submitted to the division annually. The  
25 division shall journal transfer the total of all such amounts  
26 from the Hotel and Restaurant Trust Fund to the Department of  
27 Health ~~and Rehabilitative Services~~ annually; however, the  
28 total amount of such transfer may not exceed an amount equal  
29 to 5 percent of the annual public food service establishment  
30 licensure fees received by the division.

31

1           Section 248. Paragraph (b) of subsection (1) of  
2 section 509.291, Florida Statutes, is amended to read:

3           509.291 Advisory council.--

4           (1) There is created an 18-member advisory council.

5           (b) The division, the Department of Health ~~and~~  
6 ~~Rehabilitative Services~~, the Florida Hotel and Motel  
7 Association, the Florida Restaurant Association, the Florida  
8 Apartment Association, and the Florida Association of Realtors  
9 shall each designate one representative to serve as a voting  
10 member of the council, and one member appointed by the  
11 secretary must be appointed to represent nontransient public  
12 lodging establishments. In addition, one hospitality  
13 administration educator from an institution of higher  
14 education affiliated with the Hospitality Education Program  
15 pursuant to s. 509.302(2) shall serve for a term of 2 years as  
16 a voting member of the council. This single representative  
17 shall be designated on a rotating basis by the institution or  
18 institutions of higher education affiliated with this program  
19 pursuant to s. 509.302(2).

20           Section 249. Subsection (1) of section 513.01, Florida  
21 Statutes, is amended to read:

22           513.01 Definitions.--As used in this chapter, the  
23 term:

24           (1) "Department" means the Department of Health ~~and~~  
25 ~~Rehabilitative Services~~ and includes its representative county  
26 health departments.

27           Section 250. Paragraph (a) of subsection (4) of  
28 section 561.121, Florida Statutes, is amended to read:

29           561.121 Deposit of revenue.--

30  
31



1           (4) State funds collected pursuant to s. 561.501 shall  
2 be paid into the State Treasury and credited to the following  
3 accounts:

4           (a) Nine and eight-tenths of the surcharge on the sale  
5 of alcoholic beverages for consumption on premises shall be  
6 transferred to the Children and Adolescents Substance Abuse  
7 Trust Fund, which shall remain with the Department of Children  
8 and Family ~~Health and Rehabilitative~~ Services for the purpose  
9 of funding programs directed at reducing and eliminating  
10 substance abuse problems among children and adolescents.

11           Section 251. Subsection (2) of section 561.17, Florida  
12 Statutes, is amended to read:

13           561.17 License and registration applications; approved  
14 person.--

15           (2) All applications for alcoholic beverage licenses  
16 for consumption on the premises shall be accompanied by a  
17 certificate of the Division of Hotels and Restaurants of the  
18 Department of Business and Professional Regulation or the  
19 Department of Agriculture and Consumer Services or the  
20 Department of Health ~~and Rehabilitative Services~~ or the county  
21 health department that the place of business wherein the  
22 business is to be conducted meets all of the sanitary  
23 requirements of the state.

24           Section 252. Subsection (5) of section 561.19, Florida  
25 Statutes, is amended to read:

26           561.19 License issuance upon approval of division.--

27           (5) A fee of \$10,750 shall be collected from each  
28 person, firm, or corporation that is issued a new liquor  
29 license subject to the limitation imposed in s. 561.20(1) as  
30 provided in this section. This initial license fee shall not  
31 be imposed on any license renewal and shall be in addition to

1 the license fees imposed by s. 565.02. The revenues collected  
2 from the initial license fee imposed by this subsection shall  
3 be deposited in the Department of Children and Family Health  
4 ~~and Rehabilitative~~ Services' Operations and Maintenance Trust  
5 Fund to be used only for alcohol and drug abuse education,  
6 treatment, and prevention programs.

7 Section 253. Paragraph (d) of subsection (1) of  
8 section 561.29, Florida Statutes, is amended to read:

9 561.29 Revocation and suspension of license; power to  
10 subpoena.--

11 (1) The division is given full power and authority to  
12 revoke or suspend the license of any person holding a license  
13 under the Beverage Law, when it is determined or found by the  
14 division upon sufficient cause appearing of:

15 (d) Maintaining licensed premises that are unsanitary  
16 or are not approved as sanitary by the Division of Hotels and  
17 Restaurants of the Department of Business and Professional  
18 Regulation, the Department of Agriculture and Consumer  
19 Services, the county board of health, or the Department of  
20 Health ~~and Rehabilitative Services~~, whichever has jurisdiction  
21 thereof.

22 Section 254. Paragraph (b) of subsection (1) of  
23 section 570.42, Florida Statutes, is amended to read:

24 570.42 Dairy Industry Technical Council.--

25 (1) COMPOSITION.--The Dairy Industry Technical Council  
26 is hereby created in the department and shall be composed of  
27 seven members as follows:

28 (b) An employee of the Department of Health ~~and~~  
29 ~~Rehabilitative Services~~.

30  
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1           Section 255. Paragraph (b) of subsection (3) and  
2 paragraph (a) of subsection (6) of section 576.045, Florida  
3 Statutes, are amended to read:

4           576.045 Nitrate; findings and intent; fees; purpose;  
5 best-management practices; waiver of liability; compliance;  
6 rules; report; exclusions; expiration.--

7           (3) PURPOSE.--The funds collected pursuant to  
8 subsection (2) must be used by the department for the sole  
9 purpose of:

10           (b) Approving, adopting, publishing, and distributing  
11 best-management practices. In the process of approving and  
12 adopting best-management practices, the department shall  
13 consult with the Department of Environmental Protection, the  
14 Department of Health ~~and Rehabilitative Services~~, the water  
15 management districts, environmental groups, the fertilizer  
16 industry, and representatives from the affected farming  
17 groups.

18  
19 This subsection must be implemented through a memorandum of  
20 understanding between the department and the Department of  
21 Environmental Protection to be adopted by October 1, 1994.

22           (6) RULEMAKING.--

23           (a) The department, in consultation with the  
24 Department of Environmental Protection, the Department of  
25 Health ~~and Rehabilitative Services~~, the water management  
26 districts, environmental groups, the fertilizer industry, and  
27 representatives from the affected farming groups, shall adopt  
28 rules to:

29           1. Specify the requirements of best-management  
30 practices to be implemented by property owners and  
31 leaseholders.

1           2. Establish procedures for property owners and  
2 leaseholders to submit the notice of intent to comply with  
3 best-management practices.

4           3. Establish schedules for implementation of  
5 best-management practices, and of interim measures that can be  
6 taken prior to adoption of best-management practices.

7           4. Establish a system to assure the implementation of  
8 best-management practices, including recordkeeping  
9 requirements.

10           Section 256. Section 585.15, Florida Statutes, is  
11 amended to read:

12           585.15 Dangerous transmissible disease or pest a  
13 public nuisance.--The department may declare by rule that a  
14 certain pest or disease of animals is a public nuisance. When  
15 a pest or disease is thus determined to be dangerous,  
16 transmissible, or threatening to an agricultural interest of  
17 the state, it shall be known as a "reportable disease." Each  
18 reportable disease shall be included by rule on the  
19 department's dangerous transmissible disease list. When  
20 necessary because of the possible impact of an animal disease  
21 on public health, the department may consult with the  
22 Department of Health ~~and Rehabilitative Services~~ regarding an  
23 animal disease that is transmissible to humans.

24           Section 257. Subsection (3) of section 585.21, Florida  
25 Statutes, is amended to read:

26           585.21 Sale of biological products.--

27           (3) Any biological product for animals which is used  
28 or proposed to be used in a field test in this state must be  
29 approved for such use by the department. Before issuing  
30 approval, the department shall consult with the Game and Fresh  
31 Water Fish Commission if wildlife are involved and the

1 Department of Health ~~and Rehabilitative Services~~ if the  
2 disease may affect humans.

3 Section 258. Paragraph (c) of subsection (9) of  
4 section 624.424, Florida Statutes, 1998 Supplement, is amended  
5 to read:

6 624.424 Annual statement and other information.--  
7 (9)

8 (c) Any information provided by an insurer under this  
9 subsection does not violate any right of confidentiality or  
10 contract that the insurer may have with covered persons. The  
11 insurer is immune from any liability that it may otherwise  
12 incur through its release of such information to the Agency  
13 for Health Care Administration ~~Department of Health and~~  
14 ~~Rehabilitative Services~~.

15 Section 259. Paragraph (c) of subsection (4) of  
16 section 627.429, Florida Statutes, is amended to read:

17 627.429 Medical tests for human immunodeficiency virus  
18 infection and acquired immune deficiency syndrome for  
19 insurance purposes.--

20 (4) USE OF MEDICAL TESTS FOR UNDERWRITING.--

21 (c) An applicant shall be notified of a positive test  
22 result by a physician designated by the applicant or, in the  
23 absence of such designation, by the Department of Health ~~and~~  
24 ~~Rehabilitative Services~~. Notification must include all of the  
25 following:

26 1. Face-to-face posttest counseling on the meaning of  
27 the test results, the possible need for additional testing,  
28 and the need to eliminate behavior which might spread the  
29 disease to others.

30  
31

1           2. The availability in the person's geographic area of  
2 any appropriate health care services, including mental health  
3 care, and appropriate social and support services.

4           3. The benefits of locating and counseling any  
5 individual by whom the infected individual may have been  
6 exposed to human immunodeficiency virus and any individual  
7 whom the infected individual may have exposed to the virus.

8           4. The availability, if any, of the services of public  
9 health authorities with respect to locating and counseling any  
10 individual described in subparagraph 3.

11           Section 260. Subsection (2) of section 627.6418,  
12 Florida Statutes, is amended to read:

13           627.6418 Coverage for mammograms.--

14           (2) Except as provided in paragraph (1)(b), for  
15 mammograms done more frequently than every 2 years for women  
16 40 years of age or older but younger than 50 years of age, the  
17 coverage required by subsection (1) applies, with or without a  
18 physician prescription, if the insured obtains a mammogram in  
19 an office, facility, or health testing service that uses  
20 radiological equipment registered with the Department of  
21 Health ~~and Rehabilitative Services~~ for breast cancer  
22 screening. The coverage is subject to the deductible and  
23 coinsurance provisions applicable to outpatient visits, and is  
24 also subject to all other terms and conditions applicable to  
25 other benefits. This section does not affect any requirements  
26 or prohibitions relating to who may perform, analyze, or  
27 interpret a mammogram or the persons to whom the results of a  
28 mammogram may be furnished or released.

29           Section 261. Subsection (2) of section 627.6613,  
30 Florida Statutes, is amended to read:

31           627.6613 Coverage for mammograms.--

1           (2) Except as provided in paragraph (1)(b), for  
2 mammograms done more frequently than every 2 years for women  
3 40 years of age or older but younger than 50 years of age, the  
4 coverage required by subsection (1) applies, with or without a  
5 physician prescription, if the insured obtains a mammogram in  
6 an office, facility, or health testing service that uses  
7 radiological equipment registered with the Department of  
8 Health and ~~Rehabilitative Services~~ for breast cancer  
9 screening. The coverage is subject to the deductible and  
10 coinsurance provisions applicable to outpatient visits, and is  
11 also subject to all other terms and conditions applicable to  
12 other benefits. This section does not affect any requirements  
13 or prohibitions relating to who may perform, analyze, or  
14 interpret a mammogram or the persons to whom the results of a  
15 mammogram may be furnished or released.

16           Section 262. Subsection (4) of section 627.736,  
17 Florida Statutes, 1998 Supplement, is amended to read:

18           627.736 Required personal injury protection benefits;  
19 exclusions; priority.--

20           (4) BENEFITS; WHEN DUE.--Benefits due from an insurer  
21 under ss. 627.730-627.7405 shall be primary, except that  
22 benefits received under any workers' compensation law shall be  
23 credited against the benefits provided by subsection (1) and  
24 shall be due and payable as loss accrues, upon receipt of  
25 reasonable proof of such loss and the amount of expenses and  
26 loss incurred which are covered by the policy issued under ss.  
27 627.730-627.7405. When the Agency for Health Care  
28 Administration ~~Department of Health and Rehabilitative~~  
29 ~~Services~~ provides, pays, or becomes liable for medical  
30 assistance under the Medicaid program related to injury,  
31 sickness, disease, or death arising out of the ownership,

1 maintenance, or use of a motor vehicle, benefits under ss.  
2 627.730-627.7405 shall be subject to the provisions of the  
3 Medicaid program.

4 (a) An insurer may require written notice to be given  
5 as soon as practicable after an accident involving a motor  
6 vehicle with respect to which the policy affords the security  
7 required by ss. 627.730-627.7405.

8 (b) Personal injury protection insurance benefits paid  
9 pursuant to this section shall be overdue if not paid within  
10 30 days after the insurer is furnished written notice of the  
11 fact of a covered loss and of the amount of same. If such  
12 written notice is not furnished to the insurer as to the  
13 entire claim, any partial amount supported by written notice  
14 is overdue if not paid within 30 days after such written  
15 notice is furnished to the insurer. Any part or all of the  
16 remainder of the claim that is subsequently supported by  
17 written notice is overdue if not paid within 30 days after  
18 such written notice is furnished to the insurer. However, any  
19 payment shall not be deemed overdue when the insurer has  
20 reasonable proof to establish that the insurer is not  
21 responsible for the payment, notwithstanding that written  
22 notice has been furnished to the insurer. For the purpose of  
23 calculating the extent to which any benefits are overdue,  
24 payment shall be treated as being made on the date a draft or  
25 other valid instrument which is equivalent to payment was  
26 placed in the United States mail in a properly addressed,  
27 postpaid envelope or, if not so posted, on the date of  
28 delivery.

29 (c) All overdue payments shall bear simple interest at  
30 the rate of 10 percent per year.

31



1           (d) The insurer of the owner of a motor vehicle shall  
2 pay personal injury protection benefits for:

3           1. Accidental bodily injury sustained in this state by  
4 the owner while occupying a motor vehicle, or while not an  
5 occupant of a self-propelled vehicle if the injury is caused  
6 by physical contact with a motor vehicle.

7           2. Accidental bodily injury sustained outside this  
8 state, but within the United States of America or its  
9 territories or possessions or Canada, by the owner while  
10 occupying the owner's motor vehicle.

11           3. Accidental bodily injury sustained by a relative of  
12 the owner residing in the same household, under the  
13 circumstances described in subparagraph 1. or subparagraph 2.,  
14 provided the relative at the time of the accident is domiciled  
15 in the owner's household and is not himself or herself the  
16 owner of a motor vehicle with respect to which security is  
17 required under ss. 627.730-627.7405.

18           4. Accidental bodily injury sustained in this state by  
19 any other person while occupying the owner's motor vehicle or,  
20 if a resident of this state, while not an occupant of a  
21 self-propelled vehicle, if the injury is caused by physical  
22 contact with such motor vehicle, provided the injured person  
23 is not himself or herself:

24           a. The owner of a motor vehicle with respect to which  
25 security is required under ss. 627.730-627.7405; or

26           b. Entitled to personal injury benefits from the  
27 insurer of the owner or owners of such a motor vehicle.

28           (e) If two or more insurers are liable to pay personal  
29 injury protection benefits for the same injury to any one  
30 person, the maximum payable shall be as specified in  
31 subsection (1), and any insurer paying the benefits shall be

1 entitled to recover from each of the other insurers an  
2 equitable pro rata share of the benefits paid and expenses  
3 incurred in processing the claim.

4 (f) Medical payments insurance, if available in a  
5 policy of motor vehicle insurance, shall pay the portion of  
6 any claim for personal injury protection medical benefits  
7 which is otherwise covered but is not payable due to the  
8 coinsurance provision of paragraph (1)(a), regardless of  
9 whether the full amount of personal injury protection coverage  
10 has been exhausted. The benefits shall not be payable for the  
11 amount of any deductible which has been selected.

12 (g) It is a violation of the insurance code for an  
13 insurer to fail to timely provide benefits as required by this  
14 section with such frequency as to constitute a general  
15 business practice.

16 Section 263. Section 636.052, Florida Statutes, is  
17 amended to read:

18 636.052 Civil remedy.--In any civil action brought to  
19 enforce the terms and conditions of a prepaid limited health  
20 service organization contract, the prevailing party is  
21 entitled to recover reasonable attorney's fees and court  
22 costs. This section does not authorize a civil action against  
23 the department, its employees, or the commissioner or against  
24 the Agency for Health Care Administration ~~Department of Health~~  
25 ~~and Rehabilitative Services~~, its employees, or the director  
26 ~~secretary~~ of that agency ~~department~~.

27 Section 264. Subsection (1) of section 641.22, Florida  
28 Statutes, is amended to read:

29 641.22 Issuance of certificate of authority.--The  
30 department shall issue a certificate of authority to any  
31 entity filing a completed application in conformity with s.

1 641.21, upon payment of the prescribed fees and upon the  
2 department's being satisfied that:

3 (1) As a condition precedent to the issuance of any  
4 certificate, the entity has obtained a health care provider  
5 certificate from the Agency for Health Care Administration  
6 ~~Department of Health and Rehabilitative Services~~ pursuant to  
7 part III of this chapter.

8 Section 265. Subsection (1) of section 641.23, Florida  
9 Statutes, is amended to read:

10 641.23 Revocation or cancellation of certificate of  
11 authority; suspension of enrollment of new subscribers; terms  
12 of suspension.--

13 (1) The maintenance of a valid and current health care  
14 provider certificate issued pursuant to part III of this  
15 chapter is a condition of the maintenance of a valid and  
16 current certificate of authority issued by the department to  
17 operate a health maintenance organization. Denial or  
18 revocation of a health care provider certificate shall be  
19 deemed to be an automatic and immediate cancellation of a  
20 health maintenance organization's certificate of authority.  
21 At the discretion of the Department of Insurance, nonrenewal  
22 of a health care provider certificate may be deemed to be an  
23 automatic and immediate cancellation of a health maintenance  
24 organization's certificate of authority if the Agency for  
25 Health Care Administration ~~Department of Health and~~  
26 ~~Rehabilitative Services~~ notifies the Department of Insurance,  
27 in writing, that the health care provider certificate will not  
28 be renewed.

29 Section 266. Section 641.261, Florida Statutes, is  
30 amended to read:

31 641.261 Other reporting requirements.--

1           (1) Each authorized health maintenance organization  
2 shall provide records and information to the Agency for Health  
3 Care Administration ~~Department of Health and Rehabilitative~~  
4 ~~Services~~ pursuant to s. 409.910(22) for the sole purpose of  
5 identifying potential coverage for claims filed with the  
6 Agency for Health Care Administration ~~Department of Health and~~  
7 ~~Rehabilitative Services~~ and its fiscal agents for payment of  
8 medical services under the Medicaid program.

9           (2) Any information provided by a health maintenance  
10 organization under this section to the Agency for Health Care  
11 Administration ~~Department of Health and Rehabilitative~~  
12 ~~Services~~ shall not be considered a violation of any right of  
13 confidentiality or contract that the health maintenance  
14 organization may have with covered persons. The health  
15 maintenance organization is immune from any liability that it  
16 may otherwise incur through its release of information to the  
17 Agency for Health Care Administration ~~Department of Health and~~  
18 ~~Rehabilitative Services~~ under this section.

19           Section 267. Paragraph (c) of subsection (4) of  
20 section 641.3007, Florida Statutes, is amended to read:

21           641.3007 Human immunodeficiency virus infection and  
22 acquired immune deficiency syndrome for contract purposes.--

23           (4) UTILIZATION OF MEDICAL TESTS.--

24           (c) An applicant shall be notified of a positive test  
25 result by a physician designated by the applicant or, in the  
26 absence of such designation, by the Department of Health ~~and~~  
27 ~~Rehabilitative Services~~. Such notification must include:

28           1. Face-to-face posttest counseling on the meaning of  
29 the test results; the possible need for additional testing;  
30 and the need to eliminate behavior which might spread the  
31 disease to others;

1           2. The availability in the geographic area of any  
2 appropriate health care services, including mental health  
3 care, and appropriate social and support services;

4           3. The benefits of locating and counseling any  
5 individual by whom the infected individual may have been  
6 exposed to human immunodeficiency virus and any individual  
7 whom the infected individual may have exposed to the virus;  
8 and

9           4. The availability, if any, of the services of public  
10 health authorities with respect to locating and counseling any  
11 individual described in subparagraph 3.

12           Section 268. Subsection (1) and paragraph (f) of  
13 subsection (2) of section 641.405, Florida Statutes, are  
14 amended to read:

15           641.405 Application for certificate of authority to  
16 operate prepaid health clinic.--

17           (1) No person may operate a prepaid health clinic  
18 without first obtaining a certificate of authority from the  
19 department. The department shall not issue a certificate of  
20 authority to any applicant which does not possess a valid  
21 Health Care Provider Certificate issued by the Agency for  
22 Health Care Administration ~~Department of Health and~~  
23 ~~Rehabilitative Services~~.

24           (2) Each application for a certificate of authority  
25 shall be on such form as the department prescribes, and such  
26 application shall be accompanied by:

27           (f) A copy of the applicant's Health Care Provider  
28 Certificate from the Agency for Health Care Administration  
29 ~~Department of Health and Rehabilitative Services~~, issued  
30 pursuant to part III of this chapter.

31

1           Section 269. Subsection (1) of section 641.406,  
2 Florida Statutes, is amended to read:

3           641.406 Issuance of certificate of authority.--The  
4 department shall issue a certificate of authority for a  
5 prepaid health clinic to any applicant filing a properly  
6 completed application in conformity with s. 641.405, upon  
7 payment of the prescribed fees and upon the department's being  
8 satisfied that:

9           (1) As a condition precedent to the issuance of any  
10 certificate, the applicant has obtained a Health Care Provider  
11 Certificate from the Agency for Health Care Administration  
12 ~~Department of Health and Rehabilitative Services~~ pursuant to  
13 part III of this chapter.

14           Section 270. Section 641.411, Florida Statutes, is  
15 amended to read:

16           641.411 Other reporting requirements.--

17           (1) Each prepaid health clinic shall provide records  
18 and information to the Agency for Health Care Administration  
19 ~~Department of Health and Rehabilitative Services~~ pursuant to  
20 s. 409.910(22) for the sole purpose of identifying potential  
21 coverage for claims filed with the Agency for Health Care  
22 Administration ~~Department of Health and Rehabilitative~~  
23 ~~Services~~ and its fiscal agents for payment of medical services  
24 under the Medicaid program.

25           (2) Any information provided by a prepaid health  
26 clinic under this section to the Agency for Health Care  
27 Administration ~~Department of Health and Rehabilitative~~  
28 ~~Services~~ shall not be considered a violation of any right of  
29 confidentiality or contract that the prepaid health clinic may  
30 have with covered persons. The prepaid health clinic is  
31 immune from any liability that it may otherwise incur through

1 its release of information to the Agency for Health Care  
2 Administration ~~Department of Health and Rehabilitative~~  
3 ~~Services~~ under this section.

4 Section 271. Paragraph (a) of subsection (2) of  
5 section 641.412, Florida Statutes, is amended to read:

6 641.412 Fees.--

7 (2) The fees charged under this section shall be  
8 distributed as follows:

9 (a) One-third of the total amount of fees shall be  
10 distributed to the Agency for Health Care Administration  
11 ~~Department of Health and Rehabilitative Services~~; and

12 Section 272. Subsection (2) of section 641.443,  
13 Florida Statutes, is amended to read:

14 641.443 Temporary restraining orders.--

15 (2) The department and the Agency for Health Care  
16 Administration ~~Department of Health and Rehabilitative~~  
17 ~~Services~~ are each vested with the power to seek a temporary  
18 restraining order on their behalf or on behalf of a subscriber  
19 or subscribers of a prepaid health clinic that is being  
20 operated in violation of any provision of this part or any  
21 rule promulgated under this part, or any other applicable law  
22 or rule.

23 Section 273. Section 641.454, Florida Statutes, is  
24 amended to read:

25 641.454 Civil action to enforce prepaid health clinic  
26 contract; attorney's fees; court costs.--In any civil action  
27 brought to enforce the terms and conditions of a prepaid  
28 health clinic contract, the prevailing party is entitled to  
29 recover reasonable attorney's fees and court costs. This  
30 section shall not be construed to authorize a civil action  
31 against the department, its employees, or the Insurance

1 Commissioner and Treasurer or against the Agency for Health  
2 Care Administration ~~Department of Health and Rehabilitative~~  
3 ~~Services~~, the employees of the Agency for Health Care  
4 Administration ~~Department of Health and Rehabilitative~~  
5 ~~Services~~, or the Director of Health Care Administration  
6 ~~Secretary of Health and Rehabilitative Services~~.

7 Section 274. Section 641.455, Florida Statutes, is  
8 amended to read:

9 641.455 Disposition of moneys collected under this  
10 part.--Fees, administrative penalties, examination expenses,  
11 and other sums collected by the department under this part  
12 shall be deposited to the credit of the Insurance  
13 Commissioner's Regulatory Trust Fund; however, fees,  
14 examination expenses, and other sums collected by, or  
15 allocated to, the Agency for Health Care Administration  
16 ~~Department of Health and Rehabilitative Services~~ under this  
17 part shall be deposited to the credit of the General Revenue  
18 Fund.

19 Section 275. Paragraph (a) of subsection (2) of  
20 section 651.021, Florida Statutes, is amended to read:

21 651.021 Certificate of authority required.--

22 (2)(a) Before commencement of construction or  
23 marketing for any expansion of a certificated facility  
24 equivalent to the addition of at least 20 percent of existing  
25 units, written approval must be obtained from the department.  
26 This provision does not apply to construction for which a  
27 certificate of need from the Agency for Health Care  
28 Administration ~~Department of Health and Rehabilitative~~  
29 ~~Services~~ is required.

30 Section 276. Section 651.117, Florida Statutes, is  
31 amended to read:



1           651.117 Duties of the Department of Children and  
2 Family ~~Health and Rehabilitative~~ Services and the Agency for  
3 Health Care Administration.--Whenever an order of liquidation  
4 has been entered against a provider, the receiver shall notify  
5 the Department of Children and Family ~~Health and~~  
6 ~~Rehabilitative~~ Services and the Agency for Health Care  
7 Administration by sending to the Department of Children and  
8 Family ~~Health and Rehabilitative~~ Services and the Agency for  
9 Health Care Administration by certified mail a copy of the  
10 order of liquidation. Upon receipt of any such order or when  
11 requested by the receiver as being in the best interest of the  
12 residents of a facility, in addition to any other duty of the  
13 Department of Children and Family ~~Health and Rehabilitative~~  
14 Services and the Agency for Health Care Administration with  
15 respect to residents of a facility, the Department of Children  
16 and Family ~~Health and Rehabilitative~~ Services and the Agency  
17 for Health Care Administration shall evaluate the status of  
18 the residents of the facility to determine whether they are  
19 eligible for assistance or for programs administered by the  
20 Department of Children and Family ~~Health and Rehabilitative~~  
21 Services and the Agency for Health Care Administration, shall  
22 develop a plan of relocation with respect to residents  
23 requesting assistance regarding relocation, and shall counsel  
24 the residents regarding such eligibility and such relocation.

25           Section 277. Section 713.77, Florida Statutes, is  
26 amended to read:

27           713.77 Liens of owners, operators, or keepers of  
28 mobile home or recreational vehicle parks; ejection of  
29 occupants.--A lien prior in dignity to all others except a  
30 lien for unpaid purchase price shall exist in favor of the  
31 owner, operator, or keeper of a mobile home park or

1 recreational vehicle park for rent owing by, and for money or  
2 other property advanced to, any occupant thereof upon the  
3 goods, chattels, or other personal property of such occupant.  
4 Upon the nonpayment of such sums in accordance with the rules  
5 of such park, or for failure to observe any provision of this  
6 part or the rules and regulations prescribed by the Department  
7 of Health ~~and Rehabilitative Services~~, the owner, operator, or  
8 keeper thereof may instantly eject such occupant therefrom. A  
9 lien created in favor of an owner or operator of a mobile home  
10 park or recreational vehicle park may be enforced in the same  
11 manner as is now or may hereafter be provided by law for the  
12 enforcement of liens in favor of keepers of hotels and  
13 boardinghouses. Nothing in this section, however, shall  
14 prevent an owner or operator of a mobile home park or  
15 recreational vehicle park from enforcing any claim for rent  
16 under and in the manner provided by landlord and tenant acts  
17 of this state.

18 Section 278. Subsection (2) of section 741.01, Florida  
19 Statutes, 1998 Supplement, is amended to read:

20 741.01 County court judge or clerk of the circuit  
21 court to issue marriage license; fee.--

22 (2) The fee charged for each marriage license issued  
23 in the state shall be increased by the sum of \$30. This fee  
24 shall be collected upon receipt of the application for the  
25 issuance of a marriage license. The Executive Office of the  
26 Governor shall establish a Domestic Violence Trust Fund for  
27 the purpose of collecting and disbursing funds generated from  
28 the increase in the marriage license fee. Such funds which  
29 are generated shall be directed to the Department of Children  
30 and Family ~~Health and Rehabilitative~~ Services for the specific  
31 purpose of funding domestic violence centers, and the funds

1 shall be appropriated in a "grants-in-aid" category to the  
2 Department of Children and Family ~~Health and Rehabilitative~~  
3 Services for the purpose of funding domestic violence centers.

4 Section 279. Paragraph (a) of subsection (1) of  
5 section 741.29, Florida Statutes, is amended to read:

6 741.29 Domestic violence; investigation of incidents;  
7 notice to victims of legal rights and remedies; reporting.--

8 (1) Any law enforcement officer who investigates an  
9 alleged incident of domestic violence shall assist the victim  
10 to obtain medical treatment if such is required as a result of  
11 the alleged incident to which the officer responds. Any law  
12 enforcement officer who investigates an alleged incident of  
13 domestic violence shall advise the victim of such violence  
14 that there is a domestic violence center from which the victim  
15 may receive services. The law enforcement officer shall give  
16 the victim immediate notice of the legal rights and remedies  
17 available on a standard form developed and distributed by the  
18 department. As necessary, the department shall revise the  
19 Legal Rights and Remedies Notice to Victims to include a  
20 general summary of s. 741.30 using simple English as well as  
21 Spanish, and shall distribute the notice as a model form to be  
22 used by all law enforcement agencies throughout the state. The  
23 notice shall include:

24 (a) The resource listing, including telephone number,  
25 for the area domestic violence center designated by the  
26 Department of Children and Family ~~Health and Rehabilitative~~  
27 Services; and

28 Section 280. Subsection (2) of section 741.32, Florida  
29 Statutes, is amended to read:

30 741.32 Certification of batterers' intervention  
31 programs.--

1           (2) There is hereby established in the Department of  
2 Corrections an Office for Certification and Monitoring of  
3 Batterers' Intervention Programs. The department may certify  
4 and monitor both programs and personnel providing direct  
5 services to those persons who are adjudged to have committed  
6 an act of domestic violence as defined in s. 741.28, those  
7 against whom an injunction for protection against domestic  
8 violence is entered, those referred by the Department of  
9 Children and Family ~~Health and Rehabilitative~~ Services, and  
10 those who volunteer to attend such programs. The purpose of  
11 certification of programs is to uniformly and systematically  
12 standardize programs to hold those who perpetrate acts of  
13 domestic violence responsible for those acts and to ensure  
14 safety for victims of domestic violence. The certification and  
15 monitoring shall be funded by user fees as provided in s.  
16 945.76.

17           Section 281. Section 742.08, Florida Statutes, is  
18 amended to read:

19           742.08 Default of support payments.--Upon default in  
20 payment of any moneys ordered by the court to be paid, the  
21 court may enter a judgment for the amount in default, plus  
22 interest, administrative costs, filing fees, and other  
23 expenses incurred by the clerk of the circuit court which  
24 shall be a lien upon all property of the defendant both real  
25 and personal. Costs and fees shall be assessed only after the  
26 court makes a determination of the nonprevailing party's  
27 ability to pay such costs and fees. In Title IV-D cases, any  
28 costs, including filing fees, recording fees, mediation costs,  
29 service of process fees, and other expenses incurred by the  
30 clerk of the circuit court, shall be assessed only against the  
31 nonprevailing obligor after the court makes a determination of

1 the nonprevailing obligor's ability to pay such costs and  
2 fees. The Department of Revenue ~~Health and Rehabilitative~~  
3 ~~Services~~ shall not be considered a party for purposes of this  
4 section; however, fees may be assessed against the department  
5 pursuant to s. 57.105(1). Willful failure to comply with an  
6 order of the court shall be deemed a contempt of the court  
7 entering the order and shall be punished as such. The court  
8 may require bond of the defendant for the faithful performance  
9 of his or her obligation under the order of the court in such  
10 amount and upon such conditions as the court shall direct.

11 Section 282. Subsections (3) and (4) of section  
12 742.107, Florida Statutes, are amended to read:

13 742.107 Determining paternity of child with mother  
14 under 16 years of age when impregnated.--

15 (3) Whenever the information provided by a mother who  
16 was impregnated while under 16 years of age indicates that the  
17 alleged father of the child was 21 years of age or older at  
18 the time of conception of the child, the Department of Revenue  
19 or the Department of Children and Family ~~Health and~~  
20 ~~Rehabilitative~~ Services shall advise the applicant or  
21 recipient of public assistance that she is required to  
22 cooperate with law enforcement officials in the prosecution of  
23 the alleged father.

24 (4) When the information provided by the applicant or  
25 recipient who was impregnated while under age 16 indicates  
26 that such person is the victim of child abuse as provided in  
27 s. 827.04(4), the Department of Revenue or the Department of  
28 Children and Family ~~Health and Rehabilitative~~ Services shall  
29 notify the county sheriff's office or other appropriate agency  
30 or official and provide information needed to protect the  
31 child's health or welfare.

1           Section 283. Subsection (12) of section 744.474,  
2 Florida Statutes, is amended to read:

3           744.474 Reasons for removal of guardian.--A guardian  
4 may be removed for any of the following reasons, and the  
5 removal shall be in addition to any other penalties prescribed  
6 by law:

7           (12) A confirmed report pursuant to a protective  
8 investigation made by the Department of Children and Family  
9 ~~Health and Rehabilitative~~ Services, which has been uncontested  
10 or has been upheld, in accordance with s. 415.1075, that the  
11 guardian has abused, neglected, or exploited the ward.

12           Section 284. Subsection (3) of section 765.110,  
13 Florida Statutes, is amended to read:

14           765.110 Health care facilities and providers;  
15 discipline.--

16           (3) The Department of Health ~~and Rehabilitative~~  
17 ~~Services~~ and the Agency for Health Care Administration shall  
18 adopt rules to implement the provisions of the section.

19           Section 285. Paragraphs (c) and (d) of subsection (2)  
20 of section 766.105, Florida Statutes, 1998 Supplement, are  
21 amended to read:

22           766.105 Florida Patient's Compensation Fund.--

23           (2) COVERAGE.--

24           (c) Any hospital that can meet one of the following  
25 provisions for demonstrating financial responsibility to pay  
26 claims and costs ancillary thereto arising out of the  
27 rendering of or failure to render medical care or services and  
28 for bodily injury or property damage to the person or property  
29 of any patient arising out of the activities of the hospital  
30 in this state or arising out of the activities of covered  
31

1 individuals listed in paragraph (e) is not required to  
2 participate in the fund:

3 1. Post bond in an amount equivalent to \$10,000 per  
4 claim for each hospital bed in such hospital, not to exceed a  
5 \$2.5 million annual aggregate.

6 2. Establish an escrow account in an amount equivalent  
7 to \$10,000 per claim for each hospital bed in such hospital,  
8 not to exceed a \$2.5 million annual aggregate, to the  
9 satisfaction of the Agency for Health Care Administration  
10 ~~Department of Health and Rehabilitative Services~~.

11 3. Obtain professional liability coverage in an amount  
12 equivalent to \$10,000 or more per claim for each bed in such  
13 hospital from a private insurer, from the Joint Underwriting  
14 Association established under s. 627.351(4), or through a plan  
15 of self-insurance as provided in s. 627.357. However, no  
16 hospital may be required to obtain such coverage in an amount  
17 exceeding a \$2.5 million annual aggregate.

18 (d)1. Any health care provider who participates in the  
19 fund and who does not meet the provisions of paragraph (b)  
20 shall not be covered by the fund.

21 2. Annually, the Agency for Health Care Administration  
22 ~~Department of Health and Rehabilitative Services~~ shall require  
23 documentation by each hospital that such hospital is in  
24 compliance, and will remain in compliance, with the provisions  
25 of this section. The agency department shall review the  
26 documentation and then deliver the documentation to the board  
27 of governors. At least 60 days before the time a license will  
28 be issued or renewed, the agency department shall request from  
29 the board of governors a certification that each hospital is  
30 in compliance with the provisions of this section. The board  
31 of governors shall not be liable under the law for any

1 erroneous certification. The agency ~~department~~ may not issue  
2 or renew the license of any hospital which has not been  
3 certified by the board of governors. The license of any  
4 hospital that fails to remain in compliance or fails to  
5 provide such documentation shall be revoked or suspended by  
6 the agency ~~department~~.

7 Section 286. Paragraph (b) of subsection (3) of  
8 section 766.1115, Florida Statutes, 1998 Supplement, is  
9 amended to read:

10 766.1115 Health care providers; creation of agency  
11 relationship with governmental contractors.--

12 (3) DEFINITIONS.--As used in this section, the term:

13 (b) "Department" means the Department of Health ~~and~~  
14 ~~Rehabilitative Services~~.

15 Section 287. Subsections (2) and (5) of section  
16 766.305, Florida Statutes, 1998 Supplement, are amended to  
17 read:

18 766.305 Filing of claims and responses; medical  
19 disciplinary review.--

20 (2) The claimant shall furnish the division with as  
21 many copies of the petition as required for service upon the  
22 association, any physician and hospital named in the petition,  
23 and the Division of Medical Quality Assurance, along with a  
24 \$15 filing fee payable to the Division of Administrative  
25 Hearings. Upon receipt of the petition, the division shall  
26 immediately serve the association, by service upon the agent  
27 designated to accept service on behalf of the association, by  
28 registered or certified mail, and shall mail copies of the  
29 petition to any physician and hospital named in the petition,  
30 the Division of Medical Quality Assurance, the Agency for  
31 Health Care Administration ~~Department of Health and~~



1 ~~Rehabilitative Services~~, and the medical advisory review panel  
2 provided for in s. 766.308.

3 (5) Upon receipt of such petition, the Agency for  
4 Health Care Administration ~~Department of Health and~~  
5 ~~Rehabilitative Services~~ shall investigate the claim, and if it  
6 determines that the injury resulted from, or was aggravated  
7 by, a breach of duty on the part of a hospital in violation of  
8 chapter 395, it shall take any such action consistent with its  
9 disciplinary authority as may be appropriate.

10 Section 288. Paragraph (c) of subsection (9) of  
11 section 766.314, Florida Statutes, 1998 Supplement, is amended  
12 to read:

13 766.314 Assessments; plan of operation.--

14 (9)

15 (c) In the event the total of all current estimates  
16 equals 80 percent of the funds on hand and the funds that will  
17 become available to the association within the next 12 months  
18 from all sources described in subsections (4) and (5) and  
19 paragraph (7)(a), the association shall not accept any new  
20 claims without express authority from the Legislature. Nothing  
21 herein shall preclude the association from accepting any claim  
22 if the injury occurred 18 months or more prior to the  
23 effective date of this suspension. Within 30 days of the  
24 effective date of this suspension, the association shall  
25 notify the Governor, the Speaker of the House of  
26 Representatives, the President of the Senate, the Department  
27 of Insurance, the Agency for Health Care Administration, the  
28 Department of Health ~~and Rehabilitative Services~~, and the  
29 Department of Business and Professional Regulation of this  
30 suspension.

31

1           Section 289. Paragraph (b) of subsection (9) and  
2 paragraph (c) of subsection (10) of section 768.28, Florida  
3 Statutes, 1998 Supplement, are amended to read:

4           768.28 Waiver of sovereign immunity in tort actions;  
5 recovery limits; limitation on attorney fees; statute of  
6 limitations; exclusions; indemnification; risk management  
7 programs.--

8           (9)

9           (b) As used in this subsection, the term:

10          1. "Employee" includes any volunteer firefighter.

11          2. "Officer, employee, or agent" includes, but is not  
12 limited to, any health care provider when providing services  
13 pursuant to s. 766.1115, any member of the Florida Health  
14 Services Corps, as defined in s. 381.0302, who provides  
15 uncompensated care to medically indigent persons referred by  
16 the Department of Health ~~and Rehabilitative Services~~, and any  
17 public defender or her or his employee or agent, including,  
18 among others, an assistant public defender and an  
19 investigator.

20          (10)

21          (c) For purposes of this section, regional poison  
22 control centers created in accordance with s. 395.1027 and  
23 coordinated and supervised under the Division of Children's  
24 Medical Services Program Office of the Department of Health  
25 ~~and Rehabilitative Services~~, or any of their employees or  
26 agents, shall be considered agents of the State of Florida,  
27 Department of Health ~~and Rehabilitative Services~~. Any  
28 contracts with poison control centers must provide, to the  
29 extent permitted by law, for the indemnification of the state  
30 by the agency for any liabilities incurred up to the limits  
31 set out in this chapter.

1           Section 290. Paragraph (b) of subsection (2) of  
2 section 768.76, Florida Statutes, is amended to read:

3           768.76 Collateral sources of indemnity.--

4           (2) For purposes of this section:

5           (b) Notwithstanding any other provision of this  
6 section, benefits received under Medicare, or any other  
7 federal program providing for a Federal Government lien on or  
8 right of reimbursement from the plaintiff's recovery, the  
9 Workers' Compensation Law, the Medicaid program of Title XIX  
10 of the Social Security Act or from any medical services  
11 program administered by the Department of Health ~~and~~  
12 ~~Rehabilitative Services~~ shall not be considered a collateral  
13 source.

14           Section 291. Subsections (1) and (2) of section  
15 775.0877, Florida Statutes, are amended to read:

16           775.0877 Criminal transmission of HIV; procedures;  
17 penalties.--

18           (1) In any case in which a person has been convicted  
19 of or has pled nolo contendere or guilty to, regardless of  
20 whether adjudication is withheld, any of the following  
21 offenses, or the attempt thereof, which offense or attempted  
22 offense involves the transmission of body fluids from one  
23 person to another:

24           (a) Section 794.011, relating to sexual battery,

25           (b) Section 826.04, relating to incest,

26           (c) Section 800.04(1), (2), and (3), relating to lewd,  
27 lascivious, or indecent assault or act upon any person less  
28 than 16 years of age,

29           (d) Sections 784.011, 784.07(2)(a), and 784.08(2)(d),  
30 relating to assault,

31

1           (e) Sections 784.021, 784.07(2)(c), and 784.08(2)(b),  
2 relating to aggravated assault,  
3           (f) Sections 784.03, 784.07(2)(b), and 784.08(2)(c),  
4 relating to battery,  
5           (g) Sections 784.045, 784.07(2)(d), and 784.08(2)(a),  
6 relating to aggravated battery,  
7           (h) Section 827.03(1), relating to child abuse,  
8           (i) Section 827.03(2), relating to aggravated child  
9 abuse,  
10          (j) Section 825.102(1), relating to abuse of an  
11 elderly person or disabled adult,  
12          (k) Section 825.102(2), relating to aggravated abuse  
13 of an elderly person or disabled adult,  
14          (l) Section 827.071, relating to sexual performance by  
15 person less than 18 years of age,  
16          (m) Sections 796.03, 796.07, and 796.08, relating to  
17 prostitution, or  
18          (n) Section 381.0041(11)(b), relating to donation of  
19 blood, plasma, organs, skin, or other human tissue,  
20  
21 the court shall order the offender to undergo HIV testing, to  
22 be performed under the direction of the Department of Health  
23 ~~and Rehabilitative Services~~ in accordance with s. 381.004,  
24 unless the offender has undergone HIV testing voluntarily or  
25 pursuant to procedures established in s. 381.004(3)(i)6. or s.  
26 951.27, or any other applicable law or rule providing for HIV  
27 testing of criminal offenders or inmates, subsequent to her or  
28 his arrest for an offense enumerated in paragraphs (a)-(n) for  
29 which she or he was convicted or to which she or he pled nolo  
30 contendere or guilty. The results of an HIV test performed on  
31

1 an offender pursuant to this subsection are not admissible in  
2 any criminal proceeding arising out of the alleged offense.

3 (2) The results of the HIV test must be disclosed  
4 under the direction of the Department of Health ~~and~~  
5 ~~Rehabilitative Services~~, to the offender who has been  
6 convicted of or pled nolo contendere or guilty to an offense  
7 specified in subsection (1), the public health agency of the  
8 county in which the conviction occurred and, if different, the  
9 county of residence of the offender, and, upon request  
10 pursuant to s. 960.003, to the victim or the victim's legal  
11 guardian, or the parent or legal guardian of the victim if the  
12 victim is a minor.

13 Section 292. Paragraph (b) of subsection (1) and  
14 paragraph (b) of subsection (2) of section 775.16, Florida  
15 Statutes, are amended to read:

16 775.16 Drug offenses; additional penalties.--In  
17 addition to any other penalty provided by law, a person who  
18 has been convicted of sale of or trafficking in, or conspiracy  
19 to sell or traffic in, a controlled substance under chapter  
20 893, if such offense is a felony, or who has been convicted of  
21 an offense under the laws of any state or country which, if  
22 committed in this state, would constitute the felony of  
23 selling or trafficking in, or conspiracy to sell or traffic  
24 in, a controlled substance under chapter 893, is:

25 (1) Disqualified from applying for employment by any  
26 agency of the state, unless:

27 (b) The person has complied with the conditions of  
28 subparagraphs 1. and 2. which shall be monitored by the  
29 Department of Corrections while the person is under any  
30 supervisory sanctions. The person under supervision may:

31

1           1. Seek evaluation and enrollment in, and once  
2 enrolled maintain enrollment in until completion, a drug  
3 treatment and rehabilitation program which is approved by the  
4 Department of Children and Family ~~Health and Rehabilitative~~  
5 Services, unless it is deemed by the program that the person  
6 does not have a substance abuse problem. The treatment and  
7 rehabilitation program may be specified by:

8           a. The court, in the case of court-ordered supervisory  
9 sanctions;

10           b. The Parole Commission, in the case of parole,  
11 control release, or conditional release; or

12           c. The Department of Corrections, in the case of  
13 imprisonment or any other supervision required by law.

14           2. Submit to periodic urine drug testing pursuant to  
15 procedures prescribed by the Department of Corrections. If  
16 the person is indigent, the costs shall be paid by the  
17 Department of Corrections.

18           (2) Disqualified from applying for a license, permit,  
19 or certificate required by any agency of the state to  
20 practice, pursue, or engage in any occupation, trade,  
21 vocation, profession, or business, unless:

22           (b) The person has complied with the conditions of  
23 subparagraphs 1. and 2. which shall be monitored by the  
24 Department of Corrections while the person is under any  
25 supervisory sanction. If the person fails to comply with  
26 provisions of these subparagraphs by either failing to  
27 maintain treatment or by testing positive for drug use, the  
28 department shall notify the licensing, permitting, or  
29 certifying agency, which may refuse to reissue or reinstate  
30 such license, permit, or certification. The licensee,  
31 permittee, or certificateholder under supervision may:

1           1. Seek evaluation and enrollment in, and once  
2 enrolled maintain enrollment in until completion, a drug  
3 treatment and rehabilitation program which is approved or  
4 regulated by the Department of Children and Family Health and  
5 ~~Rehabilitative~~ Services, unless it is deemed by the program  
6 that the person does not have a substance abuse problem. The  
7 treatment and rehabilitation program may be specified by:

8           a. The court, in the case of court-ordered supervisory  
9 sanctions;

10           b. The Parole Commission, in the case of parole,  
11 control release, or conditional release; or

12           c. The Department of Corrections, in the case of  
13 imprisonment or any other supervision required by law.

14           2. Submit to periodic urine drug testing pursuant to  
15 procedures prescribed by the Department of Corrections. If  
16 the person is indigent, the costs shall be paid by the  
17 Department of Corrections; or

18  
19 The provisions of this section do not apply to any of the  
20 taxes, fees, or permits regulated, controlled, or administered  
21 by the Department of Revenue in accordance with the provisions  
22 of s. 213.05.

23           Section 293. Section 784.081, Florida Statutes, is  
24 amended to read:

25           784.081 Assault or battery on specified officials or  
26 employees; reclassification of offenses.--Whenever a person is  
27 charged with committing an assault or aggravated assault or a  
28 battery or aggravated battery upon any elected official or  
29 employee of: a school district; a private school; the Florida  
30 School for the Deaf and the Blind; a university developmental  
31 research school; a state university or any other entity of the

1 state system of public education, as defined in s. 228.041; or  
2 an employee or protective investigator of the Department of  
3 Children and Family ~~Health and Rehabilitative~~ Services, when  
4 the person committing the offense knows or has reason to know  
5 the identity or position or employment of the victim, the  
6 offense for which the person is charged shall be reclassified  
7 as follows:

8 (1) In the case of aggravated battery, from a felony  
9 of the second degree to a felony of the first degree.

10 (2) In the case of aggravated assault, from a felony  
11 of the third degree to a felony of the second degree.

12 (3) In the case of battery, from a misdemeanor of the  
13 first degree to a felony of the third degree.

14 (4) In the case of assault, from a misdemeanor of the  
15 second degree to a misdemeanor of the first degree.

16 Section 294. Subsection (3) of section 790.157,  
17 Florida Statutes, is amended to read:

18 790.157 Presumption of impairment; testing methods.--

19 (3) A chemical analysis of a person's blood to  
20 determine its alcoholic content or a chemical or physical  
21 analysis of a person's breath, in order to be considered valid  
22 under the provisions of this section, must have been performed  
23 substantially in accordance with methods approved by the  
24 Florida Department of Law Enforcement ~~Health and~~  
25 ~~Rehabilitative Services~~ and by an individual possessing a  
26 valid permit issued by the department for this purpose. Any  
27 insubstantial differences between approved techniques and  
28 actual testing procedures in an individual case shall not  
29 render the test or test results invalid. The Florida  
30 Department of Law Enforcement ~~Health and Rehabilitative~~  
31 ~~Services~~ may approve satisfactory techniques or methods,



1 ascertain the qualification and competence of individuals to  
2 conduct such analyses, and issue permits which shall be  
3 subject to termination or revocation in accordance with rules  
4 adopted by the department.

5 Section 295. Section 790.256, Florida Statutes, is  
6 amended to read:

7 790.256 Public service announcements.--The Department  
8 of Health ~~and Rehabilitative Services~~ shall prepare public  
9 service announcements for dissemination to parents throughout  
10 the state, of the provisions of chapter 93-416, Laws of  
11 Florida.

12 Section 296. Subsections (1), (2), and (3) of section  
13 796.08, Florida Statutes, are amended to read:

14 796.08 Screening for HIV and sexually transmissible  
15 diseases; providing penalties.--

16 (1)(a) For the purposes of this section, "sexually  
17 transmissible disease" means a bacterial, viral, fungal, or  
18 parasitic disease, determined by rule of the Department of  
19 Health ~~and Rehabilitative Services~~ to be sexually  
20 transmissible, a threat to the public health and welfare, and  
21 a disease for which a legitimate public interest is served by  
22 providing for regulation and treatment.

23 (b) In considering which diseases are designated as  
24 sexually transmissible diseases, the Department of Health ~~and~~  
25 ~~Rehabilitative Services~~ shall consider such diseases as  
26 chancroid, gonorrhoea, granuloma inguinale, lymphogranuloma  
27 venereum, genital herpes simplex, chlamydia, nongonococcal  
28 urethritis (NGU), pelvic inflammatory disease (PID)/acute  
29 salpingitis, syphilis, and human immunodeficiency virus  
30 infection for designation and shall consider the  
31 recommendations and classifications of the Centers for Disease

1 Control and Prevention and other nationally recognized  
2 authorities. Not all diseases that are sexually transmissible  
3 need be designated for purposes of this section.

4 (2) A person arrested under s. 796.07 may request  
5 screening for a sexually transmissible disease under direction  
6 of the Department of Health ~~and Rehabilitative Services~~ and,  
7 if infected, shall submit to appropriate treatment and  
8 counseling. A person who requests screening for a sexually  
9 transmissible disease under this subsection must pay any costs  
10 associated with such screening.

11 (3) A person convicted under s. 796.07 of prostitution  
12 or procuring another to commit prostitution must undergo  
13 screening for a sexually transmissible disease, including, but  
14 not limited to, screening to detect exposure to the human  
15 immunodeficiency virus, under direction of the Department of  
16 Health ~~and Rehabilitative Services~~. If the person is infected,  
17 he or she must submit to treatment and counseling prior to  
18 release from probation, community control, or incarceration.  
19 Notwithstanding the provisions of s. 384.29, the results of  
20 tests conducted pursuant to this subsection shall be made  
21 available by the Department of Health ~~and Rehabilitative~~  
22 ~~Services~~ to the offender, medical personnel, appropriate state  
23 agencies, state attorneys, and courts of appropriate  
24 jurisdiction in need of such information in order to enforce  
25 the provisions of this chapter.

26 Section 297. Paragraph (a) of subsection (2) of  
27 section 817.505, Florida Statutes, 1998 Supplement, is amended  
28 to read:

29 817.505 Patient brokering prohibited; exceptions;  
30 penalties.--

31 (2) For the purposes of this section, the term:

1           (a) "Health care provider or health care facility"  
2 means any person or entity licensed, certified, or registered  
3 with the Agency for Health Care Administration; any person or  
4 entity that has contracted with the Agency for Health Care  
5 Administration to provide goods or services to Medicaid  
6 recipients as provided under s. 409.907; a county health  
7 department established under part I of chapter 154; any  
8 community service provider contracting with the Department of  
9 Children and Family Health and Rehabilitative Services to  
10 furnish alcohol, drug abuse, or mental health services under  
11 part IV of chapter 394; any substance abuse service provider  
12 licensed under chapter 397; or any federally supported primary  
13 care program such as a migrant or community health center  
14 authorized under ss. 329 and 330 of the United States Public  
15 Health Services Act.

16           Section 298. Paragraph (a) of subsection (3) of  
17 section 873.01, Florida Statutes, is amended to read:

18           873.01 Purchase or sale of human organs and tissue  
19 prohibited.--

20           (3)(a) The human organs and tissues subject to the  
21 provisions of this section are the eye, cornea, kidney, liver,  
22 heart, lung, pancreas, bone, and skin or any other organ or  
23 tissue adopted by rule by the Agency for Health Care  
24 Administration ~~Department of Health and Rehabilitative~~  
25 ~~Services~~ for this purpose.

26           Section 299. Subsection (4) of section 877.111,  
27 Florida Statutes, is amended to read:

28           877.111 Inhalation, ingestion, possession, sale,  
29 purchase, or transfer of harmful chemical substances;  
30 penalties.--

31

1           (4) Any person who violates any of the provisions of  
2 this section may, in the discretion of the trial judge, be  
3 required to participate in a substance abuse services program  
4 approved or regulated by the Department of Children and Family  
5 ~~Health and Rehabilitative~~ Services pursuant to the provisions  
6 of chapter 397, provided the director of the program approves  
7 the placement of the defendant in the program. Such required  
8 participation may be imposed in addition to, or in lieu of,  
9 any penalty or probation otherwise prescribed by law. However,  
10 the total time of such penalty, probation, and program  
11 participation shall not exceed the maximum length of sentence  
12 possible for the offense.

13           Section 300. Subsection (9) of section 893.02, Florida  
14 Statutes, 1998 Supplement, is amended to read:

15           893.02 Definitions.--The following words and phrases  
16 as used in this chapter shall have the following meanings,  
17 unless the context otherwise requires:

18           (9) "Department" means the Department of Health ~~and~~  
19 ~~Rehabilitative Services~~.

20           Section 301. Paragraph (f) of subsection (1) of  
21 section 893.04, Florida Statutes, is amended to read:

22           893.04 Pharmacist and practitioner.--

23           (1) A pharmacist, in good faith and in the course of  
24 professional practice only, may dispense controlled substances  
25 upon a written or oral prescription of a practitioner, under  
26 the following conditions:

27           (f) A prescription for a controlled substance listed  
28 in Schedule II may be dispensed only upon a written  
29 prescription of a practitioner, except that in an emergency  
30 situation, as defined by regulation of the Department of  
31 ~~Health and Rehabilitative Services~~, such controlled substance

1 may be dispensed upon oral prescription. No prescription for a  
2 controlled substance listed in Schedule II may be refilled.

3 Section 302. Paragraph (a) of subsection (1) of  
4 section 893.11, Florida Statutes, is amended to read:

5 893.11 Suspension, revocation, and reinstatement of  
6 business and professional licenses.--Upon the conviction in  
7 any court of competent jurisdiction of any person holding a  
8 license, permit, or certificate issued by a state agency, for  
9 sale of, or trafficking in, a controlled substance or for  
10 conspiracy to sell, or traffic in, a controlled substance, if  
11 such offense is a felony, the clerk of said court shall send a  
12 certified copy of the judgment of conviction with the person's  
13 license number, permit number, or certificate number on the  
14 face of such certified copy to the agency head by whom the  
15 convicted defendant has received a license, permit, or  
16 certificate to practice his or her profession or to carry on  
17 his or her business. Such agency head shall suspend or revoke  
18 the license, permit, or certificate of the convicted defendant  
19 to practice his or her profession or to carry on his or her  
20 business. Upon a showing by any such convicted defendant whose  
21 license, permit, or certificate has been suspended or revoked  
22 pursuant to this section that his or her civil rights have  
23 been restored or upon a showing that the convicted defendant  
24 meets the following criteria, the agency head may reinstate or  
25 reactivate such license, permit, or certificate when:

26 (1) The person has complied with the conditions of  
27 paragraphs (a) and (b) which shall be monitored by the  
28 Department of Corrections while the person is under any  
29 supervisory sanction. If the person fails to comply with  
30 provisions of these paragraphs by either failing to maintain  
31 treatment or by testing positive for drug use, the department

1 shall notify the licensing, permitting, or certifying agency,  
2 which shall revoke the license, permit, or certification. The  
3 person under supervision may:

4 (a) Seek evaluation and enrollment in, and once  
5 enrolled maintain enrollment in until completion, a drug  
6 treatment and rehabilitation program which is approved or  
7 regulated by the Department of Children and Family Health and  
8 ~~Rehabilitative~~ Services. The treatment and rehabilitation  
9 program shall be specified by:

10 1. The court, in the case of court-ordered supervisory  
11 sanctions;

12 2. The Parole Commission, in the case of parole,  
13 control release, or conditional release; or

14 3. The Department of Corrections, in the case of  
15 imprisonment or any other supervision required by law.

16

17 This section does not apply to any of the taxes, fees, or  
18 permits regulated, controlled, or administered by the  
19 Department of Revenue in accordance with s. 213.05.

20 Section 303. Paragraph (b) of subsection (1) of  
21 section 893.12, Florida Statutes, 1998 Supplement, is amended  
22 to read:

23 893.12 Contraband; seizure, forfeiture, sale.--

24 (1) All substances controlled by this chapter and all  
25 listed chemicals, which substances or chemicals are handled,  
26 delivered, possessed, or distributed contrary to any  
27 provisions of this chapter, and all such controlled substances  
28 or listed chemicals the lawful possession of which is not  
29 established or the title to which cannot be ascertained, are  
30 declared to be contraband, are subject to seizure and  
31 confiscation by any person whose duty it is to enforce the

1 provisions of the chapter, and shall be disposed of as  
2 follows:

3 (b) Upon written application by the Department of  
4 Health and ~~Rehabilitative Services~~, the court by whom the  
5 forfeiture of such controlled substances or listed chemicals  
6 has been decreed may order the delivery of any of them to said  
7 department for distribution or destruction as hereinafter  
8 provided.

9 Section 304. Section 893.15, Florida Statutes, is  
10 amended to read:

11 893.15 Rehabilitation.--Any person who violates s.  
12 893.13(6)(a) or (b) relating to possession may, in the  
13 discretion of the trial judge, be required to participate in a  
14 substance abuse services program approved or regulated by the  
15 Department of Children and Family ~~Health and Rehabilitative~~  
16 Services pursuant to the provisions of chapter 397, provided  
17 the director of such program approves the placement of the  
18 defendant in such program. Such required participation shall  
19 be imposed in addition to any penalty or probation otherwise  
20 prescribed by law. However, the total time of such penalty,  
21 probation, and program participation shall not exceed the  
22 maximum length of sentence possible for the offense.

23 Section 305. Subsection (1) and paragraph (b) of  
24 subsection (3) of section 893.165, Florida Statutes, are  
25 amended to read:

26 893.165 County alcohol and other drug abuse treatment  
27 or education trust funds.--

28 (1) Counties in which there is established or in  
29 existence a comprehensive alcohol and other drug abuse  
30 treatment or education program which meets the standards for  
31 qualification of such programs by the Department of Children

1 and Family Health and Rehabilitative Services are authorized  
2 to establish a County Alcohol and Other Drug Abuse Trust Fund  
3 for the purpose of receiving the assessments collected  
4 pursuant to s. 938.23 and disbursing assistance grants on an  
5 annual basis to such alcohol and other drug abuse treatment or  
6 education program.

7 (3)

8 (b) Assessments collected by clerks of circuit courts  
9 having more than one county in the circuit, for any county in  
10 the circuit which does not have a County Alcohol and Other  
11 Drug Abuse Trust Fund, shall be remitted to the Department of  
12 Children and Family Health and Rehabilitative Services, in  
13 accordance with administrative rules adopted, for deposit into  
14 the department's Community Alcohol and Other Drug Abuse  
15 Services Grants and Donations Trust Fund for distribution  
16 pursuant to the guidelines and priorities developed by the  
17 department.

18 Section 306. Paragraphs (a), (d), and (e) of  
19 subsection (2) of section 895.09, Florida Statutes, 1998  
20 Supplement, are amended to read:

21 895.09 Disposition of funds obtained through  
22 forfeiture proceedings.--

23 (2)(a) Following satisfaction of all valid claims  
24 under subsection (1), 25 percent of the remainder of the funds  
25 obtained in the forfeiture proceedings pursuant to s. 895.05  
26 shall be deposited as provided in paragraph (b) into the  
27 appropriate trust fund of the Department of Legal Affairs or  
28 state attorney's office which filed the civil forfeiture  
29 action; 25 percent shall be deposited as provided in paragraph  
30 (c) into the applicable law enforcement trust fund of the  
31 investigating law enforcement agency conducting the



1 investigation which resulted in or significantly contributed  
2 to the forfeiture of the property; 25 percent shall be  
3 deposited as provided in paragraph (d) in the Substance Abuse  
4 Trust Fund of the Department of Children and Family Health and  
5 ~~Rehabilitative~~ Services; and the remaining 25 percent shall be  
6 deposited in the Forfeited Property Trust Fund of the  
7 Department of Environmental Protection. When a forfeiture  
8 action is filed by the Department of Legal Affairs or a state  
9 attorney, the court entering the judgment of forfeiture shall,  
10 taking into account the overall effort and contribution to the  
11 investigation and forfeiture action by the agencies that filed  
12 the action, make a pro rata apportionment among such agencies  
13 of the funds available for distribution to the agencies filing  
14 the action as provided in this section. If multiple  
15 investigating law enforcement agencies have contributed to the  
16 forfeiture of the property, the court which entered the  
17 judgment of forfeiture shall, taking into account the overall  
18 effort and contribution of the agencies to the investigation  
19 and forfeiture action, make a pro rata apportionment among  
20 such investigating law enforcement agencies of the funds  
21 available for distribution to the investigating agencies as  
22 provided in this section.

23 (d) The Department of Children and Family Health and  
24 ~~Rehabilitative~~ Services shall, in accordance with chapter 397,  
25 distribute funds obtained by it pursuant to paragraph (a) to  
26 public and private nonprofit organizations licensed by the  
27 department to provide substance abuse treatment and  
28 rehabilitation centers or substance abuse prevention and youth  
29 orientation programs in the service district in which the  
30 final order of forfeiture is entered by the court.

31

1           (e) On a quarterly basis, any excess funds, including  
2 interest, over \$1 million deposited in the Forfeited Property  
3 Trust Fund of the Department of Environmental Protection in  
4 accordance with paragraph (a) shall be deposited in the  
5 Substance Abuse Trust Fund of the Department of Children and  
6 Family Health and Rehabilitative Services.

7           Section 307. Subsection (2) of section 938.23, Florida  
8 Statutes, is amended to read:

9           938.23 Assistance grants for alcohol and other drug  
10 abuse programs.--

11           (2) All assessments authorized by this section shall  
12 be collected by the clerk of court and remitted to the  
13 jurisdictional county as described in s. 893.165(2) for  
14 deposit into the County Alcohol and Other Drug Abuse Trust  
15 Fund or to the Department of Children and Family Health and  
16 Rehabilitative Services for deposit into the department's  
17 Community Alcohol and Other Drug Abuse Services Grants and  
18 Donations Trust Fund pursuant to guidelines and priorities  
19 developed by the department. If a County Alcohol and Other  
20 Drug Abuse Trust Fund has not been established for any  
21 jurisdictional county, assessments collected by the clerk of  
22 court shall be remitted to the Department of Children and  
23 Family Health and Rehabilitative Services for deposit into the  
24 department's Community Alcohol and Other Drug Abuse Services  
25 Grants and Donations Trust Fund.

26           Section 308. Subsection (5) of section 944.012,  
27 Florida Statutes, is amended to read:

28           944.012 Legislative intent.--The Legislature hereby  
29 finds and declares that:

30           (5) In order to make the correctional system an  
31 efficient and effective mechanism, the various agencies

1 involved in the correctional process must coordinate their  
2 efforts. Where possible, interagency offices should be  
3 physically located within major institutions and should  
4 include representatives of the Florida State Employment  
5 Service, the vocational rehabilitation programs of the  
6 Department of Labor and Employment Security ~~Health and~~  
7 ~~Rehabilitative Services~~, and the Parole Commission.  
8 Duplicative and unnecessary methods of evaluating offenders  
9 must be eliminated and areas of responsibility consolidated in  
10 order to more economically utilize present scarce resources.

11 Section 309. Subsection (5) of section 944.024,  
12 Florida Statutes, is amended to read:

13 944.024 Adult intake and evaluation.--The state system  
14 of adult intake and evaluation shall include:

15 (5) The performance of postsentence intake by the  
16 department. Any physical facility established by the  
17 department for the intake and evaluation process prior to the  
18 offender's entry into the correctional system shall provide  
19 for specific office and work areas for the staff of the  
20 commission. The purpose of such a physical center shall be to  
21 combine in one place as many of the rehabilitation-related  
22 functions as possible, including pretrial and posttrial  
23 evaluation, parole and probation services, vocational  
24 rehabilitation services, family assistance services of the  
25 Department of Children and Family ~~Health and Rehabilitative~~  
26 ~~Services~~, and all other rehabilitative and correctional  
27 services dealing with the offender.

28 Section 310. Subsection (5) of section 944.17, Florida  
29 Statutes, 1998 Supplement, is amended to read:

30 944.17 Commitments and classification; transfers.--  
31

1           (5) The department shall also refuse to accept a  
2 person into the state correctional system unless the following  
3 documents are presented in a completed form by the sheriff or  
4 chief correctional officer, or a designated representative, to  
5 the officer in charge of the reception process:

6           (a) The uniform commitment and judgment and sentence  
7 forms as described in subsection (4).

8           (b) The sheriff's certificate as described in s.  
9 921.161.

10          (c) A certified copy of the indictment or information  
11 relating to the offense for which the person was convicted.

12          (d) A copy of the probable cause affidavit for each  
13 offense identified in the current indictment or information.

14          (e) A copy of the Criminal Punishment Code scoresheet  
15 and any attachments thereto prepared pursuant to Rule 3.701,  
16 Rule 3.702, or Rule 3.703, Florida Rules of Criminal  
17 Procedure, or any other rule pertaining to the preparation of  
18 felony sentencing scoresheets.

19          (f) A copy of the restitution order or the reasons by  
20 the court for not requiring restitution pursuant to s.  
21 775.089(1).

22          (g) The name and address of any victim, if available.

23          (h) A printout of a current criminal history record as  
24 provided through an FCIC/NCIC printer.

25          (i) Any available health assessments including  
26 medical, mental health, and dental, including laboratory or  
27 test findings; custody classification; disciplinary and  
28 adjustment; and substance abuse assessment and treatment  
29 information which may have been developed during the period of  
30 incarceration prior to the transfer of the person to the  
31

1 department's custody. Available information shall be  
2 transmitted on standard forms developed by the department.

3  
4 In addition, the sheriff or other officer having such person  
5 in charge shall also deliver with the foregoing documents any  
6 available presentence investigation reports as described in s.  
7 921.231 and any attached documents. After a prisoner is  
8 admitted into the state correctional system, the department  
9 may request such additional records relating to the prisoner  
10 as it considers necessary from the clerk of the court, the  
11 Department of Children and Family ~~Health and Rehabilitative~~  
12 Services, or any other state or county agency for the purpose  
13 of determining the prisoner's proper custody classification,  
14 gain-time eligibility, or eligibility for early release  
15 programs. An agency that receives such a request from the  
16 department must provide the information requested.

17 Section 311. Section 944.602, Florida Statutes, is  
18 amended to read:

19 944.602 Notification of Department of Children and  
20 Family ~~Health and Rehabilitative~~ Services before release of  
21 mentally retarded inmates.--Before the release by parole,  
22 release by reason of gain-time allowances provided for in s.  
23 944.291, or expiration of sentence of any inmate who has been  
24 diagnosed as mentally retarded as defined in s. 393.063, the  
25 Department of Corrections shall notify the Department of  
26 Children and Family ~~Health and Rehabilitative~~ Services in  
27 order that sufficient time be allowed to notify the inmate or  
28 the inmate's representative, in writing, at least 7 days prior  
29 to the inmate's release, of available community services.

30 Section 312. Subsection (2) of section 944.706,  
31 Florida Statutes, is amended to read:

1           944.706 Basic release assistance.--

2           (2) The department is authorized to contract with the  
3 Department of Children and Family ~~Health and Rehabilitative~~  
4 Services, the Salvation Army, and other public or private  
5 organizations for the provision of basic support services for  
6 releasees. The department shall contract with the Department  
7 of Labor and Employment Security for the provision of releasee  
8 job placement.

9           Section 313. Subsection (2) of section 945.025,  
10 Florida Statutes, is amended to read:

11           945.025 Jurisdiction of department.--

12           (2) In establishing, operating, and utilizing these  
13 facilities, the department shall attempt, whenever possible,  
14 to avoid the placement of nondangerous offenders who have  
15 potential for rehabilitation with repeat offenders or  
16 dangerous offenders. Medical, mental, and psychological  
17 problems shall be diagnosed and treated whenever possible.  
18 The Department of Children and Family ~~Health and~~  
19 ~~Rehabilitative~~ Services shall cooperate to ensure the delivery  
20 of services to persons under the custody or supervision of the  
21 department. When it is the intent of the department to  
22 transfer a mentally ill or retarded prisoner to the Department  
23 of Children and Family ~~Health and Rehabilitative~~ Services, an  
24 involuntary commitment hearing shall be held according to the  
25 provisions of chapter 393 or chapter 394.

26           Section 314. Paragraphs (a) and (b) of subsection (2)  
27 of section 945.10, Florida Statutes, 1998 Supplement, are  
28 amended to read:

29           945.10 Confidential information.--

30  
31

1           (2) The records and information specified in  
2 paragraphs (1)(b)-(h) may be released as follows unless  
3 expressly prohibited by federal law:

4           (a) Information specified in paragraphs (1)(b), (d),  
5 and (f) to the Office of the Governor, the Legislature, the  
6 Parole Commission, the Department of Children and Family  
7 ~~Health and Rehabilitative~~ Services, a private correctional  
8 facility or program that operates under a contract, the  
9 Department of Legal Affairs, a state attorney, the court, or a  
10 law enforcement agency. A request for records or information  
11 pursuant to this paragraph need not be in writing.

12           (b) Information specified in paragraphs (1)(c), (e),  
13 and (h) to the Office of the Governor, the Legislature, the  
14 Parole Commission, the Department of Children and Family  
15 ~~Health and Rehabilitative~~ Services, a private correctional  
16 facility or program that operates under contract, the  
17 Department of Legal Affairs, a state attorney, the court, or a  
18 law enforcement agency. A request for records or information  
19 pursuant to this paragraph must be in writing and a statement  
20 provided demonstrating a need for the records or information.

21  
22 Records and information released under this subsection remain  
23 confidential and exempt from the provisions of s. 119.07(1)  
24 and s. 24(a), Art. I of the State Constitution when held by  
25 the receiving person or entity.

26           Section 315. Subsection (6) of section 945.12, Florida  
27 Statutes, is amended to read:

28           945.12 Transfers for rehabilitative treatment.--

29           (6) A prisoner who has been determined by the  
30 Department of Children and Family ~~Health and Rehabilitative~~  
31 Services and the Department of Corrections to be amenable to

1 rehabilitative treatment for sexual deviation, and who has  
2 voluntarily agreed to participate in such rehabilitative  
3 treatment, may be transferred to the Department of Children  
4 and Family Health and Rehabilitative Services provided  
5 appropriate bed space is available.

6 Section 316. Subsections (1) and (2) of section  
7 945.35, Florida Statutes, are amended to read:

8 945.35 Requirement for education on human  
9 immunodeficiency virus and acquired immune deficiency  
10 syndrome.--

11 (1) The Department of Corrections, in conjunction with  
12 the Department of Health ~~and Rehabilitative Services~~, shall  
13 establish a mandatory introductory and continuing education  
14 program on human immunodeficiency virus and acquired immune  
15 deficiency syndrome for all inmates. Programs shall be  
16 specifically designed for inmates while incarcerated and in  
17 preparation for release into the community. Consideration  
18 shall be given to cultural and other relevant differences  
19 among inmates in the development of educational materials and  
20 shall include emphasis on behavior and attitude change. The  
21 education program shall be continuously updated to reflect the  
22 latest medical information available.

23 (2) The Department of Corrections, in conjunction with  
24 the Department of Health ~~and Rehabilitative Services~~, shall  
25 establish a mandatory education program on human  
26 immunodeficiency virus and acquired immune deficiency syndrome  
27 with an emphasis on appropriate behavior and attitude change  
28 to be offered on an annual basis to all staff in correctional  
29 facilities, including new staff.

30 Section 317. Subsection (1) of section 945.41, Florida  
31 Statutes, is amended to read:



1           945.41 Legislative intent of ss. 945.40-945.49.--It is  
2 the intent of the Legislature that mentally ill inmates in the  
3 custody of the Department of Corrections receive evaluation  
4 and appropriate treatment for their mental illness through a  
5 continuum of services. It is further the intent of the  
6 Legislature that:

7           (1) Inmates in the custody of the department who have  
8 mental illnesses that require hospitalization and intensive  
9 psychiatric inpatient treatment or care receive appropriate  
10 treatment or care in Department of Corrections mental health  
11 treatment facilities designated for that purpose. The  
12 department shall contract with the Department of Children and  
13 Family Health and Rehabilitative Services for the provision of  
14 mental health services in any departmental mental health  
15 treatment facility. The Department of Corrections shall  
16 provide mental health services to inmates committed to it and  
17 may contract with any persons or agencies qualified to provide  
18 such services.

19           Section 318. Subsections (2) and (3) of section  
20 945.47, Florida Statutes, are amended to read:

21           945.47 Discharge of inmate from mental health  
22 treatment.--

23           (2) An inmate who is involuntarily placed pursuant to  
24 s. 394.467 at the expiration of his or her sentence may be  
25 placed, by order of the court, in a facility designated by the  
26 Department of Children and Family Health and Rehabilitative  
27 Services as a secure, nonforensic, civil facility. Such a  
28 placement shall be conditioned upon a finding by the court of  
29 clear and convincing evidence that the inmate is manifestly  
30 dangerous to himself or herself or others. The need for such  
31 placement shall be reviewed by facility staff every 90 days.

1 At any time that a patient is considered for transfer to a  
2 nonsecure, civil unit, the court which entered the order for  
3 involuntary placement shall be notified.

4 (3) At any time that an inmate who has received mental  
5 health treatment while in the custody of the department  
6 becomes eligible for release on parole, a complete record of  
7 the inmate's treatment shall be provided to the Parole  
8 Commission and to the Department of Children and Family Health  
9 ~~and Rehabilitative~~ Services. The record shall include, at  
10 least, the inmate's diagnosis, length of stay in treatment,  
11 clinical history, prognosis, prescribed medication, and  
12 treatment plan and recommendations for aftercare services. In  
13 the event that the inmate is released on parole, the record  
14 shall be provided to the parole officer who shall assist the  
15 inmate in applying for services from a professional or an  
16 agency in the community. The application for treatment and  
17 continuation of treatment by the inmate may be made a  
18 condition of parole, as provided in s. 947.19(1); and a  
19 failure to participate in prescribed treatment may be a basis  
20 for initiation of parole violation hearings.

21 Section 319. Subsection (2) of section 945.49, Florida  
22 Statutes, is amended to read:

23 945.49 Operation and administration.--

24 (2) RULES.--The department, in cooperation with the  
25 Mental Health Program Office of the Department of Children and  
26 Family Health and Rehabilitative Services, shall adopt rules  
27 necessary for administration of ss. 945.40-945.49 in  
28 accordance with chapter 120.

29 Section 320. Paragraph (b) of subsection (2) of  
30 section 947.13, Florida Statutes, is amended to read:

31 947.13 Powers and duties of commission.--

1 (2)

2 (b) The Department of Children and Family Health and  
3 ~~Rehabilitative~~ Services and all other state, county, and city  
4 agencies, sheriffs and their deputies, and all peace officers  
5 shall cooperate with the commission and the department and  
6 shall aid and assist them in the performance of their duties.

7 Section 321. Subsection (9) of section 947.146,  
8 Florida Statutes, 1998 Supplement, is amended to read:

9 947.146 Control Release Authority.--

10 (9) The authority shall examine such records as it  
11 deems necessary of the department, the Department of Children  
12 and Family Health and Rehabilitative Services, the Department  
13 of Law Enforcement, and any other such agency for the purpose  
14 of either establishing, modifying, or revoking a control  
15 release date. The victim impact statement shall be included in  
16 such records for examination. Such agencies shall provide the  
17 information requested by the authority for the purposes of  
18 fulfilling the requirements of this section.

19 Section 322. Section 947.185, Florida Statutes, is  
20 amended to read:

21 947.185 Application for mental retardation services as  
22 condition of parole.--The Parole Commission may require as a  
23 condition of parole that any inmate who has been diagnosed as  
24 mentally retarded as defined in s. 393.063 shall, upon  
25 release, apply for retardation services from the Department of  
26 Children and Family Health and Rehabilitative Services.

27 Section 323. Subsection (8) of section 948.01, Florida  
28 Statutes, 1998 Supplement, is amended to read:

29 948.01 When court may place defendant on probation or  
30 into community control.--

31

1           (8) When the court, under any of the foregoing  
2 subsections, places a defendant on probation or into community  
3 control, it may specify that the defendant serve all or part  
4 of the probationary or community control period in a community  
5 residential or nonresidential facility under the jurisdiction  
6 of the Department of Corrections or the Department of Children  
7 and Family ~~Health and Rehabilitative~~ Services or any public or  
8 private entity providing such services, and it shall require  
9 the payment prescribed in s. 948.09.

10           Section 324. Section 949.02, Florida Statutes, is  
11 amended to read:

12           949.02 Youth parolees.--Nothing in chapters 947-949  
13 shall be construed to change or modify the law respecting  
14 paroles as administered by the Department of Juvenile Justice  
15 ~~Health and Rehabilitative Services~~.

16           Section 325. Subsection (2) of section 951.27, Florida  
17 Statutes, is amended to read:

18           951.27 Blood tests of inmates.--

19           (2) Except as otherwise provided in this subsection,  
20 serologic blood test results obtained pursuant to subsection  
21 (1) are confidential and exempt from the provisions of s.  
22 119.07(1) and s. 24(a), Art. I of the State Constitution.  
23 However, such results may be provided to employees or officers  
24 of the sheriff or chief correctional officer who are  
25 responsible for the custody and care of the affected inmate  
26 and have a need to know such information, and as provided in  
27 ss. 775.0877 and 960.003. In addition, upon request of the  
28 victim or the victim's legal guardian, or the parent or legal  
29 guardian of the victim if the victim is a minor, the results  
30 of any HIV test performed on an inmate who has been arrested  
31 for any sexual offense involving oral, anal, or vaginal

1 penetration by, or union with, the sexual organ of another,  
2 shall be disclosed to the victim or the victim's legal  
3 guardian, or to the parent or legal guardian of the victim if  
4 the victim is a minor. In such cases, the county or municipal  
5 detention facility shall furnish the test results to the  
6 Department of Health ~~and Rehabilitative Services~~, which is  
7 responsible for disclosing the results to public health  
8 agencies as provided in s. 775.0877 and to the victim or the  
9 victim's legal guardian, or the parent or legal guardian of  
10 the victim if the victim is a minor, as provided in s.  
11 960.003(3).

12 Section 326. Subsection (4) of section 958.12, Florida  
13 Statutes, is amended to read:

14 958.12 Participation in certain activities required.--

15 (4) Community partnerships shall be developed by the  
16 department to provide postrelease community resources. The  
17 department shall develop partnerships with entities which  
18 include, but are not limited to, the Department of Labor and  
19 Employment Security, the Department of Children and Family  
20 ~~Health and Rehabilitative~~ Services, community health agencies,  
21 and school systems.

22 Section 327. Subsection (2), paragraph (a) of  
23 subsection (3), and subsections (4) and (6) of section  
24 960.003, Florida Statutes, are amended to read:

25 960.003 Human immunodeficiency virus testing for  
26 persons charged with or alleged by petition for delinquency to  
27 have committed certain offenses; disclosure of results to  
28 victims.--

29 (2) TESTING OF PERSON CHARGED WITH OR ALLEGED BY  
30 PETITION FOR DELINQUENCY TO HAVE COMMITTED CERTAIN  
31 OFFENSES.--In any case in which a person has been charged by

1 information or indictment with or alleged by petition for  
2 delinquency to have committed any offense enumerated in s.  
3 775.0877(1)(a)-(n), which involves the transmission of body  
4 fluids from one person to another, upon request of the victim  
5 or the victim's legal guardian, or of the parent or legal  
6 guardian of the victim if the victim is a minor, the court  
7 shall order such person to undergo HIV testing. The testing  
8 shall be performed under the direction of the Department of  
9 Health ~~and Rehabilitative Services~~ in accordance with s.  
10 381.004. The results of an HIV test performed on a defendant  
11 or juvenile offender pursuant to this subsection shall not be  
12 admissible in any criminal or juvenile proceeding arising out  
13 of the alleged offense.

14 (3) DISCLOSURE OF RESULTS.--

15 (a) The results of the test shall be disclosed, under  
16 the direction of the Department of Health ~~and Rehabilitative~~  
17 ~~Services~~, to the person charged with or alleged by petition  
18 for delinquency to have committed or to the person convicted  
19 of or adjudicated delinquent for any offense enumerated in s.  
20 775.0877(1)(a)-(n), which involves the transmission of body  
21 fluids from one person to another, and, upon request, to the  
22 victim or the victim's legal guardian, or the parent or legal  
23 guardian of the victim if the victim is a minor, and to public  
24 health agencies pursuant to s. 775.0877. If the alleged  
25 offender is a juvenile, the test results shall also be  
26 disclosed to the parent or guardian. Otherwise, HIV test  
27 results obtained pursuant to this section are confidential and  
28 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.  
29 I of the State Constitution and shall not be disclosed to any  
30 other person except as expressly authorized by law or court  
31 order.

1           (4) POSTCONVICTION TESTING.--If, for any reason, the  
2 testing requested under subsection (2) has not been  
3 undertaken, then upon request of the victim or the victim's  
4 legal guardian, or the parent or legal guardian of the victim  
5 if the victim is a minor, the court shall order the offender  
6 to undergo HIV testing following conviction or delinquency  
7 adjudication. The testing shall be performed under the  
8 direction of the Department of Health ~~and Rehabilitative~~  
9 ~~Services~~, and the results shall be disclosed in accordance  
10 with the provisions of subsection (3).

11           (6) TESTING DURING INCARCERATION, DETENTION, OR  
12 PLACEMENT; DISCLOSURE.--In any case in which a person  
13 convicted of or adjudicated delinquent for an offense  
14 described in subsection (2) has not been tested under  
15 subsection (2), but undergoes HIV testing during his or her  
16 incarceration, detention, or placement, the results of the  
17 initial HIV testing shall be disclosed in accordance with the  
18 provisions of subsection (3). Except as otherwise requested by  
19 the victim or the victim's legal guardian, or the parent or  
20 guardian of the victim if the victim is a minor, if the  
21 initial test is conducted within the first year of the  
22 imprisonment, detention, or placement, the request for  
23 disclosure shall be considered a standing request for any  
24 subsequent HIV test results obtained within 1 year after the  
25 initial HIV test performed, and need not be repeated for each  
26 test administration. Where the inmate or juvenile offender has  
27 previously been tested pursuant to subsection (2) the request  
28 for disclosure under this subsection shall be considered a  
29 standing request for subsequent HIV results conducted within 1  
30 year of the test performed pursuant to subsection (2). If the  
31 HIV testing is performed by an agency other than the

1 Department of Health ~~and Rehabilitative Services~~, that agency  
2 shall be responsible for forwarding the test results to the  
3 Department of Health ~~and Rehabilitative Services~~ for  
4 disclosure in accordance with the provisions of subsection  
5 (3). This subsection shall not be limited to results of HIV  
6 tests administered subsequent to June 27, 1990, but shall also  
7 apply to the results of all HIV tests performed on inmates  
8 convicted of or juvenile offenders adjudicated delinquent for  
9 sex offenses as described in subsection (2) during their  
10 incarceration, detention, or placement prior to June 27, 1990.

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Reviser's note.--Amended pursuant to the  
directive of the Legislature in s. 1, ch.  
98-224, Laws of Florida, to make specific  
changes in terminology and any further changes  
as necessary to conform the Florida Statutes to  
the organizational changes of the former  
Department of Health and Rehabilitative  
Services effected by previous acts of the  
Legislature.